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Item 3

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

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

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Medicare:
Health Care Financing Administration

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Housing and Urban Development Department

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Parole Commission

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Federal Home Loan Bank Board

Editor's Note:

The list of subjects on the cover is designed to assist those users who review the **Federal Register** for broad subject areas. The list is compiled from subject terms supplied by agencies for certain of their rule and proposed rule documents as required by 1 CFR 18.20. Subject terms in the list may refer to more than one document. To locate the documents in the **Federal Register** covered by the subject terms in the list, users should consult the Table of Contents under the appropriate agency. We remind users that the list is a selective supplement to the Table of Contents and should not be construed as comprehensive.

This list is an experiment. We hope it will prove useful to those users inconvenienced by the discontinuation of the "Highlights" in February because of reduced personnel resources at the Office of the Federal Register. For this new list our editors simply select subject terms from those appearing in the edition's rule and proposed rule documents rather than perform the detailed analytical work which was needed to produce the "Highlights".

Comments on this list may be sent to Martha Girard, Director, Executive Agencies Division (NFE), Office of the Federal Register, NARS/GSA, Washington, D.C. 20408. Phone (202) 523–5240 (not a toll free number).

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Rules and Regulations

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

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VIII

Interpretive Ruling and Policy Statement; Payout Priorities of An Involuntarily Liquidating Federal Credit Union

Correction

In FR Doc. 82-11526 appearing on page 18122 in the issue of Wednesday, April 28, 1982, make the following correction:

On page 18123, center column, seven lines from the botton of the page, "the Board will not treat" should have read "the Board will now treat".

BILLING CODE 1505-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 614

Loan Policies and Operations; Banks for Cooperatives

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration, by its Federal Farm Credit board, adopts and publishes an amendment to its regulation concerning the banks for cooperatives of the Farm Credit System. This amendment, which implements new authorities conferred on institutions of the Farm Credit System by the Farm Credit Act Amendments of 1980 (Pub. L. 96-592), authorizes banks for cooperatives to finance leasing transactions involving noncooperative lessors where the lessee is a stockholder of the bank and the equipment or facilities leased are to be utilized by the stockholder in its operations in the United States.

EFFECTIVE DATE: June 17, 1982.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Deputy Governor, Office of Administration, 490 L'Enfant Plaza, SW., Washington, DC 20578; (202-755-2181).

SUPPLEMENTARY INFORMATION: On December 17, 1981, the Farm Credit Administration proposed for public comment an amendment to 12 CFR 614.4120—Banks for Cooperatives (46 FR 61485 and 61486). The Federal Farm Credit Board considered each of the comments received and adopted the final regulation in the course of its April 5-7, 1982 meeting.

A total of five comments were received, all of which favored the amended regulation. A technical correction was made to the third sentence to clarify that it is intended to apply to both loans and financial assistance authorities granted in the first sentence.

List of Subjects in 12 CFR Part 614

Agriculture, Banks, banking, Credit, Rural areas.

For the reasons set out in the preamble, Part 614 of Chapter VI, Title 12 of the Code of Federal Regulations is amended as shown.

PART 614—LOAN POLICIES AND OPERATIONS

Section 614.4120 is amended by designating the present text as paragraph (a) and adding a new paragraph (b) to read as follows:

Subpart C—Lending Authorities

* * * * *

§ 614.4120 Banks for cooperatives.

(a) * * *

(b) The banks may make or participate in loans and commitments to finance and extend technical and financial assistance to domestic noncooperative 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 or financial assistance 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

* * * * *

(Sec. 5.9, 5.12, 5.18, Pub. L. 92-181, 85 Stat. 619, 620, 621, (12 U.S.C. 2243, 2246, 2252))

Donald E. Wilkinson,

Governor.

[FR Doc. 82-13287 Filed 5-14-82; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-ASW-21; Amdt. 39-4381]

Airworthiness Directives; Hiller Aviation Model UH-12 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document adopts a new Airworthiness Directive (AD) that would require replacement of the fasteners of the main transmission mounted mercury clutch on Hiller Aviation Model UH-12 series helicopters. This AD is needed to prevent fatigue failure of the fasteners which could result in power loss to the main and tail rotors.

DATE: Effective May 17, 1982. Compliance required within 50 hours' additional time in service from the effective date of AD.

ADDRESSES: The applicable service information may be obtained from: Hiller Aviation, 2075 W. Scranton Avenue, Porterville, California 93257.

A copy of each applicable service document is contained in the Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591, or at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Harold Ferris, Aerospace Engineer, Propulsion Section, ANM-174W, Western Aircraft Certification Field Office, Federal Aviation Administration, P.O. Box 9200, Worldway Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6381, or Sam Brodie, Helicopter Policy and

Procedures Staff, Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 624–4911, extension 502.

SUPPLEMENTARY INFORMATION: There have been reports of loss of power to the main and tail rotor blades on Hiller Model UH–12 series helicopters which resulted in forced landings. The loss of power is attributed to the deformation of the washers under the bolt head. The resultant loss of torque results in the fatigue failure of the four bolts attaching the mercury clutch to the torsional coupling. Since this condition is likely to exist or develop in other helicopters of the same type design, the AD would require replacement of the four attach bolts with new bolts and replacement of the related washers with washers of a different design which will relieve the fatigue problem on Hiller Aviation Model UH–12 series helicopters.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

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:

Hiller Aviation

Applies to Model UH–12D, UH–12E, UH–12E4, UH–12E–L, UH–12L, UH–12L4, and military OH–23D, OH–23F, and OH–23G series helicopters, certified in all categories, through serial number 5187.

Compliance required as indicated, unless already accomplished.

To prevent loss of power to the main and tail rotors accomplish the following:

Within 50 hours' additional time in service after the effective date of this AD, remove the four P/N 21041 bolts and four AN 960–716L washers which attach the mercury clutch to the torsional coupling and replace with new P/N 21041 bolts and P/N 21074–3 washers in accordance with Part 2, Accomplishment Instructions, of Hiller Aviation Service Bulletin No. 21–1 dated January 20, 1982, or FAA approved equivalent. The four P/N 21041 bolts removed per this action must be considered unairworthy and marked accordingly.

Note.—Hiller Model UH–12 series helicopters converted to turbine power by Supplemental Type Certificate (STC) SH178WE or SH177WE do not incorporate the subject parts and therefore are not affected by this AD unless restored to the original configuration.

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

Note.—Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Western Aircraft Certification Field Office, FAA Northwest Mountain Region.

This amendment becomes effective May 17, 1982.

(Sections 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 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 Procedues (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise an evaluation is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Note.—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 April 29, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82–13234 Filed 5–14–82; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Airworthiness Docket No. 82–ASW–20; Amdt. 39–4374]

Airworthiness Directives; Robinson Helicopter Company Model R–22 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires repetitive inspections for cracks and replacement, if necessary, of the steel tubular framework supporting the tail boom on certain Robinson Helicopter Company Model R–22 series helicopters. The AD is needed to detect cracks which could result in frame failure and loss of control of the helicopter.

DATE: Effective May 21, 1982. Initial compliance required within 10 hours additional time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from Robinson Helicopter Company, 24747 Crenshaw Boulevard, Torrance, California 90505.

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

FOR FURTHER INFORMATION CONTACT: Marshall Burquest, Aerospace Engineer, Airframe Section, ANM–172W, Western Aircraft Certification Field Office, Northwest Mountain Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, telephone (213) 536–6359.

SUPPLEMENTARY INFORMATION: There have been reports of fatigue cracks in the tubular framework which supports the tail boom on two Robinson Helicopter Company Model R–22 helicopters. These cracks, if uncorrected, could result in structural failure and loss of the helicopter.

In one case, the crack was found at 1,422 hours' time in service and another at 359 hours. These cracks were found by a routine visual examination of the parts. The cracks were discovered in the same element of the A020–2 upper steel tube frame. The tube with 1,422 hours' time in service was completely severed and the tube with 359 hours' time in service was cracked halfway through. No accidents were attributable to these fractures.

The manufacturer has incorporated a tube of greater wall thickness effective at assembly of Serial No. 0288, which will eliminate the potential cracking problem.

Since this condition is likely to exist or develop on other helicopters of the same type design, an Airworthiness Directive is being issued which requires repetitive inspections for cracks and replacement, if necessary, of the steel tubular framework supporting the tail

boom on Robinson Helicopter Company Model R-22 series helicopters.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

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:

Robinson Helicopter Company

Applies to Model R-22 series helicopters certificated in all categories incorporating upper steel tube frame P/N A020-2, Serial No.'s 0002 through 0287.

Compliance required as indicated, unless already accomplished.

To prevent failure of the A020-2 framework which could result in loss of the helicopter, accomplish the following:

(a) Within 10 hours' additional time in service after the effective date of this AD, visually inspect for cracks in the A020-2 upper steel tube frame per Inspection Procedure No. 1 of Robinson Helicopter Company Service Bulletin No. 18, dated February 15, 1982, or FAA approved equivalent and repeat this inspection thereafter at intervals not to exceed 50 hours' time in service since the last such inspection.

(b) During the daily preflight, visually check for cracks in the area noted in Figure 1 of Robinson Helicopter Company Service Bulletin No. 18, dated February 15, 1982.

Note 1.—The preflight checks required by paragraph (b) of this AD may be performed by the pilot.

Note 2.—For the requirements regarding the listing of compliance and method of compliance with this AD in the airplane's permanent maintenance record, see FAR 91.173.

(c) If cracks are found, replace P/N A020-2 frame with like serviceable part prior to further flight.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate rotorcraft to a base for the accomplishment of inspections required by this AD.

(e) Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Chief, Western Aircraft Certification Field Office, Northwest Mountain Region.

This amendment becomes effective May 21, 1982.

(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 which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Note.—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 April 26, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 82-13233 Filed 5-14-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket Number 81-ACE-7]

Alteration of Transition Area—Maryville, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the 700-foot transition area at Maryville, Missouri, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Maryville, Missouri, Memorial Airport, utilizing a Non-Directional Radio Beacon (NDB) installed on the airport as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: July 8, 1982.

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

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure to the Maryville, Missouri, Memorial Airport is being established utilizing the NDB installed on the airport as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails alteration of a transition area at Maryville, Missouri, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On page 8206 of the Federal Register dated February 25, 1982, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Maryville, Missouri. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, Section 71.171 and/or § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT, July 8, 1982, by altering the following transition area:

Maryville, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Maryville, Missouri, Airport (Latitude 40°21'00" N and Longitude 94°54'45" W), and 3 miles either side of the 333° bearing from the Maryville, Missouri NDB (Latitude 40°20'54" N and Longitude 94°54'55" W) from the 5-mile radius to 8.5 miles northwest of the NDB excluding that airspace within a 1.25-mile radius of Rankin Airport (Latitude 40°20'00" N and Longitude 94°50'00" W).

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

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

number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Kansas City, Missouri, on May 4, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-13236 Filed 5-14-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-ARM-13]

Revision of Transition Area, Greeley, Colo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the 700-foot transition area at Greeley, Colorado to provide controlled airspace for aircraft executing the new RNAV Standard Instrument Approach Procedure developed for Weld County Airport, Greeley, Colorado.

EFFECTIVE DATE: 0901 G.m.t., July 8, 1982.

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

SUPPLEMENTARY INFORMATION:

History

On Monday, January 25, 1982, the FAA published for comment a proposal to revise the 700-foot transition area at Greeley, Colorado (47 FR 3370). No comments were received on the proposal.

Rule

This amendment to subpart G of Part 71 of the Federal Aviation Regulations (FARs) revises the 700-foot transition area at Greeley, Colorado. This amendment is necessary to provide controlled airspace for aircraft executing the new RNAV Standard Instrument Approach Procedure developed for Weld County Airport, Greeley, Colorado.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 G.m.t., July 8, 1982, by adding the following to § 71.181:

Greeley, Colo.

That airspace extending upward from 700' above the surface bounded by a line beginning at latitude 40°38'00" N, longitude 104°53'00" W; to latitude 40°41'00" N, longitude 104°27'00" W; to latitude 40°21'30" N, longitude 104°24'00" W; to latitude 40°19'00" N, longitude 104°50'00" W; thence to point of beginning; and that airspace extending upward from 1,200' above the surface within 10 miles northwest and 7 miles southeast of the Gill VOR 038° and 218° radials, extending from 20 miles northeast to 13 miles southwest of the VOR.

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

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

Issued in Seattle, Washington, April 8, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-13334 Filed 5-14-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket Number 82-ACE-02]

Alteration of Transition Area—Ava, Mo.

AGENCY: Federal Aviation Adminstration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the 700-foot transition area at Ava, Missouri, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Bill Martin Memorial Airport, Ava, Missouri, utilizing a Non-Directional Radio Beacon (NDB) installed on the airport as a navigational aid. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

EFFECTIVE DATE: July 8, 1982.

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

SUPPLEMENTARY INFORMATION: To enhance airport usage, a new instrument approach procedure to the Bill Martin Memorial Airport, Ava, Missouri, is being established utilizing the NDB installed on the airport as a navigational aid. The establishment of an instrument approach procedure based on this approach aid entails alteration of a transition area at Ava, Missouri, at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Discussion of Comments

On page 10593 of the **Federal Register** dated March 1, 1982, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Ava, Missouri. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Accordingly, pursuant to the authority delegated to me, § 71.171 and/or § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., July 8, 1982, by altering the following transition area:

Ava, Mo.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Bill Martin Memorial Airport (Latitude 36°58'19" N, Longitude 92°40'52" W) and within 2 miles each side of the 107° radial of the Dogwood, Missouri VORTAC, extending from the 5-mile radius area to the VORTAC, within 2.5 miles each side of the 133° bearing from the airport extending from the 5-mile radius area to 6 miles southeast and within 3 miles each side of the 142° bearing from the Ava, Missouri NDB (Latitude 36°58'11" N, Longitude 92°40'38" W) extending from the 5-mile radius area to 8.5 miles southeast of the airport.

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

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

Issued in Kansas City, Missouri, on May 6, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 82-13335 Filed 5-14-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 23039; Amdt. No. 1216]

Standard Instrument Approach Procedures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

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

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

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

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

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

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

Index

List of Subjects in 14 CFR Part 97

Aviation safety, Standard instrument approaches.

Adoption of the Amendment

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

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

* * * *Effective July 8, 1982*

Martha's Vineyard, MA—Martha's Vineyard, VOR Rwy 6, Amdt. 3
Martha's Vineyard, MA—Martha's Vineyard, VOR Rwy 24, Amdt. 10
Bedford, PA—Bedford, VOR/DME-A, Original
Shamokin, PA—Northumberland County, VOR Rwy 8, Amdt. 1

* * * *Effective June 24, 1982*

Pompano Beach, FL—Pompano Beach Airpark, VOR Rwy 14, Amdt. 6
West Palm Beach, FL—Palm Beach International, VOR Rwy 9L, Amdt. 11
Urbana, IL—Illini, VOR-A, Amdt. 10
Urbana, IL—Illini, VOR/DME-B, Amdt. 4
Liberal, KS—Liberal Muni, VOR Rwy 3, Amdt. 1

Liberal, KS—Liberal Muni, VOR Rwy 17, Amdt. 6
Liberal, KS—Liberal Muni, VOR/DME Rwy 17, Amdt. 2
Liberal, KS—Liberal Muni, VOR Rwy 35, Amdt. 10
Liberal, KS—Liberal Muni, VOR/DME Rwy 35, Amdt. 2
Hawesville, KY—Hancock Airfield, VOR Rwy 15, Amdt. 2
Ann Arbor, MI—Ann Arbor Muni, VOR Rwy 6, Amdt. 10
Ann Arbor, MI—Ann Arbor Muni, VOR Rwy 24, Amdt. 9
Three Rivers, MI—Three Rivers Municipal-Dr. Haines, VOR-A, Amdt. 6
Laurel, MS—Hesler-Noble Field, VOR Rwy 13, Amdt. 11
Rutherfordton, NC—Rutherford County, VOR Rwy 36, Amdt. 1
Lancaster, OH—Fairfield County, VOR-A, Amdt. 3
Wilmington, OH—Airborne Airpark, VOR Rwy 4, Amdt. 1
Wilmington, OH—Airborne Airpark, VOR Rwy 22, Amdt. 1
Wilmington, OH—Airborne Airpark, VOR/DME Rwy 22, Amdt. 1

** * Effective May 4, 1982*

St. Louis, MO—Weiss, VOR-A, Amdt. 2

** * Effective April 27, 1982*

Pawtucket, RI—North Central State, VOR-A, Amdt. 4
Pawtucket, RI—North Central State, VOR-B, Amdt. 2

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

** * Effective June 24, 1982*

Waycross, GA—Waycross-Ware County, LOC Rwy 18, Original.
Lancaster, OH—Fairfield County, SDF Rwy 28, Amdt. 1
Oklahoma City, OK—Will Rogers World, LOC BC Rwy 35L, Amdt. 8

** * Effective June 10, 1982*

Joplin, MO—Joplin Muni, LOC BC Rwy 31, Amdt. 17
Charlotte, NC—Douglas Muni, LOC Rwy 36R, Original

** * Effective April 27, 1982*

Pawtucket, RI—North Central State, LOC Rwy 5, Amdt. 2

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

** * Effective July 8, 1982*

Vinton, IA—Vinton Veterans Meml Arpk, NDB Rwy 16, Original
Gardner, KS—Gardner Muni, NDB-D, Original
Sturgis, MI—Kirsch Muni, NDB Rwy 18, Amdt. 2
Sturgis, MI—Kirsch Muni, NDB Rwy 24, Amdt. 6
Windom, MN—Windom Muni, NDB Rwy 17, Amdt. 4
Lehighton, PA—Jake Arner Memorial, NDB Rwy 8, Original
Lehighton, PA—Jake Arner Memorial, NDB Rwy 26, Amdt. 1

** * Effective June 24, 1982*

Ft. Lauderdale, FL—Ft. Lauderdale Executive, NDB Rwy 8, Amdt. 5
Ft. Lauderdale, FL—Ft. Lauderdale-Hollywood Intl, NDB Rwy 13, Amdt. 13
Panama City, FL—Panama City-Bay County, NDB Rwy 14, Amdt. 2
French Lick, IN—French Lick Muni, NDB Rwy 26, Amdt. 5
Liberal, KS—Liberal Muni, NDB Rwy 35, Amdt. 2
Three Rivers, MI—Three Rivers Municipal Dr. Haines, NDB Rwy 27, Amdt. 4
Laurel, MS—Hesler-Noble Field, NDB Rwy 13, Amdt. 4
Rutherfordton, NC—Rutherford County, NDB Rwy 36, Amdt. 2
Lancaster, OH—Fairfield County, NDB Rwy 28, Amdt. 1
Middletown, OH—Hook Field Muni, NDB Rwy 23, Amdt. 6
Oklahoma City, OK—Will Rogers World, NDB Rwy 35L, Amdt. 2
Big Lake, TX—Reagan County, NDB Rwy 16, Original

** * Effective June 10, 1982*

Joplin, MO—Joplin Muni, NDB Rwy 13, Amdt. 22

** * Effective April 30, 1982*

Madison, WI—Dane County Regional/Truax Field, NDB Rwy 36, Amdt. 24
Milwaukee, WI—General Mitchell Field, NDB Rwy 7R, Amdt. 8

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

** * Effective July 8, 1982*

Martha's Vineyard, MA—Martha's Vineyard, ILS Rwy 24, Amdt. 6
Williamsport, PA—Williamsport-Lycoming County, ILS Rwy 27, Amdt. 13

** * Effective June 24, 1982*

Ft. Lauderdale, FL—Ft. Lauderdale Executive, ILS Rwy 8, Amdt. 1
Ft. Lauderdale, FL—Ft. Lauderdale-Hollywood Intl, ILS Rwy 9L, Amdt. 11
Panama City, FL—Panama City-Bay County, ILS Rwy 14, Amdt. 12
West Palm Beach, FL—Palm Beach International, ILS Rwy 9L, Amdt. 19
Liberal, KS—Liberal Muni, ILS Rwy 35, Amdt. 2
Fargo, ND—Hector Field, ILS Rwy 35, Amdt. 28
Oklahoma City, OK—Will Rogers World, ILS Rwy 35R, Amdt. 5
Seattle, WA—Seattle-Tacoma Intl, ILS Rwy 16R, Amdt. 7

** * Effective June 10, 1982*

Portland, ME—Portland Intl Jetport, ILS Rwy 29, Amdt. 1
Joplin, MO—Joplin Muni, ILS Rwy 13, Amdt. 20

** * Effective April 30, 1982*

Milwaukee, WI—General Mitchell Field, ILS Rwy 7R, Amdt. 11
Milwaukee, WI—General Mitchell Field, ILS Rwy 19R, Amdt. 6

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

** * Effective July 8, 1982*

Philadelphia, PA—Philadelphia Intl, RADAR-1, Amdt. 15

** * Effective June 24, 1982*

Greer, SC—Greenville-Spartanburg, RADAR-1, Amdt. 4

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

** * Effective June 24, 1982*

Gainesville, GA—Lee Gilmer Memorial, RNAV Rwy 4, Original, cancelled
LaPorte, IN—LaPorte Muni, RNAV Rwy 20, Original
Liberal, KS—Liberal Muni, RNAV Rwy 12, Amdt. 3
Ann Arbor, MI—Ann Arbor Muni, RNAV Rwy 24, Amdt. 2
Cadillac, MI—Wexford County, RNAV Rwy 7, Amdt. 2
Lancaster, OH—Fairfield County, RNAV Rwy 10, Amdt. 2
Greer, SC—Greenville-Spartanburg, RNAV Rwy 21, Amdt. 3

** * Effective June 10, 1982*

Joplin, MO—Joplin Muni, RNAV Rwy 31, Amdt. 4

** * Effective April 27, 1982*

Pawtucket, RI—North Central State, RNAV Rwy 5, Amdt. 4
Pawtucket, RI—North Central State, RNAV Rwy 23, Amdt. 3

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

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. The FAA certifies that this amendment 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 May 7, 1982.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1981.

John M. Howard,

Acting Chief, Aircraft Programs Division.

[FR Doc 82-13232 Filed 5-14-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

15 CFR Part 923, 927, 928, and 931

Improving Coastal Management in the United States

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

ACTION: Notice of final rulemaking.

SUMMARY: Pub. L. 96–464, the Coastal Zone Management Improvement Act of 1980 (the Act), which amended the Coastal Zone Management Act of 1972 (CZMA), requires the Secretary of Commerce to issue regulations for improving the administration of the national coastal zone management program established by the CZMA. This notice sets out final rules for: (1) Encouraging states to achieve significant improvements in meeting certain national coastal management objectives; (2) allocating Federal financial assistance among eligible states to administer approved state coastal management programs; (3) awarding Federal financial assistance to eligible states to mitigate adverse coastal impacts caused by coal and alternative ocean energy activities; and (4) reviewing and evaluating the performance of approved state coastal zone management programs and coastal energy impact programs.

EFFECTIVE DATE: The final rules will become effective unless, within 60 calendar days of continuous session after submission to the Congress for review, both Houses of Congress adopt a concurrent resolution disapproving the final rules. Notification of the effective date will be published in the **Federal Register**. Until these regulations become effective, they shall provide guidance to federal agencies and state governments for implementing the CZMA.

FOR FURTHER INFORMATION CONTACT: JoAnn Chandler, Director, Vickie Allin or Nancy Carter, Office of Policy, Evaluation and External Relations (202) 634–4245.

SUPPLEMENTARY INFORMATION:

I. Authority

This notice of final rulemaking is issued under authority of Sections 306 and 317 of the CZMA and Sections 5, 7, and 9 of the Act.

II. Regulatory Issues

A. General Background

The CZMA was enacted to encourage and assist states in developing and implementing management programs to preserve, protect, develop, and when possible, to restore or enhance the resources of our nation's coast. The primary purpose of the 1980 amendments is to reaffirm the nation's commitment to the wise use and management of our coastal resources through the coastal zone management program. To this end, key provisions of the CZMA were strengthened to encourage states to significantly improve their coastal management programs.

On December 30, 1980, NOAA issued an advance notice of proposed rulemaking (ANPR) to solicit public comment on rules to implement the amendments to the CZMA. Specifically, the ANPR solicited comments on rules for: (1) Encouraging states to achieve significant improvements in meeting certain national coastal management objectives (Sections 303 and 306(a)); (2) Allocating Federal financial assistance among eligible states to administer approved state coastal management programs (Section 306(b)); (3) awarding Federal financial assistance to eligible states to mitigate adverse coastal impacts caused by coal and alternative ocean energy activities (Section 308(c)(3)); (4) reviewing and evaluating the performance of approved state coastal zone management programs and coastal energy impact programs (Section 312); (5) enhancing the protection of nationally significant coastal resources (Section 306(i)); (6) awarding grants to eligible coastal states for preserving specific coastal areas, redeveloping urban waterfronts and ports, and providing access to public beaches and coastal waters (Section 306A); and, (7) awarding grants to assist eligible states in preserving islands (Section 315). NOAA received 38 comments before the close of the comment period on January 31, 1981. In February 1981, NOAA distributed issue papers to approximately 400 interested parties on a mailing list established for this rulemaking. Sixty-six comments were received.

Based on comments on the ANPR and the issue papers, NOAA prepared proposed rules. Because of budgetary constraints and the need to eliminate unnecessary regulations, only those regulations that were statutorily mandated and necessary to the operation of the coastal management programs were proposed. Therefore, the NPR did not include regulations implementing Sections 306(i), 306A and 315.

A Notice of Proposed Rulemaking was published on pages 51393–51402 of the **Federal Register** of October 20, 1981, inviting comments for 30 days ending November 20, 1981. Comments were received from 32 sources including federal and state government agencies, regional organizations and interest groups.

B. Legislative Amendments and Issues Resolved Through Rulemaking

1. *Improving Coastal Zone Management—Sections 303/306.* The provisions of the CZMA paraphrased below relate to improving coastal management, and Section 5(b) of the Act requires the Secretary to issue regulations for their implementation.

Section 303 clarifies national coastal policy by describing specific national objectives that warrant full consideration during the implementation of approved state coastal management programs.

Section 306(a) encourages more effective coastal management by requiring states with approved programs to expend an increasing proportion of administrative grants (up to a maximum of 30 percent unless a state agrees to a higher percentage) on activities that will result in significant improvement in achieving the national coastal objectives specified in Section 303.

The final rules implementing sections 303 and 306(a) broadly define "significant improvements" to include state accomplishments that add elements to current management programs or strengthen existing program elements. They provide that selection of management activities designed to result in significant improvements will be negotiated between OCZM and individual states, require states to expend in the second year of funding at least 20 percent of their Federal section 306 financial assistance award on significant improvement activities and increase expenditures by one percent in each succeeding year. They also provide that a state failing to agree to pursue significant improvements may not receive any financial assistance under Section 306 to implement its program.

Generally, the final significant improvement regulations provide for a flexible and cooperative approach so that coastal states and NOAA can effectively deal with the phase down of Federal funding. These final regulations are published as Subpart K of 15 CFR Part 923—the existing Coastal Zone Management Program Development and Approval Regulations.

2. *Allocating Administrative Grants—Section 306(b).* Section 306(b) requires that administrative grants under section 306 be allocated among coastal states with approved programs in accordance with rules and regulations that take into account "the extent" of the shoreline covered by the plan, "the population" of the area covered by the plan, and other relevant factors.

The allocation formula in the final regulations is simple, straightforward, and easy to administer and will minimize the disruption in state funding from current levels. The formula is based on (1) an established minimum share allocated to each state and (2) a proportionate share of the remainder to be allocated 60 percent on the length of shoreline, which provides a reasonable approximation of the magnitude of the resource to be managed, and 40 percent on coastal county population which provides a reasonable approximation of the pressures for use of coastal resources. These factors provide continuity with past practice, since they have been used in the allocation process since the inception of the program and will produce the least disruption to the existing funding pattern. Other factors such as nature of the shoreline and need for management funds were considered but not selected because they were too subjective and difficult to quantify. The final allocation regulations supersede the expired allocation regulations published at 15 CFR Part 927.

3. *Coal and Alternative Ocean Energy Impact Grants—Section 308(c)(3).* New section 308(c)(3) authorizes the Secretary to make grants under the Coastal Energy Impact Program (CEIP) to eligible coastal states for preventing or mitigating unavoidable environmental and recreational losses in the coastal zone resulting from the "transportation, transfer or storage of coal or from alternative ocean energy activities." Funds must be allocated among eligible states in accordance with "rules and regulations * * * which shall take into account the number of coal or alternative ocean energy facilities, the nature of their impacts, and other relevant factors * * *" (Section 308(c)(3)(B)).

The final regulations implementing section 308(c)(3) have been combined with existing regulations implementing sections 308(c) (1) and (2) and revise Subpart D (Planning for the Consequences of Energy Facilities) and Subpart L (OCS State Participation Grants) of 15 CFR Part 931—the Coastal Energy Impact Program regulations. The final regulations, therefore, govern the award of all grants under section 308(c). Consolidation of the three categories of "c" grants under one subpart (new subpart D) will greatly simplify the regulations for administering the CEIP.

Under this consolidated approach, states will receive one allotment under section 308(c) that they will then apportion at their discretion among the allowable uses of subsections (c)(1), (c)(2), and (c)(3). To assure the timely expenditure of section 308(c) funds, the final regulations require states to submit applications before the end of the fiscal year for which allotments were made; funds not applied for by then can be reallotted among other eligible states during the next fiscal year.

The final regulations also set forth the objectives of providing financial assistance to coastal states under section 308(c) and its allowable uses, describe procedures for allotting section 308(c) funds among eligible coastal states and for applying for assistance under section 308(c). In addition, the final rules broadly define coal to include the waste products of its combustion (ash and sludge), "coal facility" as any facility that utilizes, transports, transfers, stores, handles, processes or produces coal, and "alternative ocean energy facility" to include solar facilities.

The final rules consolidating the financial assistance provisions under section 308(c) are published as Subpart D of 15 CFR Part 931—the Coastal Energy Impact Program regulations—and replace the existing Subpart D and Subpart L.

The consolidation of section 308(c) regulations necessitates some minor conforming changes to Subpart G, which deals with formula grants. These changes are necessary because Subpart D, which is being revised, contained provisions that are required for administering the formula grants provisions of the CEIP regulations.

4. *Review of Performance (Evaluation)—Section 312.* Section 312 of the CZMA requires a "continuing review of the performance of coastal states with respect to coastal management" and Section 9(b) of the Act requires the promulgation of rules to implement section 312. This review must include a written evaluation that assesses the extent to which the state has: (1) Implemented and enforced its approved program; (2) addressed the coastal management needs identified in Section 303(2)(A)–(I) of the CZMA; and (3) adhered to the terms of any grant, loan or cooperative agreement funded under the CZMA. Section 312 further requires that a public meeting be conducted as part of each evaluation and that opportunity be provided for oral and written comment by the public. Evaluation reports must be issued following each review of state performance. The Secretary is directed to reduce financial assistance under Section 306 of the CZMA by up to 30 percent if it is determined that a state is not making significant improvement in achieving the coastal management objectives identified in section 303(2)(A)–(I), and to withdraw program approval and financial assistance if it is found that a state is failing to adhere to, or is unjustifiably deviating from, its approved program or the terms of any grant or cooperative agreement and refuses to remedy the deviation. The statute outlines procedural safeguards (such as notice to the state and an opportunity for a public hearing) that must be observed if the Secretary finds that program approval and financial assistance should be withdrawn.

The basic requirements for continuing review are set forth in the regulations. They provide that evaluations will be conducted in the course of continuing reviews and that written findings will be prepared. The Office of Coastal Zone Management expects that the evaluation of a state's approved coastal zone management program and coastal energy impact program will occur at the same time.

The final evaluation regulations are published as 15 CFR Part 928, replacing the regulations that governed a one-time-only allocation of supplemental funds appropriated for FY 1975. These regulations are no longer necessary for program administration.

The promulgation of regulations implementing section 312 (c), (d) and (e) necessitates some minor changes to 15 CFR 923.82(b)(3), which deals with sanctions for state implementation of unapproved amendments. The changes are necessary because this section references § 923.85, "Termination and Withdrawal of Administrative Funding," which is being replaced by § 928.5(b), "Withdrawal of Program Approval and Financial Assistance."

III. Summary of Significant Comments on NPR and NOAA's Responses

NOAA received comments from 32 sources on the composite rulemaking for Parts 923, 927, 928 and 931. Commentators included: 1 Federal agency (the U.S. Department of the Interior) 19 coastal states and territories (South Carolina, New Hampshire, New York, Maryland, Michigan, California, Alaska, Louisiana, Oregon, Alabama, Massachusetts, Pennsylvania, Ohio, Florida, Wisconsin, New Jersey,

Connecticut, Government of the Virgin Islands, and the Commonwealth of Puerto Rico); 8 interest groups (Conoco, Inc., Sierra Club, International Association of Drilling Contractors, Coastal States Organization, Texas Eastern Transmission Corp., Edison Electric Institute, Natural Resources Defense Council, and the United Mobile Sportsfisherman, Inc.); and one member of the Coastal Zone Management Advisory Committee. Not all commentators submitted comments on all sections of the regulations. All comments received are on file at the Office of Coastal Zone Management and are available at that office for review upon request. Each of the major issues raised by commentators has been summarized and NOAA's responses provided under the relevant subheading in this section.

A. Part 923, Subpart K—Improving Coastal Zone Management

General. (1) Rather than promulgating regulations, NOAA should concentrate on developing effective phase-down policy. Publication of regulations should be delayed until various proposals for continued funding of coastal management activities are considered.

Response: NOAA is promulgating only those regulations that are statutorily mandated and necessary to the operation of the national coastal management program. Therefore, regulations implementing sections 306(i), 306A, and 315 were not proposed. In addition, the process of promulgating these final rules provided a forum for discussing in detail phase-down issues. The promulgation of these final rules has, therefore, contributed to the development of flexible and effective phase-down policies, which are embodied in these regulations.

(2) NOAA must recognize that achievement of significant improvements are often beyond the control of the coastal management agency. State agencies should not be penalized because, for example, the state legislature failed to enact a statute. State agencies should be judged only on whether they have taken reasonable steps to achieve a significant improvement.

Response: NOAA does not agree that the achievement of significant improvements should be based solely on the performance of the management agency. The national coastal management program is designed to encourage "states" not coastal agencies to exercise their management authorities over coastal resources. The ultimate goal of the significant improvement provisions is to encourage states to adopt and effectively implement better coastal management policies and procedures. However, not all significant improvements are dependent on approval by forces outside the coastal agency's control. For example, streamlining internal administrative procedures that decrease permit processing time could qualify as a significant improvement. In addition, NOAA may give significant improvement credit on a case-by-case basis for tasks aimed at achieving an improvement that is successfully carried out by the coastal agency even if the complete achievement of the improvement proves to be beyond the control of the coastal agency.

§ 923.102 Significant improvement defined.

(1) Section 923.102(b)(3) appears to encourage states to expand into new geographic areas beyond their defined coastal zones. It is improper to require states to expand their coastal programs beyond boundaries approved by the Secretary of Commerce and imprudent in light of reduced funding levels for management activities.

Response: NOAA does not require or intend to encourage states to expand their coastal zones beyond the boundaries approved by the Secretary of Commerce. However if the state chooses to expand its coastal zone and extend its enforceable program authorities to the expanded area, in response to changed circumstances, the expansion could qualify as a significant improvement. As proposed, § 923.102(b)(3) also applies to geographic areas located entirely within the existing coastal zone, e.g., the incremental expansion of an enforceable policy into a new geographic area within the coastal zone. Therefore NOAA will leave that provision intact since it allows for the expansion of the coastal boundary but does not require it.

(2) Significant improvement should be defined as an activity that makes a "measurable or clearly perceptible improvement in the achievement of any of the national interest objectives in section 303(2)(A)–(I)." Such activities should include the following provided they clearly serve the national interest objectives:

Development of natural resource information critical to making informed coastal management decisions;

Development and implementation of state and local strategies; projects, and management programs for coastal resources and uses;

Legal work to clarify or protect the public interest in coastal resources.

Response: The suggested definition provides no baseline from which significant improvements are measured. NOAA has determined that Congress intended states to improve their "approved" programs. Improvements, if they are to be "significant," must go beyond what is expected of an approved program. NOAA will include the first and second suggested example in its list of significant improvements with the qualification that these activities must exceed what is expected of the approve program. The third example is not accepted because it constitutes a basic function of an approved management program.

(3) Section 923.102(b) (1) and (2) should be amended to delete the words "beyond what is required by the approved program" from the definition of significant improvement.

Response: NOAA disagrees. The suggested deletion would remove an essential characteristic of a significant improvement—i.e., that it exceed what is required of an approved management program.

(4) The definition of significant improvement should not be restricted to program amendments or routine program implementation.

Response: Significant improvements are not limited to programs amendments and routine program implementation. Other accomplishments that meet the criteria of § 923.102(a) may also qualify as significant improvements.

(5) The definition of significant improvement encourages states to expand authorities rather than improving existing program elements at a time when Federal financial assistance is being phased out.

Response: The definition of significant improvement allows both the expansion of program scope and the improvement of existing program elements. Therefore, the definition is sufficiently broad to allow states the flexibility to pursue significant improvements that best meet their needs.

(6) In § 923.102(b) delete and word "significant" because the list of examples in that section constitutes accomplishments whose significance must still be determined by testing whether they substantially expand the scope of the program or substantially strengthen the ability of the state to implement or enforce the approved program.

Response: NOAA disagrees. The suggested change would serve to make the definition of significant improvement too vague—i.e., it would leave the decision as to what constituted a significant improvement entirely to the

discretion of the Assistant Administrator. NOAA has clarified the concept of significant improvement by providing specific examples of accomplishments that fit the definition.

(7) The regulations should provide greater detail on what constitutes the national interest as defined in section 303(2)(A)–(I).

Response: Section 303(2)(A)–(I) provides a very broad statement of the national goals that states with approved management programs should be pursuing. Specifying requirements for the national interest under each of the nine national goals in detailed regulations would be difficult because approved programs and conditions vary from state to state. The generic examples of significant improvements provided should give sufficient guidance to NOAA and the states to negotiate significant improvement activities that meet both national and state needs.

(8) Significant improvement should be defined to include "the adoption of a schedule for consultation and coordination with and the giving of adequate consideration to the views of affected federal agencies."

Response: NOAA may accept as a significant improvement any accomplishment aimed at the goal of improving inter-government coordination if it meets the requirements of § 931.102. However, the suggested language is not accepted because it does not specify with sufficient clarity what is required.

(9) There are no specific standards to determine whether a state has achieved a significant improvement. Significant improvement is defined merely as compliance with the existing state program.

Response: Significant improvements and activities leading to significant improvements are broadly defined to allow NOAA and the states considerable flexibility to address a variety of issues in the face of reduced Federal assistance. However, states must describe in detail the activities and expected products associated with each significant improvement before the Assistant Administrator will approve them. Since all significant improvement activities must be aimed at substantially expanding or strengthening the approved program, the statement that merely implementing the program will result in significant improvements is not accurate.

(10) Significant improvement should include adoption of plan amendments such as those applying to the San Francisco Bay Plan.

Response: The adoption of plan amendments, such as those applying to the San Francisco Bay Plan, will be considered significant improvements if they meet the requirements of § 923.102.

(11) Is "approved program" in § 923.102(a) the same as "approved management program" in § 923.2(d).

Response: Yes. The terms "approved program" and "approved management program" are interchangeable.

§ 923.103 Selection and approval of activities leading to significant improvements.

(1) The proposed regulations subject states to specific deadlines and schedules without imposing similar requirements on OCZM. Therefore § 923.103(d) should be amended by adding the requirement that "the Assistant Administrator will provide the State agency with a schedule for negotiation and a time certain when a decision will be available to the State agency."

Response: NOAA agrees and has amended § 923.103 accordingly.

(2) The regulations should clearly state that significant improvements may take more than one financial assistance award period. Therefore § 923.103(e) should be amended by deleting "if there is a specific reason to identify a longer period."

Response: It is NOAA's policy to encourage the achievement of significant improvements within the period of one financial assistance award because of the potential for rapid phase out of Federal financial assistance. However, the regulations permit significant improvements to be reached over a period greater than one financial assistance award if there is a need for a longer period of time. NOAA has determined that deleting the "specific reason" language would lessen the likelihood that specific improvements in coastal program operations are achieved with currently available Federal funds. However, once a significant improvement is achieved it becomes the responsibility of the State to fund the continued operation of that improvement out of program administration funds.

(3) The process for negotiating significant improvement activities between NOAA and the state should provide for participation by the public, Federal agencies, and other interested parties.

Response: The evaluation of approved programs under Section 312 provides opportunities for public involvement. This evaluation will be used by NOAA to indentify program needs that could be addressed with significant improvement funds. Therefore, public participation during the evaluation process will have a direct bearing on the significant improvement negotiations. However, public participation does not extend to grant negotiations between the grantor and grantee.

(4) States should not be allowed to make significant improvements in only one national interest area.

Response: NOAA will negotiate significant improvement activities with the state on a case-by-case basis. There may be occasions when both NOAA and the state agree that one area merits the application of all of the state's significant improvement funds. Therefore NOAA will not arbitrarily limit the negotiation process.

(5) The regulations provide no indication that state priorities will be considered when significant improvement activities are negotiated. The regulations should provide that state identified needs will serve as the basis for negotiation. Therefore the words "based on the results of the continuing review described in 15 CFR Part 928" should be replaced with "In consultation with the state."

Response: It is NOAA's intent that states take the initiative in identifying significant improvement activities. The selection of these activities will depend on the nature of the individual programs and the particular circumstances in each state. NOAA will base its negotiating position in large measure on the Section 312 evaluation. Although the selection of activities will be negotiated, NOAA has the ultimate responsibility to assure that Federal funds are being used effectively and in accordance with the objectives of the CZMA. However, NOAA is amending § 923.103(a) to stress that the states should take the initiative in identifying significant improvement activities and § 923.103(b) to emphasize that significant improvement activities will be determined "in consultation with the state."

(6) Add the words "agreement included in" before the words "financial assistance award" in the last sentence of § 923.103(d).

Response: This editorial correction is made.

§ 923.104 Establishing the increasing proportion.

(1) The 1% annual increase in expenditures required by § 923.104 for significant improvements is too small. At this rate the maximum of 30% may never be reached by many states. The annual increase should be set at 5% or discretion given the Assistant Administrator to require bigger increases on the basis of deficiencies found during program evaluation.

Response: NOAA is requiring each state to expend a minimum of 20% of its financial assistance award on significant improvement activities during the first year it is required to pursue significant improvements. In light of this large initial expenditure and reduced funding levels, NOAA has determined that a 1 percent annual increase is a realistic requirement that will balance the need to devote an increasing share of federal funds to the improvement of coastal programs with the need to allow states to institutionalize existing program elements.

(2) States that choose to devote more than the required amount for significant improvements should be rewarded by priority access to unused funds or points in the allotment system.

Response: The formula for determining significant improvement expenditures is equitable and simple to administer. Therefore NOAA is reluctant to establish a system that would be difficult to administer and could lead to conflicts among the states.

(3) The regulations should make it clear that "increasing proportion" refers to the amount of the financial assistance actually received by a state.

Response: NOAA agrees and has clarified § 923.104 to emphasize that the amount that must be spent on significant improvements is obtained by multiplying the applicable percentage by the amount of Federal funds actually received.

§ 923.105 Failure to agree to pursue significant improvements.

(1) The failure to pursue significant improvements should not result in a loss of all section 306 funding as required by § 923.105(a) because this requirement can be easily circumvented. States can "pretend" to pursue significant improvements to get full funding since failure to achieve a significant improvement will result in a reduction or withdrawal of at most 30% of the state's 306 funds. Therefore, it would be simpler to allow states to declare their intentions before receiving their grant.

Response: Section 306(a)(3) prohibits the Assistant Administrator from awarding a Section 306 grant unless the recipient state agrees to pursue significant improvements. Therefore, NOAA is statutorily precluded from awarding financial assistance to states that choose not to pursue significant improvements. In addition, NOAA does not accept the assumption that states will "pretend" to be working toward significant improvements merely as a ploy to receive full funding under Section 306.

(2) The withdrawal of all Section 306 funds for failure to pursue significant improvements will impair the operation of state coastal management programs but will not necessarily result in withdrawal of program approval. As a result the review for consistency of needed energy development projects may be delayed. Therefore, energy projects should be exempted from consistency review as soon as funding is withdrawn for failure to pursue significant improvements.

Response: The CZMA does not authorize exempting energy projects from consistency review when a state refuses to pursue significant improvements. Consistency requirements cease to apply only when program approval is withdrawn because a state has refused to remedy a failure to adhere to its approved management program or the terms of its Section 306 financial assistance award. Upon the withdrawal of all Section 306 funds for failure to pursue significant improvements NOAA will closely monitor state program performance to determine whether withdrawal of approval is necessary.

B. Part 927 - Allocating Administrative Grants—Section 306(b)

(1) The regulations should establish a 1% minimum and a 10–15% maximum financial assistance award level for any state.

Response: CZMA program funding levels and eligible funding recipients are factors which may vary from year to year. Although Congress has established a 1% minimum financial assistance award level, which is reflected in these regulations, no maximum award level is established.

The Assistant Administrator can adjust the maximum and minimum percentages in the allocation formula to meet the basic funding needs of eligible states (commensurate with the total available funding for the program) in implementing effectively CZMA requirements. The need for flexibility in establishing award level is accentuated as appropriations and funding levels decrease in the phase down of Federal funding.

(2) A state failing to make "significant improvements" should be subject to a 0.7 percent minimum rather than a one percent minimum.

Response: NOAA recognizes that at times implementation of the statutory requirements of section 312(c), when a state fails to meet "significant improvement" requirements, might necessitate reducing the base allocation, and that these reductions might result in an award falling below the 1% minimum specified in section 306(b) of the Act. In cases where such statutory conflicts arise award levels may fall below the 1% minimum, as prescribed in the actual calculation of the financial assistance award level under § 927.1(f).

(3) The term "tidal shoreline mileage" should be clearly defined and the National Ocean Survey (NOS) methodology for measuring tidal shoreline mileage should be explained.

Response: NOAA uses the NOS definition and mileage figures for marine and island coastal states and territories and presently accepts the shoreline mileage figures measured by the International Coordinating Committee on Great Lakes Basic Hydraulic and Hydrologic Data for states bordering on the Great Lakes. For marine and island states and territories, tidal shoreline is defined as the shoreline of outer coast, offshore islands, sounds, bays, rivers and creeks to the head of tidewater or to a point where tidal waters narrow to a width of 100 feet. The measurements are made using a recording instrument on the largest-scale charts available. The NOS methodology varies slightly from that used by the International Coordinating Committee on Great Lakes Basic Hydraulic and Hydrologic Data, and NOAA is reviewing this inconsistency as raised in comments on the NPR.

For clarification NOAA is adding language to the final rule to more precisely explain shoreline mileage calculations.

Section 927.1(c)(2)(i) now reads "Sixty percent will be allocated based on each eligible state's proportionate share of the length of tidal shoreline mileage and/or Great Lake shoreline mileage of all participating states based on the most recently available, official data from or accepted by the National Ocean Survey * * * *"

(4) Factors other than shoreline and population should be considered in the calculation of allocations, such as areas protected or held in trust, shoreline features, rate of population change, and economic significance of the coastal area.

Response: In developing both the issue paper and proposed regulations, NOAA examined the inclusion of other factors (including those above) in the allocation formula. These factors were not selected because they are too subjective and difficult to quantify. The inclusion of coastal county population and shoreline mileage does provide a reasonable approximation of the magnitude and the pressures for use of coastal resources as objective, quantifiable factors. The exclusive use

of these factors provides continuity with past NOAA practice, proposes an allocation formula which is simple and easy to administer, and results in the least disruption in state funding levels.

C. Part 931 Subpart L—Coastal Energy Impact Grants—General

(1) The relationship of new subpart D to existing subparts D and L should be clarified.

Response: New subpart D contains guidance and requirements applicable to planning grants found in existing subpart D and guidance and requirements applicable to OCS state participation grants found in existing subpart L. The consolidation is intended to simplify the regulations by eliminating duplicative and unnecessary text. The consolidation is not intended to change the substantive requirements of the planning or OCS participation programs. In addition new subpart L includes guidance and requirements applicable to coal and Alternative Ocean Energy (AOE) activity impact mitigation funds. When new subpart D becomes final and effective, it will supersede existing subparts D and L of 15 CFR part 931. The requirements and guidance with respect to objectives and allowable usesof planning grants funded under Section 308(b)(5)(B) that were in existing subpart D have been transferred to subpart G of 15 CFR Part 931. This transfer was made solely to enable existing subpart D to be superseded in its entirety. The substantive requirements applicable to planning grants funded under section 308(b)(5)(B) are not affected.

(2) Some states have two separate agencies administering the existing provisions of section 308. For example, one state agency may administer impact mitigation assistance under sections 308(c)(1), (b) and (d) while another state agency administers OCS state participation assistance under section 308(c)(2). Under the existing regulations this arrangement did not present any administrative problems because there was a specific allotment of funds under each subsection. Under the proposed regulations it is not clear who will administer the consolidated grant program and allocate available funds among eligible uses. Guidelines should therefore be established to require the expenditure of fixed minimum percentages for eligible uses. In addition, a single agency should be designated to administer the consolidated 308(c) program.

Response: NOAA has determined that the state should decide how to allocate available section 308(c) funds among allowable uses. NOAA assumes that the state agency designated under § 931.25(a)(4)(i) to administer the CEIP will submit the state's section 308(c) application and that allocation questions will be decided within the state by responsible program officials, including where necessary, the Governor.

(3) The OCS State Participation Grants Program should not be consolidated with other provisions of section 308 because this is a special purpose program whose effectiveness could be diluted by merger.

Response: The various financial assistance programs under section 308(c) are being consolidated to simplify program administration and improve program flexibility. The consolidation should not detrimentally affect the OCS State Participation program because no changes are being made in the substantive provisions of that program. The only change that could affect this program is that the state will decide how much of the total available under section 308(c) will be spent on OCS state participation purposes. Since the Congress has not appropriated specific amounts for each of the allowable uses, NOAA believes it is appropriate for the state to decide how to apportion its funds among allowable uses.

§ 931.37 Limitations on expenditures.

(1) Increasing the matching share to 30 per cent is unfair because the most needy local governments will not be able to benefit from Federal assistance. The Assistant Administrator should be given discretion to vary the matching share as a means of increasing management flexibility.

Response: A matching share of 30 per cent is consistent with NOAA's policy of phasing down CEIP assistance in an orderly manner. Since the funding available for CEIP purposes is limited, increasing the matching share will, in effect, increase the total amount available for impact mitigation. In addition, an increased matching share will encourage the funding of projects with the highest priority.

(2) The significance of the October 17, 1980 date in § 931.37(c)(3)(i) should be clarified.

Response: Section 931.37(c) prohibits the use of section 308(c) funds for mitigating environmental or recreational losses that (1) result from the sale, lease, or rental by a state or local government of property to another party, or (2) that could have been prevented by a reasonable exercise of a state's existing regulatory authority, if the sale, lease, rental or loss occurs after October 17, 1980—the date that section 308(c)(3) was signed into law. This limit on the eligibility is instituted to prevent the funding of projects for mitigating losses that could readily have been avoided by reasonable state or local action. The October 17, 1980, date allows "grandfathering" state and local actions that occurred before enactment of the 1980 amendments to the CZMA.

(3) To assure that Section 308(c) funds are used to encourage necessary energy development, the following limitation on 308(c) expenditures should be added to § 931.37: "308(c) funds may not be used to pay for any part of a project likely to prevent, delay, or substantially increase the costs of the development of energy facilities otherwise consistent with the state's approved program."

Response: In reviewing section 308(c) applications, NOAA will carry out its responsibility to see that funds are awarded for allowable uses, none of which are for projects that are likely to prevent, delay, or increase the costs of energy development that is otherwise consistent with the state's approved management program. Therefore, the suggested restriction is neither necessary nor appropriate.

§ 931.35 Section 308(c) allotment.

(1) Basing the proposed allotment formula on coastal county population puts smaller states and states that have controlled development in coastal marshes and other ecologically sensitive coastal areas at a disadvantage. It is these areas that face the greatest threat from new energy development. The allotment formula should therefore be based on the percentage increase in coastal population—since this factor better reflects development pressures from new and expanded energy resources. Consideration should also be given to seasonal fluctuation in coastal population.

Response: Coastal county population is a reasonable estimator of the need for impact assistance. In addition, this factor provides continuity with past OCZM practice. Its use will minimize disruptions in the existing pattern of funding. In addition, using 1980 census data provides recognition of population growth.

(2) Too much discretion is allowed the Assistant Administrator to establish the allocation formula and maximum and minimum shares. All the factors that make up the formula should be specified by regulation. A minimum share that equals two percent of the amount available in a fiscal year under section 308(c) or $75,000, whichever is greater, should be established. The maximum share should be set at 15 percent of the amount available.

Response: Not specifying the allotment formula or the maximum and minimum shares in regulations simplifies the regulations and increases program flexibility.

However, the regulations require the Assistant Administrator to submit any proposed formula, which would include provisions for maximum and minimum shares, to the states for review and comment before allocations are calculated.

(3) Shoreline mileage used in the allocation formula should be clearly defined.

Response: Before calculating allotments § 931.35(c) requires the Assistant Administrator to submit the proposed allotment formula to the states for review and comment. If shoreline mileage is used in the allotment formula it will be the same as used in § 927.1 to allocate section 306 funds. See Comment 3 under *B. Allocating administrative grants* above.

(4) New or expanded coal activities should be given the greatest weight in the allocation formula.

Response: As previously noted, NOAA is not specifying the allotment formula in regulations. The details of the allotment formula will be developed in consultation with the states pursuant to § 931.35(c).

§ 931.31 Objectives.

(1) The phrase "and that permits the coastal states and units of local government a high degree of control and discretion" should be deleted from the statements of CEIP objectives in § 931.31(c) because this phrase is gratuitous and not supported by the legislative history.

Response: NOAA disagrees. The Conference Report (Report No. 94–1298) that accompanied the CEIP legislation states that the coastal state and localities "should make the basic decisions as to the particular needs" that result from energy development and therefore the "discretion" of "Federal officials should be correspondingly limited" (p. 24). Therefore, the objective of allowing states and local governments a high degree of control is consistent with the legislative history of the CEIP and the Administration's policy of returning resource management decisions to the states.

(2) The following objective should be added to the list of CEIP objectives in § 931.31: "To improve and strengthen coastal management in the United States."

Response: This objective is added to emphasize the close relationship between CEIP and coastal management activities.

§ 931.36 Application for financial assistance.

(1) The proposed regulations improperly impose a requirement that the intra-state allocation process be used for OCS state participation grants.

Response: The proposed regulations were not intended to impose any new requirements on the use of funds for section 308(c)(2)—OCS State participation—purposes. Therefore, § 931.36(b)(3) has been amended to indicate that only planning and coal and AOE impact mitigation assistance must be subjected to the intrastate allocation process.

(2) The application and information requirements under § 931.36 are too burdensome for small construction and land acquisition projects.

Response: NOAA is also concerned about burdensome application requirements and has tried to keep these requirements to a minimum. NOAA has determined that the information requirements specified in § 931.36 are necessary and appropriate to assure compliance with Federal environmental and administrative requirements. NOAA has, however, deleted the requirement for submitting state and local permit applications and approvals for construction projects.

§ 931.32 Definitions.

(1) "Rail transport facility" should be added to the list of coal facilities in § 931.32(b)(1).

Response: NOAA agrees and has added the term "rail transport facility" to § 931.32(b)(1)(v).

(13) The regulations should clarify Section 308(c) funds may be used to mitigate the impact of the disposal of ash and sludge, the waste products of burning coal.

Response: NOAA has defined coal to include ash and sludge—the waste products of burning coal. It is NOAA's intent that the impacts of storing and transporting these waste products for the purpose of disposal be eligible under Section 308(c). NOAA has determined that definition of coal facility is sufficiently broad to include facilities involved in ash and sludge disposal and that amending the regulations is not necessary.

§ 931.34 Allowable uses.

(1) The regulations provide no assurance that funds authorized under section 308(c)(3) are expended for mitigating the impacts of coal or AOE activities.

Response: The new regulations appropriately place responsibility on the state for allocating available funds among allowable uses. As noted previously, Congress has not appropriated specific amounts for each of the allowable uses. In the absence of this guidance, NOAA has determined that the states should determine their needs and funding priorities.

D. Part 928 Review of Performance—Section 312

§ 928.1 General.

(1) The statement in § 928.1(b) that "these regulations may be supplemented by procedural memoranda issued periodically by the Office of Coastal Zone Management. . ." is unnecessary and might lead to confusion regarding the legal enforceability of the procedural memoranda.

Response: In response to comments on the Issue Paper on Review of Performance, NOAA shortened and simplified the proposed rules by eliminating detailed procedures from the regulations and retaining only the basic requirements of continuing review and evaluation. The purpose of the procedural memoranda is to provide a more detailed statement of how these basic requirements will be met. NOAA wishes to remove any possible ambiguity concerning the legal status of the procedural memoranda and, therefore, has deleted this reference from the regulations.

§ 928.2 Definitions.

(1) NOAA should change the definition of "justifiable" to state that the principal criterion for determining whether a deviation is justifiable is whether it is beyond the control of the state coastal program manager, not whether it is beyond the control of the state. The proposed criterion—beyond the control of the state—is unrealistic and does not recognize that state coastal programs are constrained in their ability to influence governors and State legislatures.

Response: NOAA disagrees with this comment. It is appropriate to assess whether or not a deviation is beyond "state" control. All coastal management programs must be approved and transmitted to NOAA by the governor of the state. Therefore, although NOAA acknowledges that state coastal program managers frequently are limited in their ability to influence state governors and legislatures, their programs are "state" programs and the states are responsible for carrying them out.

(2) NOAA should limit the criteria for determining whether a deviation is justifiable *only* to those criteria currently enumerated in the proposed definition. All of the criteria should be spelled out in the regulations in order to provide fair and predictable administration and the determination of whether the criteria are met should involve the public.

Response: It is not possible or desirable to define in advance the universe of criteria for assessing "justifiability." The purpose of the criteria identified in the definition is to provide the states and the public with information concerning how the "justifiability" determinations will be made. However, it is impossible to anticipate every conceivable kind of deviation and, therefore, impossible to define in advance the universe of criteria for evaluting them.

NOAA disagrees that the public should be involved in the "justifiability" determinations. While public participation in the program is vital, the statute requires the determination to be made by the Secretary. In making each determination, the Secretary will consider all available information, including public comments on the review of the State's performance.

(3) The definition of "work program" should not be formalized in the regulations. Work programs are usually designed at least a year in advance and, hence, represent a target or "guesstimate" of what a state coastal program feels reasonably able to undertake. There is no benefit in formalizing this document in the regulations.

Response: This comment reflects a misunderstanding of the purpose of defining this term. The definition is included in order to provide a basis for continuing review and evaluation of approved programs if Federal financial assistance ends. In this case, the states would provide to NOAA the same documentation they would need to provide to their state governments or other funding sources describing the work tasks they are undertaking during a particular time period, and NOAA would review the material to determine if the program implementation continued to meet or exceed the threshold requirements for approvability.

This work program must be distinguished from the work program that is a part of the Federal financial assistance award. The work program that is part of the award carries with it a commitment from the state to complete each work task successfully or face reduction or withdrawal of financial assistance. However, if Federal financial assistance ends, obviously there will be no such sanction and the review will simply determine whether the state program continues to meet the requirements for approvability, in order that the state may continue to exercise Federal consistency. Because this distinction was not made clearly, we have added clarifying language to the definition of "work program" and to the use of the term "work program" in the continuing review procedures.

§ 928.3(b) Continuing review procedures.

(1) NOAA should limit state reporting requirements to one report per year.

Response: NOAA understands the need to limit the paperwork burden on the states. To this end, the periodic performance reports required for financial assistance awards are being used to accommodate information needs for continuing review and evaluation. NOAA will make every effort to limit additional information requirements by assessing carefully all information available in-house and targeting requests to fill specific information gaps. However, regular information is required for NOAA's program administration responsibilities—including technical monitoring of awards and continuing review and evaluation. The current information requirements—performance reports and a supplemental information request for evaluation—represent the minimum requirements for information necessary to carry out our responsibilities.

(2) The regulations should State explicitly that a site visit will normally be a part of each evaluation, unless fiscal constraints are so severe that such visits are precluded. Site visits are extremely valuable and the presumption in the regulations should be that they will occur.

Response: NOAA agrees with the intent of this comment. The regulations already provide that the Assistant Administrator may conduct site visits as a part of the evaluation. The discretionary "may" is used to provide necessary flexibility to adjust to funding constraints. Because the recommended standard—"fiscal constraints * * * so severe that such visits are precluded"—is also discretionary, NOAA has determined that no change should be made in the regulatory language.

(3) The discretionary "may" in the third line of § 928.3(b)(5), which provides that states "may" have two weeks from receipt to review draft findings, should be changed to "shall."

Response: NOAA agrees with the comment and we have made the suggested change.

(4) The regulations should specify that draft findings be made available to affected Federal agencies at the same time they are sent to the states.

Response: Draft findings are available to affected Federal agencies, or anyone else, upon request.

(5) Since the proposed rules impose time deadlines on the states in the conduct of evaluations, it is only fair that NOAA should also impose deadlines on itself. In addition, the deadlines should recognize the need for leadtime to respond to findings. Two types of specific suggestions for NOAA deadlines were made:

(a) Issue final findings at least 90 days before the expiration of a state's Federal financial assistance award, and at least 30 days before the the state coastal management agency must submit its proposed budget.

(b) Issue final findings within a certain time period after receipt of state comments on the draft findings. The suggested time periods ranged from two weeks to 60 days.

Response: NOAA recognizes the states' need for leadtime to incorporate the results of evaluations. However, for two reasons NOAA has determined that it should not commit itself to deadlines tying the date of issuance of final findings to the date of the Federal financial assistance award. First, such a tie could restrict NOAA in the expeditious award of available Federal financial assistance. Second, because many state budget cycles are several months in advance of coastal zone management financial assistance awards, a commitment to issue final findings 30 days before the state coastal zone management agency is required to submit its budget can mean a requirement for final findings 1 to 3 months after the beginning of the coastal zone management financial assistance award. Clearly it would be impossible to conduct a meaningful evaluation so soon after the work program under review has begun.

NOAA is willing, however, to commit itself to deadlines for issuing final findings which are tied to state review and comment on the draft findings. While two weeks is not enough time to give adequate consideration to state comments and produce the final findings, 60 days is usually more than sufficient. Therefore, NOAA has modified the regulations to include a commitment to issue final findings 45 days after receipt of state comments on the draft findings, unless NOAA notifies the state of the need for an extension to allow for further meetings or negotiations.

(6) The current regulatory language implies a mistrust of the states.

Response: The regulatory language is procedural only and does not imply a mistrust of the states. NOAA recognizes its responsibility to assist the state coastal program managers in carrying out their responsibilities for implementing their coastal management programs. However, NOAA is also responsible for overall program administration, which includes continuing review and evaluation. It is NOAA's intent to maintain a balance between these two responsibilities.

§ 928.3(c)(1) Requirements for continuing review of approved state coastal zone management programs—Scope of continuing reviews.

(1) NOAA should delete the phrase "all of the elements" of the approved program in § 928.3(c)(1)(i) and adhere to the statutory language. Since it is clear that Federal financial assistance for state coastal management programs is diminishing, the regulations should recognize that some elements of state programs will have to be reduced and that such reduction is possible without reducing the programs below the threshold requirements for Federal approval.

Response: NOAA agrees that the regulations need to recognize the reality of program adjustments in the face of reduced Federal financial assistance, as long as the adjustments do not reduce program elements below the level required for program approval. To this end, the proposed regulatory language defined the term "approved management program" to mean "those elements of the program required for program approval * * *" This change provides such recognition because the definitions of "adherence" and of "justifiable" are tied to the definition of "approved management program." Since the referenced phrase appears to have caused misunderstanding concerning the focus of continuing review and evaluation, NOAA agrees that it should be removed and has amended the regulations accordingly.

(2) NOAA should add to the scope of review a fourth element on Federal consistency.

Response: The three broad elements of the scope of review come directly from the statute. It is not necessary to add another element on Federal consistency because this is a specific factor in the overall evaluation of one of the broad elements already enumerated—the extent to which the state has implemented and enforced its approved program.

§ 928.3(c)(2) Procedure for assessing adherence to the approved management program.

(1) The phrases "fully" or "fully and effectively" in § 928.3(c)(2)(A), (B), and (C) should be deleted because they imply that states will be able to continue to implement their programs at the same or higher levels while Federal financial assistance declines.

Response: As stated above, NOAA agrees that the regulations need to acknowledge declining Federal financial assistance to states. Although in each case the referenced phrases are preceded by the phrase "the extent to which," they still appear to be interpreted as implying an unfair standard for evaluation. For this reason, NOAA agrees that they should be removed and has amended the regulations accordingly.

(2) The term "enforcing" should be added to § 928.3(c)(2)(A) because this term was added to the statute in the 1980 amendments and needs emphasis in the regulations.

Response: NOAA agrees with this comment and has modified the regulations accordingly.

(3) NOAA should delete the phrase "effectively playing a leadership role in coastal issues" in § 928.3(c)(2)(B) because it is highly subjective and is not a requirement of the program approval regulations.

Response: NOAA disagrees with this comment. Section 923.47 of the program approval regulations requires the state to designate a lead state agency which is capable of monitoring, coordinating and providing direction for its coastal program. As the "focal point for program administration," the lead state agency must play a leadership role in coastal issues in order to coordinate effectively the various state and local agencies with responsibilities for carrying out the program. Therefore, this is an appropriate subject for evaluation.

(4) NOAA should add to § 928.3(c)(2)(C) language recognizing specifically that carrying out the provisions of Federal consistency involves cooperation with Federal agencies to minimize potential conflicts. This point needs emphasis because conflicting requirements could impede or block Federal programs that are vital to the nation as a whole.

Response: This is unnecessary because it is understood that state implementation of Federal consistency involves working with affected Federal agencies to minimize potential conflicts. While it would be possible to enumerate a long list of specific issues for evaluation, such action is contrary to the President's directive to avoid unnecessary regulation.

§ 928.3(c)(3) Procedure for assessing how the state has addressed the coastal management needs identified in Section 303(2)(A)–(I).

(1) The word "needs" should be changed to "objectives" wherever it appears in this section in order to track the statutory language.

Response: Although it is true that the statute speaks of "objectives" in section 303, it refers to those objectives in section 312 as "coastal management needs." Since these regulations implement section 312, NOAA has used the statutory language from that section of the Act.

(2) The listing of actions taken to address the coastal management needs of section 303, called for in § 928.3(c)(3)(i), is totally inadequate. A full description should be required, as well as information from which NOAA can ascertain what is *not* being done to address the coastal management needs. The commentator made detailed recommendations on the type of information NOAA should seek for this purpose.

Response: This comment reflects a misunderstanding of the proposed language. The listing of actions is merely the first step in the evaluation of how the states have addressed the coastal management needs of section 303. The regulations go on to say that the Assistant Administrator will assess *the extent to which* the state is meeting identified needs—that is, what the state is and *is not* doing—and the effectiveness of its action in addressing these needs.

NOAA disagrees with the suggestion that it require states to submit extensive information for this determination. All of the coastal management needs are not equally important in all states. Rather, they must be assessed within the context of the conditions in the state and the objectives and priorities of the state management program. Just as conditions in the states differ, so does the information needed to assess the states' efforts to address the coastal management needs of section 303. Extensive uniform information requirements are not appropriate under these circumstances and would create a large additional paperwork burden on the states at a time when the Federal government is attempting to reduce these requirements.

§ 928.3(c)(4) Procedure for assessing adherence to the terms of financial assistance awards.

(1) Section 928.3(c)(4)(ii)(D) should contain a requirement that NOAA respond within 30 days after receipt of a request from a state to modify a project.

Response: This suggestion relates to financial assistance award amendment procedures and hence is inappropriate for incorporation into these regulations. The current procedures for processing amendment requests are specified in the program approval regulations at § 923.100. These procedures require NOAA to acknowledge receipt of amendment requests within 10 working days. The notification must indicate NOAA's decision on the request or indicate a timeframe within which the decision will be made.

(2) No modification of approved projects should be permitted under (c)(4)(ii)(D) without opportunity for public review and comment.

Response: NOAA disagrees with this comment. These regulations provide the opportunity for full public participation. In addition the recipient must notify the A–95 clearinghouse of any substantive changes in approved awards. However, public participation does not extend to negotiations between the agency and the recipient on the financial assistance award itself.

§ 928.3(d) Requirements for continuing review of state coastal energy impact programs.

(1) The regulations should require unified coastal zone management and coastal energy impact program evaluation.

Response: NOAA is not sure how to interpret this comment. If the comment means that coastal zone management and coastal energy impact program evaluations should be conducted at the same time, the procedures already provide for this.

§ 928.4 Public Participation.

(1) The public participation section should be modified to:

(a) require a minimum 30-day period for advance notice of public meetings,

(b) provide wider distribution of findings, and

(c) provide for more Federal participation in the evaluations.

Response: NOAA agrees that the regulations should specify a minimum period for advance notice of the public meeting(s). The draft regulations already provide that the Assistant Administrator will publish an advance notice of intent to evaluate at least 45 days in advance of the public meeting(s) in order to put interested parties on notice that an evaluation is about to occur. Because of frequent modifications of the evaluation schedules, it is often impossible for the states to comply with a 30 day advance notice requirement for public meetings. However, NOAA has modified the regulations to require that states provide a minimum of 15 days notice of the public meeting(s) on their evaluations.

NOAA believes it is not necessary for the regulations to require wider distribution of findings. The regulations already provide for a notice of availability of final findings to be published in the **Federal Register**, and copies of the findings are available to anyone who requests them.

Similarly, NOAA believes that the regulations already provide for full Federal agency participation in the evaluations. Current procedures provide that affected Federal agencies be contacted before evaluations occur, interviewed during evaluation site visits, and invited to participate in public meetings and/or provide written comments on the evaluations.

§ 928.5 Enforcement.

(1) Section 928.5(a)(2)(ii) should be rewritten to provide that enforcement provisions be triggered by a finding that a state is not achieving "all" of its significant improvement objectives.

Response: The commentator evidently intends that the suggested change would make the provision more restrictive by assuring that states must make significant improvement in all of their objective areas. However, the suggested change actually would make the provision less restrictive by triggering the enforcement provisions only if the Assistant Administrator found that the state was failing to achieve *all* of its significant improvement objectives (i.e., using this language, for example, a state could be failing in seven out of eight areas without triggering the enforcement provisions). In fact, the current regulatory language assures that states will achieve all significant improvement objectives or face some level of reduction of financial assistance. Therefore, NOAA has made no change to the regulatory language.

(2) Section 928.5(a)(2)(ii) should be modified by replacing "achieving" with "performing," replacing "objectives" with "tasks," and adding language to clarify that if a state has notified and negotiated with the Assistant Administrator necessary project modifications, as provided in § 923.103(d), the evaluation will be based upon the projects as modified.

Response: The words "achieving" and "objectives" are taken directly from the statute and NOAA has determined that they should not be replaced by less precise substitutes. However, the regulations provide that the assessment of whether a state is achieving its significant improvement objectives will be based on the state's progress in accomplishing the significant improvement tasks negotiated between the state and Assistant Administrator before the beginning of each financial assistance award.

Since procedures for project modification are provided in the regulations, it is understood that the evaluations will be based upon approved projects as modified up to the date of the evaluation. Additional regulatory language is unnecessary.

(3) NOAA should not limit itself to reducing a state's funds for failure to make significant improvement only by the amount previously allotted to the task(s) found deficient. While this might be advisable in some instances, it may not be appropriate for all and the statute does not restrict NOAA's action.

Response: NOAA disagrees with this comment. NOAA believes fairness dictates that a state's funds be reduced for failure to make significant improvement only by the amount allocated to the deficient significant improvement task(s). To do otherwise would create a major disincentive for the states to undertake challenging significant improvement activities.

(4) The regulations give NOAA too much discretion in deciding what is "satisfactory progress" toward significant improvement.

Response: NOAA disagrees with this comment. Satisfactory progress will be determined on a case-by-case basis using the specific products and schedules negotiated between the state and the Assistant Administrator for each significant improvement task.

(5) The regulations should provide public notice of the intent to withdraw program approval, and opportunity for public comment and participation at public hearings.

Response: The regulations already contain these provisions in § 928.5(b)(2)(ii) and (iv).

IV. Other Actions Associated With the Notice of Final Rulemaking

A. Classification Under Executive Order (E.O.) 12291 of February 17, 1981

NOAA has concluded that these regulations are not major because they will *not* result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase 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 United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The final rules foster improvements in an existing system for administering a program of financial assistance to state and local governments. Therefore, these rules only serve to strengthen the institutional framework for making rational coastal management decisions and will not result in any major direct or indirect economic or environmental impacts.

B. Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis is not required for this notice of final rulemaking. The regulations set forth procedures for distributing Federal financial assistance among participating state governments and for evaluating the performance of those state governments in achieving coastal management objectives. The final rules directly affect only state government entities, which are not "small government jurisdictions" as defined by Pub. L. 96–354, The Regulatory Flexibility Act. The final rules will have no effect on small businesses and a negligible effect on local units of government who participate only through the States.

C. Paper Work Reduction Act of 1980 (Public Law 96–511)

These regulations will impose no information collection requirements of the type covered by Pub. L. 96–511 on affected state governments. Information requirements of Section 312 Continuing Review regulations embody existing procedures and do no constitute any increase in reporting on the part of any affected party.

D. National Environmental Policy Act (NEPA)

NOAA has concluded that publication of the final rules does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

E. Public Participation

NOAA has actively encouraged public participation in the development of these final rules. NOAA issued an advance notice of proposed rulemaking with a 60-day comment period and distributed issue papers dealing with the proposed rules to over 400 interested persons on a mailing list maintained by the Office of Coastal Zone Management. NOAA reviewed and considered 38 sets of comments on the ANPR and 66 sets of comments on the issue papers in developing proposed regulations. In addition, meetings and briefings on the regulatory process and the substantive issued involved were held with managers of state coastal zone management and coastal energy impact programs, Federal agency representatives, and interest groups. A notice of proposed rulemaking was published on pages 51393–51402 of the Federal Register of October 20, 1981, and invited comments for 30 days ending November 20, 1981. Comments were received from 32 sources including Federal and state government agencies, regional organizations and interest groups.

List of Subjects in 15 CFR Parts 923, 927, 928, and 931

Administrative practice and procedure, Coastal zone, Grant programs, Natural resources, Energy

William Matuszeski,

Acting Assistant Administrator for Coastal Zone Management.

PART 923—COASTAL ZONE MANAGEMENT PROGRAM DEVELOPMENT AND APPROVAL REGULATIONS

For reasons set out in the Preamble, Part 923 of Title 15 of the Code of Federal Regulations is amended as set forth below.

§ 923.85 [Removed]

1. By removing § 923.85.

2. By adding new Subpart K to read as set forth below.

* * * * *

Sec.

923.101 General.
923.102 Significant Improvement Defined.
923.103 Selection and Approval of Activities Leading to Significant Improvements.
923.104 Establishing the Increasing Proportion.
923.105 Failure to Agree to Pursue Significant Improvements.

Subpart K—Improving Coastal Zone Management

Authority: Sections 303 and 306 of the Coastal Zone Management Act and Section 5 of the Coastal Zone Management Improvement Act of 1980.

§ 923.101 General.

(a) Statutory citations:

(1) Section 303(2)

The Congress finds and declares that it is the national policy—

* * * * *

(2) To encourage and assist the States to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as to the needs for economic development, which programs should at least provide for—

(A) The protection of natural resources, including wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and their habitat, within the coastal zone,

(B) The management of coastal development to minimize the loss of life and property caused by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas and in areas of subsidence and saltwater intrusion and by the destruction of natural protective features such as beaches, dunes, wetlands, and barrier islands,

(C) Priority consideration being given to coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports and transportation, and the location, to the maximum extent practicable, of new commercial and industrial developments in or adjacent to areas where such development already exists,

(D) Public access to the coasts for recreation purposes,

(E) Assistance in the redevelopment of deteriorating urban waterfronts and ports, sensitive preservation and restoration of historic, cultural, and esthetic coastal features,

(F) The coordination and simplification of procedures in order to ensure expedited governmental decisionmaking for the management of coastal resources,

(G) Continued consultation and coordination with, and the giving of adequate consideration to the views of, affected Federal agencies,

(H) The giving of timely and effective notification of and opportunities for public and local government participation in coastal management decisionmaking, and

(I) Assistance to support comprehensive planning, conservation, and management for living marine resources, including planning for the siting of pollution control and aquaculture facilities within the coastal zone.

(2) Section 306(a).

The Secretary may make grants to any coastal State for not more than 80 per centum of the costs of administering such State's management program if the Secretary—

(3) Finds, if such program has been administered with financial assistance under this section for at least one year, that the coastal State will expend an increasing portion of each grant received under this section (but not more than 30 per centum of the grant unless the State chooses to expend a higher percentage) on activities that will

result in significant improvement being made in achieving the coastal management objectives specified in Section 303(2)(A)–(I).

(b) States whose approved programs have been administered for at least one year with Section 306 funds must expend an "increasing proportion" of each subsequent Section 306 financial assistance award on activities that will result in "significant improvement" in achieving certain national coastal management objectives. This subpart defines "significant improvement," describes the process for determining which significant improvement activities a State may perform, establishes the formula for determining "increasing proportion," and sets forth the consequences of failure to pursue significant improvements.

§ 923.102 Significant improvement defined.

(a) A "significant improvement" is an accomplishment that addresses any of the objectives of Section 303(2)(A)–(I) by:

(1) Substantially expanding the scope of the approved program (such expansion of program scope includes, but is not limited to an amendment or routine program implementation), or

(2) Substantially strengthening the ability of the State to implement or enforce the approved program.

(b) Significant improvements include, but are not limited to, the following types of accomplishments:

(1) The adoption of new enforceable policies for coastal decisionmaking of the conversion of nonenforceable (encouragement) policies to enforceable policies. The State (or local government) may adopt new policies by legislation, rulemaking, memoranda of understanding, executive order or other legally sufficient means.

(2) The adoption of refined enforceable policies for coastal decisionmaking including:

(i) More specific standards for the implementation of existing statutes.

(ii) Site specific management plans for areas designated as Areas of Particular Concern and Areas for Preservation or Restoration or other areas beyond what is required by the approved program.

(3) The extension of existing enforceable coastal management policies to new geographic areas beyond what is required by the approved program.

(4) Development of more effective or efficient administration of the approved management program including:

(i) Improved capability of the coastal management agencies to implement State coastal regulatory, planning, and management requirements contained in the approved program.

(ii) Streamlined intergovernmental coordination and public participation mechanisms.

(5) The following to the extent they exceed what is required by an approved program.

(i) Development of natural resource information critical to making informed coastal management decisions.

(ii) Development and implementation of State and local strategies, projects, and management programs for coastal resources and uses.

§ 923.103 Selection and approval of activities leading to significant improvements.

(a) The State will take the initiative in proposing significant improvement activities. The State's financial assistance application will describe the management activities it will perform and the significant improvements it expects to achieve over the course of the next financial assistance award period. This description will clearly identify specific schedules and expected products.

(b) Based on the results of the continuing review described in 15 CFR Part 928, the Assistant Administrator will determine in consultation with the State if the management activities proposed by the State are likely to result in significant improvement in achieving the coastal management objectives of section 303(2)(A)–(I).

(c) The States and the Assistant Administrator will negotiate an agreement at the beginning of each financial assistance award period establishing: (1) The specific significant improvement objectives to be achieved during the financial assistance award period, (2) The Federal funds to be devoted to each task, and (3) The basis for assessing the State's progress in accomplishing each significant improvement task. The agreement will be included as part of the financial assistance award. There is no requirement that the State address each of the nine significant improvement objectives within an individual financial assistance award period.

(d) If unforeseen circumstances arise that affect the accomplishment of any significant improvement task, the State must provide the Assistant Administrator with prompt notice and negotiate with the Assistant Administrator any necessary changes to the schedule and products before the scheduled completion dates. The Assistant Administrator shall provide the State agency with a schedule for negotiation and a time certain when a decision will be available to the State agency. Any such changes will be made part of the agreement included in the financial assistance award.

(e) Significant improvements need not be achieved within the period of one financial assistance award if there is specific reason to identity a longer period.

§ 923.104 Establishing the "increasing proportion".

(a) During the first year a State is required to make significant improvements (its second 306 award), it must agree to expend 20 percent of the Federal share of its upcoming section 306 financial assistance award on activities designed to lead to significant improvements. Thereafter, the State must agree to constant incremental increases of at least one percent in each succeeding year. The amount to be spent on significant improvements will be determined by multiplying the applicable percentage by the amount of Federal funds actually received.

(b) In no case may a State be required to expend more on significant improvement activities than the incremental increases established by this section. However, States may voluntarily exceed the minimum requirement on significant improvement expenditures established by this section. The failure to make significant improvements as a result of those expenditures in excess of the minimum requirement will not result in any reduction in financial assistance under the provisions of § 928.5(a), unless such failure results in an unjustified deviation under § 928.5(b).

§ 923.105 Failure to agree to pursue significant improvements.

(a) If a State chooses not to pursue significant improvements in accordance with this subpart, the Secretary must withhold all financial assistance under Section 306. However, a decision not to award section 306 funds does not necessarily require withdrawal of program approval. A State may continue to implement and enforce its approved program with State funds. Under these circumstances, a State will still be able to exercise its Federal consistency review rights under Section 307 and will remain eligible for CEIP funds if it meets all other eligibility requirements.

(b) A discussion of the procedures by which the Assistant Administrator will evaluate whether a State has failed to make significant improvements is contained in 15 CFR Part 928, Review of Performance of State Coastal

Management and Coastal Energy Impact Programs.

Form the reasons set out in the Preamble, Part 927 of Title 15 of the *Code of Federal Regulations* is revised to read as set forth below.

PART 927—ALLOCATION OF SECTION 306 PROGRAM ADMINISTRATION GRANTS

§ 927.1 Allocation formula.

(a) Statutory Citation

(1) Section 306(a).

The Secretary may make grants to any coastal State for not more than 80 per centum of the costs of administering such State's management program . . .

(2) Section 306(b).

Such grants shall be allocated to the States with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors: *Provided,* That no annual grant made under this section shall be less than one per centum of the total amount appropriated to carry out the purposes of this section: *And provided further,* That the Secretary shall waive the application of the one per centum minimum requirement as to any grant under this section, when the coastal State involved requests such a waiver.

(b) *Minimum/maximum allocation.* The Assistant Administrator may establish minimum and maximum State allocations.

(c) *Allocation formula factors and weighting.* Each State eligible to receive a financial assistance award shall be allocated an amount of the total available Federal funding based on:

(1) A minimum share (established by the Assistant Administrator) of the total funding available for allocation to eligible State coastal management programs, plus

(2) A proportionate share of the remainder to be divided as follows:

(i) Sixty percent will be allocated based on each eligible State's proportionate share of the length of tidal shoreline and/or Great Lake shoreline mileage of all participating States based on the most recently available data from or accepted by the National Ocean Survey, and

(ii) Forty percent will be allocated on each eligible State's proportionate share of the aggregate population of all coastal counties contained in whole or in part within the designated coastal boundary of all eligible State coastal programs based on official data or the most recent U.S. census.

(3) Should any State's base allocation exceed the maximum established by the Assistant Administrator, the excess amount shall be subtracted from the established maximum and redistributed proportionately among those eligible States with allocations not exceeding the established maximum.

(d) *Use of the allocation formula.* The allocation formula shall be used to establish base level allocations for each State coastal management program eligible to receive Federal funding.

(e) *Adjustment for phase down of Federal funding.* The Assistant Administrator may adjust base level allocations as necessary to implement a phase down of Federal financial support. Any such adjustment shall be implemented in a manner which gives some priority to recently approved State coastal management programs. Options for implementation of a phase down will be submitted to the States for review and comment.

(f) *Calculation of financial assistance award levels.* Actual financial assistance award levels will be set from base level allocations, any adjustments under paragraph (e) of this section, and in accordance with the provisions of section 312(a), (c), and (d). Award levels may fall below the one percent minimum established under section 306(b) for purposes of implementing section 312(c) of the Act.

(Sections 306 and 317 of the Coastal Zone Management Act)

5. Part 928 is revised to read as set forth below:

PART 928—REVIEW OF PERFORMANCE

Sec.

928.1 General.
928.2 Definitions.
928.3 Procedure for conducting continuing review of approved State CZM programs and State Coastal Energy Impact Program.
928.4 Public participation.
928.5 Enforcement.

Authority: Sections 312 and 316 of the Coastal Zone Management Act, as amended.

§ 928.1 General.

(a) These regulations set forth the requirements for review of approved State coastal zone management (CZM) programs pursuant to section 312 of the Act, and of State coastal energy impact programs pursuant to sections 312 and 316 of the Act. They define "continuing review" and other important terms, and set forth the procedures for:

(1) Conducting continuing reviews of approved State CZM programs and State coastal energy impact programs,

(2) Providing for public participation,

(3) Reducing financial assistance for failure to make significant improvement, and

(4) Withdrawing program approval and financial assistance.

§ 928.2 Definitions.

(a) "Continuing review" means monitoring State performance throughout the period of the work program. As part of the continuing review, evaluations of approved CZM programs will be conducted and written findings will be produced at least once every two years but not more than once every year. Evaluations of coastal energy impact programs will be conducted on a schedule to be determined by the Assistant Administrator.

(b) "Adherence" means to comply with the approved CZM program and financial assistance award or work program.

(c) "Justifiable" means that the State must show that the deviation(s) from the approved CZM program was warranted. This determination will be made by the Assistant Administrator in consultation with the State on a case-by-case basis. The principal criterion to be used in making this determination is the extent to which the deviation was beyond State control. Other criteria, including, but not limited to, the following will be considered:

(1) The extent to which the deviation impairs the ability of the program to achieve its goals and objectives;

(2) Whether the deviation is part of a pattern or is an isolated incident;

(3) The magnitude of the deviation.

(d) "Approved CZM program" means those elements of the program required for program approval by the Secretary, under 15 CFR Part 923 (Development and Approval Provisions), including any changes to those elements made by approved amendments and routine program implementation.

(e) "Financial assistance award" means a legal instrument that creates a relationship between the Federal government and another entity (recipient). The principal purpose of the award is the transfer of money or services in order to accomplish a public purpose authorized by Federal statute. The term "financial assistance award" encompasses grants, loans, and cooperative agreements. The following elements constitute the award:

(1) The work program described in the approved application;

(2) The budget;

(3) The standard terms and conditions of the award;

(4) Any special award conditions included with the award;

(5) The statutes and regulations under which the award is authorized; and

(6) Applicable OMB cost principles and administrative requirements.

(f) "Work program" means a description of the tasks to be undertaken by a State for a given time period for the purpose of implementing and enforcing an approved CZM program. The work program is submitted as a part of a Federal financial assistance application, or separately in the absence of Federal financial assistance.

(g) "Assistant Administrator" means the Assistant Administrator for Coastal Zone Management or the NOAA Official responsible for directing the Federal coastal zone management program.

§ 928.3 Procedure for conducting continuing reviews of approved State CZM programs and State coastal energy impact programs.

(a) Statutory citations:

(1) Subsection 312(a).

The Secretary shall conduct a continuing review of the performance of coastal States with respect to coastal management. Each review shall include a written evaluation with an assessment and detailed findings concerning the extent to which the State has implemented and enforced the program approved by the Secretary, addressed the coastal management needs identified in Section 303(2)(A)–(I), and adhered to the terms of any grant, loan, or cooperative agreement funded under this title.

(2) Section 316. Section 316 includes a provision for a biennial Coastal Zone Management Report which must include:

* * * a description of the economic, environmental, and social consequences of energy activities affecting the coastal zone and an evaluation of the effectiveness of financial assistance under Section 308 in dealing with such consequences.

(b) Continuing review procedures.

(1) Each State will submit a financial assistance application or work program, whichever is applicable, on a timetable negotiated with the Assistant Administrator, describing the tasks to be undertaken by the State for the purpose of implementing and enforcing its approved CZM program.

(2) For the purpose of evaluation, the States will submit performance reports as specified in the Special Award Conditions, or, if the State is not receiving an award, as negotiated with the Assistant Administrator. The reports will address all areas identified in each State's Performance Report Guidelines.

(3) The Assistant Administrator will collect information on the State CZM programs on a continuing basis. At the beginning of each evaluation, the Assistant Administrator will analyze available information, identify information gaps, and formulate any additional information needs that will be the subject of a supplemental information request to the State.

(4) The Assistant Administrator may conduct a site visit as a part of the evaluation.

(5) Draft findings of the evaluation will be transmitted to the State. The State will have a minimum of two weeks from receipt of the draft findings to review them and provide comments to the Assistant Administrator. This review time may be extended upon request from the State.

(6) Within two weeks from receipt of the draft findings, a State may request a meeting with the Assistant Administrator to discuss the draft findings and the State's comments.

(7) Within 45 days of receipt of State comments, the Assistant Administrator will issue final findings. This period may be extended upon notification to the State. Notice of the availability of the final findings will be published in the **Federal Register**. Copies will be sent to the head of the State CZM agency, the State program manager, and any person who requests them.

(c) Requirements for continuing review of approved State CZM programs.

(1) *Scope of continuing reviews.* The continuing review of a State's approved CZM program will include an evaluation of the extent to which the State has:

(i) Implemented and enforced the program approved by the Secretary;

(ii) Addressed the coastal management needs identified in Section 303(2)(A)–(I); and

(iii) Adhered to the terms of financial assistance awards.

(2) *Procedure for assessing adherence to the approved CZM program.*

(i) In reviewing adherence of a State to its approved CZM program, the Assistant Administrator will evaluate all aspects of the "approved CZM program" as defined in § 928.2(d). The evaluation will examine the extent to which:

(A) The State is implementing and enforcing its approved CZM program;

(B) The management agency is effectively playing a leadership role in coastal issues, monitoring the actions of appropriate State and local agencies for compliance with the approved CZM program, and assuring the opportunity for full participation of all interested entities in CZM program implementation; and

(C) The management agency is effectively carrying out the provisions of Federal consistency.

(ii) The findings concerning the State's adherence to its approved CZM program will be used in negotiating the next financial assistance award or work program, whichever is applicable.

(3) *Procedure for assessing how the State has addressed the coastal management needs identified in section 303(2)(A)–(I).* The assessment of the extent to which the State has addressed the coastal management needs identified in Section 303(2)(A)–(I) will occur as follows:

(i) The State, in its performance report, will provide the Assistant Administrator with a listing of all actions it is taking during the performance report period to address the national coastal management needs and how these actions relate to conditions in the State and the objectives and priorities in the State CZM program.

(ii) The Assistant Administrator, in the evaluation findings, will assess the extent to which the State's actions are targeted to meeting identified "needs" and the effectiveness of the actions in addressing those needs. Based on this assessment, the Assistant Administrator will make findings and recommendations of the extent to which each State is addressing the coastal management needs identified in Section 303.

(iii) The findings and recommendations concerning how the State has addressed the coastal management needs of section 303 will be used by the Assistant Administrator in negotiating the next financial assistance award, if any. The evaluation required by section 312(c), concerning whether a coastal State is "failing to make significant improvement in achieving the coastal management objectives," is detailed in § 928.5(a).

(4) *Procedure for assessing adherence to the terms of financial assistance awards*

(i) Adherence to financial and administrative terms of each financial assistance award will be determined by the NOAA Grants Office and the Department of Commerce Inspector General. Adherence to programmatic terms of each financial assistance award will be determined by the Assistant Administrator and the NOAA Grants Office. These determinations will be made in accordance with the requirements outlined in these regulations, the findings of a financial audit of the award, and the following criteria:

(A) Compliance with the statute, regulations, and applicable OMB circulars;

(B) Submission of required reports and satisfactory completion of work

products as described in the approved application and within the timeframe specified;

(C) Compliance with Standard Terms and Conditions and Special Award Conditions within the specified timeframes;

(D) Use of award funds only for approved projects; and

(E) Substantive modification of approved projects only with the prior agreement of NOAA.

(ii) The findings concerning adherence to the terms of financial assistance awards will be used in negotiating the next financial assistance award, if any.

(d) Requirements for continuing review of State coastal energy impact programs.

(1) *Scope of continuing reviews.* The continuing review of State coastal energy impact programs will include the following elements:

(i) An evaluation of the State's adherence to the terms of financial assistance awards;

(ii) An evaluation of the relationship between coastal energy impact projects and the approved CZM program;

(iii) A description of energy activities in coastal areas and the impact resulting from these activities; and

(iv) An evaluation of the effectiveness of the coastal energy impact program in dealing with these consequences.

(2) *Procedure for assessing adherence to the terms of financial assistance awards.* See § 928.3(c)(4).

§ 928.4 Public participation.

(a) Statutory citation, section 312(b):

For the purpose of making the evaluation of a coastal State's performance, the Secretary shall conduct public meetings and provide opportunity for oral and written comments by the public. Each such evaluation shall be prepared in report form and the Secretary shall make copies thereof available to the public.

(b) Requirements.

(1) The Assistant Administrator will publish a Notice of Intent to Evaluate in the **Federal Register** at least 45 days before the public meeting(s). The notice will include a Statement of the availability of the State's performance report and the supplemental information request.

(2) Each State will issue a notice of the public meeting(s) on its evaluation in the newspaper(s) of largest circulation in the coastal area where the meeting(s) is being held or take other reasonable action to inform the interested public, such as sending a notice of the meeting(s) to persons on its mailing list and publishing a notice in its newsletter, at least 15 days before the date of the public meeting(s). The State will inform the public that oral or written comments will be accepted and that attendance at the public meeting(s) is not necessary for submission of written comments.

(3) Notice of the availability of final findings to the public upon request will be published in the **Federal Register**.

§ 928.5 Enforcement.

(a) Reduction of financial assistance for failure to make significant improvement.

(1) Statutory citation section 312(c):

The Secretary shall reduce any financial assistance extended to any coastal State under Section 306 (but not below 70 per centum of the amount that would otherwise be available to the coastal State under such section for any year), and withdraw any unexpended portion of such reduction, if the Secretary determines that the coastal State is failing to make significant improvement in achieving the coastal management objectives specified in Section 303(2)(A)–(I).

(2) Requirements.

(i) The evaluation will examine whether the State is accomplishing the significant improvement tasks in accordance with specific schedules and expected products negotiated between the State and the Assistant Administrator before the beginning of each financial assistance award, in accordance with the procedures in 15 CFR 923.103.

(ii) If the Assistant Administrator finds, during the continuing review, that the State is not achieving one or more significant improvement objectives as negotiated, the State will be given an opportunity to demonstrate that it can accomplish the objective(s), as prescribed in the financial assistance award, before its expiration.

(iii) If the State cannot make this demonstration to the Assistant Administrator's satisfaction, the Assistant Administrator will determine that the State is failing to make satisfactory progress toward significant improvement in accordance with the previously negotiated agreement.

(iv) Based on this determination, the agency will reduce a State's financial assistance award and withdraw any unexpended portion of the current award by no more than the percentage required to be devoted to making significant improvements for that year. The reduction or withdrawal shall be proportional to the amount of funds allocated to tasks that have failed to result in satisfactory progress in achieving significant improvement.

(b) Withdrawal of program approval and financial assistance.

(1) Statutory citation, section 312(d) and 312(e):

(d) The Secretary shall withdraw approval of the management program of any coastal State, and shall withdraw any financial assistance available to that State under this title as well as any unexpended portion of such assistance, if the Secretary determines that the coastal State is failing to adhere to, is not justified in deviating from (1) the management program approved by the Secretary, or (2) the terms of any grant or cooperative agreement funded under Section 306, and refuses to remedy the deviation.

(e) Management program approval and financial assistance may not be withdrawn under Subsection (d), unless the Secretary gives the coastal State notice of the proposed withdrawal and an opportunity for a public hearing on the proposed action. Upon the withdrawal of management program approval under this Subsection (d), the Secretary shall provide the coastal State with written specifications of the actions that should be taken, or not engaged in, by the State in order that such withdrawal may be canceled by the Secretary.

(2) Requirements.

(i) If the Assistant Administrator finds that a State is failing to adhere to, and is not justified in deviating from, its approved CZM program or those terms of its Section 306 financial assistance award specifically implementing the approved CZM program, the agency will provide the State with written notice of this finding and the agency's obligation to withdraw program approval and financial assistance under this title. This notice will set forth the deviation(s) from the approved CZM program or the financial assistance award and will include specifications of the actions that must be taken in order to remedy the deviation(s). The State will be given 30 days from receipt of this notice to respond with evidence of adherence or justification for its deviation(s). During this 30-day period, the State may request up to 30 additional days to respond, for a maximum of 60 days from receipt of notice.

(ii) If the State does not respond satisfactorily within the time allowed, the agency will notify the State of intent to take the proposed action. This notice will be published in the **Federal Register** and will inform the State of its right to a public hearing.

(iii) If the State does not request a public hearing or submit satisfactory evidence of adherence or justification within 30 days of publication of this notice, the agency will decide whether to withdraw program approval and financial assistance and the agency will notify the State in writing of the decision and the reasons for it. The notification will set forth actions by the State which would cause the Secretary to cancel the withdrawal.

(iv) If the State requests a public hearing within 30 days of publication of the notice of intent to withdraw program approval and financial assistance, the Assistant Administrator will publish 30 days advance notice of the hearing in the **Federal Register** and the newspaper(s) of largest circulation in the State's coastal zone. The hearing will be held in a location convenient to the citizens of the State's coastal zone and a record of the hearing will be maintained. Within 30 days of the completion of the hearing, the agency will make the determination as set forth in (iii), above.

(3) If program approval and financial assistance are withdrawn pursuant to this section, a notice will be placed in the **Federal Register** and Federal consistency under Section 307 of the Act will cease to apply to the State's CZM program.

§ 923.82 [Amended]

6. Section 923.82(b)(3) is amended as follows:

a. After the words, "that State may be subject to," change the word "termination" to "withdrawal."

b. After the end of the sentence, change the reference, "(See § 923.85)" to "(See 15 CFR 928.5(b))."

For the reasons set out in the Preamble, Part 931 of Title 15 of the Code of Federal Regulations is amended as set out below.

1. By removing Subpart L and revising Subpart D to read as set forth below:

PART 931—COASTAL ENERGY IMPACT PROGRAM

Subpart D—Coastal Energy Impact Grants

Sec.

931.30 General.
931.31 Objectives.
931.32 Definitions.
931.33 Eligibility for financial assistance under this subpart.
931.34 Allowable uses.
931.35 Section 308(c) allotment.
931.36 Application for financial assistance.
931.37 Limitations on expenditures.

* * * * *

Subpart C—[Removed]

Subpart D—Coastal Energy Impact Grants

Authority: Section 308 and 317 of the Coastal Zone Management Act of 1972, as amended.

§ 931.30 General.

This subpart sets forth the objectives of providing financial assistance to coastal states under section 308(c) and its allowable uses. It also describes procedures for allotting section 308(c) moneys among eligible coastal states and for applying for assistance under section 308(c).

§ 931.31 Objectives.

The objectives of assistance under this subpart are:

(a) To help coastal states and units of local government plan for economic, social, or environmental consequences of new or expanded energy facilities and to prevent, reduce, or mitigate losses resulting from the transportation, transfer, or storage of coal or from alternative ocean energy activity.

(b) To help coastal states develop the capability to participate effectively in Federal policy, planning, and managerial decisions relating to the development of OCS oil and gas resources.

(c) To provide financial assistance that is simple to administer and that permits the coastal states and units of local government a high degree of control and discretion.

(d) To improve and strengthen coastal zone management in the United States.

§ 931.32 Definitions.

(a) *Coal.* The term "coal" includes all forms of anthracite and bituminous coal, peat, coke, and lignite. In addition to these substances, the term includes ash and sludge, which are waste products of burning coal.

(b) *Coal Facility.* The term "coal facility" includes the following:

(1) Any facility used in the transportation, transfer, or storage of coal. Such facilities include, but are not limited to:

(i) Coal loading docks
(ii) Coal barging terminals
(iii) Coal ports
(iv) Coal storage yards
(v) Rail transport facilities

(2) Any facility that converts coal into another form of energy useable by consumers or industry including but not limited to:

(i) Power plants
(ii) Synthetic fuel plants
(iii) Liquefaction plants

(3) Any facility that utilizes, transports, transfers, stores, handles, processes or produces coal, including mines and steel mills.

(c) *Alternative Ocean Energy (AOE) Facility.* The term "alternative ocean energy facility" means:

(1) Any facility located in or seaward of, the coastal zone whose primary purpose is to utilize the mechanical, chemical, physical, biological or thermal properties of ocean or lake waters in the conversion of those properties into a form of energy usable by consumers or industry. Facilities whose only reliance on ocean or lake waters is for cooling (such as nuclear power plants), liquefied natural gas facilities, and facilities for the exploration for and development of offshore oil and natural gas do not constitute AOE facilities. Solar facilities will also be considered AOE facilities. AOE facilities include, but are not limited to:

(i) Ocean Thermal Energy Conversion (OTEC).
(ii) Tidal and wave generation of electricity.
(iii) Ocean current generation of electricity.
(iv) Salinity gradient generation of electricity.
(v) Pumped storage generation of electricity.
(vi) Solar generation of electricity.
(vii) Biomass production—e.g., kelp farms.
(viii) Wind generation of electricity that depends on the sea or lake breeze.

(d) *Likely to be affected by OCS energy activity.* The Assistant Administrator will find a coastal state "likely to be affected by OCS energy activity" if the Assistant Administrator determines that:

(1) The state can reasonably expect to be exposed to significant social, economic, or environmental consequences as a result of any OCS lease sale that has taken place or is scheduled to take place under the Department of the Interior's (DOI) Five Year Planning Schedule; or

(2) The state has administrative, policy, operational, or managerial responsibilities under the OCS Lands Act that should properly be supported with Section 308(c) funds.

§ 931.33 Eligibility for financial assistance under this subpart.

(a) A coastal state is eligible for financial assistance if it meets the basic eligibility requirements of Subpart C of this Part.

(b) A unit of local government may apply for assistance under this subpart through the state agency designated under Subpart C of this Part to apply for CEIP assistance.

§ 931.34 Allowable uses.

(a) Funds granted to a state under section 308(c) must be used in accordance with the provisions of this section.

(1) *Planning.* States may use section 308(c) funds to plan for any economic, social, or environmental consequence that has occurred, is occurring, or is likely to occur in the coastal zone as a result of siting, constructing, expanding or operating new or expanded energy

facilities that significantly affect the coastal zone, and for reasonable costs of administering the state coastal energy impact program.

(2) *OCS State participation.* States likely to be affected by OCS energy activity may use section 308(c) funds to carry out their responsibilities under the OCS Lands Act. These responsibilities include participating in the administrative, policy, operational, and managerial decisions relating to management of the oil and natural gas resources of the Outer Continental Shelf.

(3) *Coal and AOE impact mitigation.* States may use section 308(c) funds to design and implement projects (including construction and land acquisition) to prevent, reduce, or mitigate unavoidable losses to valuable coastal environmental and recreational resources resulting from the transportation, transfer, or storage of coal or from AOE activities.

§ 931.35 Section 308(c) allotment.

(a) The Assistant Administrator will develop a formula for allotting available Section 308(c) funds among eligible coastal states. This formula will be designed to estimate the relative need for planning, OCS participation, and coal and AOE impact mitigation among eligible states.

(b) This formula will be based on the number of existing and proposed new or expanded energy facilities, the number of existing and proposed coal facilities that significantly affect the coastal zone, the number of existing and proposed AOE facilities located in or seaward of the coastal zone, the nature of their impacts and other relevant factors deemed appropriate by the Assistant Administrator such as coal tonnage, OCS leasing, production of OCS oil and natural gas, shoreline mileage, and coastal county population.

(c) Each fiscal year, before computing an allotment, the Assistant Administrator will submit this formula to all eligible coastal states for review and comment. If appropriate, the formula will be revised before any final allotments are calculated.

(d) The Assistant Administrator may establish minimum and maximum allotments.

§ 931.36 Application for financial assistance.

(a) Applications for financial assistance under this Subpart may be submitted as soon as states are notified of their allotments under Section 308(c).

(b) Applications for assistance under this Subpart must contain the following certification and information:

(1) A clear and brief description of the projects and activities that will be funded under section 308(c) as they relate to allowable uses under § 931.34. For construction projects, as defined in the Office of Management and Budget Circular A–102, or planning projects that are the first stages of site specific development projects, the following additional information is required:

(i) environmental impact assessment data in detail sufficient to allow the Assistant Administrator to determine whether an EIS will be required under NEPA:

(ii) copies of all necessary major Federal permit or license approvals;

(iii) a Preliminary Engineering Report.

(2) A showing that the state has complied with the requirements of the Project Notification and Review System established by Office of Management and Budget Circular A–95 (Part I) or a showing, if the application for assistance has not been submitted to the PNRS, that a memorandum of agreement for coordinating planning under Section 308 has been established with appropriate areawide clearinghouses in the state's coastal zone, pursuant to Part IV, Attachment A, of OMB Circular A–95.

(3) A certification by the state agency designated under § 931.25(a)(4)(i) that the assistance for the purposes specified in § 931.34(a)(1) and (3) has been or will be allocated within the State in accord with the intrastate allocation process described in Subpart J of this part.

(4) A certification by the state agency designated under § 931.25(a)(4)(iii) that the assistance will be used in a manner that is compatible with the state's developing, or consistent with the state's approved, coastal zone management program.

(c) Allotted funds not applied for by the end of the fiscal year for which allotments were made may be reallotted by the Assistant Administrator among other eligible states.

§ 931.37 Limitations on Expenditures.

(a) Section 308(c) funds expended by a state for the purposes described in § 931.34 may not exceed 70 percent of the actual cost of carrying out projects;

(b) States and local governments may use in-kind contributions as the non-federal matching share in accordance with OMB Circular A–102;

(c) Section 308(c) funds may not be used:

(1) For the prevention, reduction, or mitigation of any loss of an environmental or recreational resource that is directly attributable to the sale, lease, or rental of such resource by a state agency or unit of local government when the sale, lease, or rental occurs after October 17, 1980;

(2) To pay for that part of a project designed to prevent, reduce, or mitigate the loss of a valuable environmental or recreational resource which is incommensurate with the value of the loss or which can be paid for with funds readily available from any other Federal program;

(3) To pay for that part of a loss:

(i) That occurs after July 26, 1976, and

(ii) That could have been prevented by a reasonable exercise of a state's existing regulatory authority.

(4) For architectural, engineering, and other technical service fees or costs unless:

(i) Compensation is comparable to the cost of similar work awarded through open competitive bidding;

(ii) Compensation is not based on a cost plus a percentage-of-cost; and

(iii) Design and performance standards conform to professionally recognized national standards.

(5) The purchase of movable construction related equipment such as dump trucks and excavating equipment unless expressly authorized by the financial assistance award.

(d) All awards and expenditures of funds under this subpart are subject to the applicable requirements specified in Subpart I.

2. By amending Subpart G as follows:

a. § 931.70 is revised to read as follows:

§ 931.70 General.

This Subpart states the objectives of financial assistance under section 308(b) and describes its allowable uses. It also describes procedures for applying for Section 308(b) grants.

b. In § 931.71 revise the introductory text to read:

§ 931.71 [Amended]

The objectives for providing assistance under section 308(b) are:

* * * * *

c. In § 931.71 add the following paragraph (d):

* * * * *

(d) To help coastal States and units of local government plan for the provision of public facilities and public services required as a result of OCS energy activity.

§ 931.73 [Amended]

d. In § 931.73 the first sentence of paragraph (a) is amended by removing the words "Sections 308(b)(5)(c) and (308)(d)(4)" and inserting in their place the words "Section 308(b)."

§ 931.74 [Amended]

e. In § 931.74 the first sentence of first paragraph (a) is amended by removing the words "Sections 308(b)(5)(c) and 308(b)(4)" and inserting in their place the words "Section 308(b)(5)(c)".

f. In § 931.74 add the following paragraph (d):

* * * * *

(d) Allowable uses under Section 308(b)(5)(B) include:

(1) Planning and study that are necessary to provide new or improved public services that are required as a result of OCS energy activity.

(2) Paying for reasonable costs of administering the provision of assistance under Section 308 to the extent that funding for these administrative costs in not available under section 308(c).

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 17

Gross Collection of Exchange-Set Margins

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is adopting new Rule 1.58 which requires that carrying FCMs collect margin for positions carried in omnibus accounts on a gross basis and at a level which is no less than that established for customer accounts by the rules of the applicable market. The Commission is adopting such a rule in order to help to prevent, or at least limit, financial loss to customers, members of the marketplace and the marketplace itself which may be caused by the bankruptcy or insolvency of a futures commission merchant ("FCM") which is not a clearing member of a commodity exchange. The new rule will require the transfer of certain funds now controlled by an originating FCM to the generally better-capitalized clearing FCM, and it will strengthen the financial early warning system by providing carrying FCMs with greater information about the financial condition of those FCMs for which they are carrying omnibus accounts.

EFFECTIVE DATE: August 16, 1982.

FOR FURTHER INFORMATION CONTACT: Daniel A. Driscoll, Deputy Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone (202) 254-8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

On December 29, 1981, the Commission published a proposed new Rule 1.58 which would require that carrying FCMs collect margin for positions carried in omnibus accounts on a gross basis and at a level which is no less than that established for customer accounts by the rules of the applicable contract market, as well as proposed amendments to Rule 17.04 regarding reporting of omnibus account positions, and solicited public comment theron (46 FR 62864). The Commission received twelve written comments on the proposals. The commentators include eight FCMs and two commodity exchanges, one of which submitted two comment letters, as well as the National Futures Association ("NFA"). The Commission has carefully considered all of the comments received in response to the proposed rules.

II. Discussion

As the Commission stated in the **Federal Register** release announcing the proposal of Rule 1.58, the Commission believes that gross collection of exchange-set margins will strengthen the industry and enhance customer protection by moving segregated funds into the normally better-capitalized hands of a clearing member. The Commission recognizes the key role of the clearing members in assuring financial integrity and correcting potential problems.

As the Commission also stated in the **Federal Register** release announcing the proposal of Rule 1.58, the most significant difference in the financial monitoring program of the exchanges and the Commission's financial monitoring program is the information that the exchanges have about clearing members which the Commission does not have about non-clearing FCMs which carry their accounts with a clearing member FCM on an omnibus basis.[1] Such information is primarily developed from the pay and collect information that is generated by the individual clearing organizations. While the Commission could conceivably obtain such information directly from all originating FCMs, such a process would be cumbersome and would not involve an independent source such as a carrying FCM or clearing organization. In addition to the information available to the exchanges about their clearing members through the pay and collect data, there is an informal information network existing among the FCM community. While such information is often communicated to exchange personnel, it rarely, if ever, reaches the Commission. To compensate for the information which is routinely obtained by the exchanges about their clearing member FCMs but which is not readily available to the Commission or in certain instances, any self-regulatory organization with respect to omnibus accounts, the Commission has determined to adopt a rule which will require the gross collection of exchange-set margins. In this regard, pay and collect information is unavailable even to the exchanges regarding omnibus accounts where the originating FCM is a member of one exchange placing orders for execution on another exchange where the FCM is not a member. Rule 1.58 will thus apply to all omnibus accounts and not only to those omnibus accounts of originating FCMs which are not members of any commodity exchange, as some commentators suggested.

One concern expressed by some commentators related to the investment of customer funds. The Commission stated in the **Federal Register** release announcing the proposal of Rule 1.58 that, if the rule were adopted, an originating FCM would not be precluded from depositing United States Treasury bills or some other acceptable form of interest-bearing instrument with the carrying FCM and would not, therefore, have to forego the interest currently being earned on segregated funds. One commentator stated that Treasury bills or other interest-bearing instruments would be acceptable to a clearing FCM for initial margin purposes. That commentator further stated, however, that since daily settlement obligations or variation margin payments owed by a clearing member to a clearing organization must be satisfied on a cash basis, a clearing member would not accept Treasury bills or other interest-bearing instruments from originating FCMs for any purpose. The Commission disagrees with that statement. The amount of variation margin required of a clearing FCM by a clearing organization should be the same whether the collection of margin with respect to positions held in omnibus accounts carried by the clearing FCM is made on a net or gross basis, and changing from one system to the other should have no bearing upon variation margin payments

[1] While the NFA is expected to develop a financial monitoring program for FCMs, it is anticipated that the NFA will encounter many of the same problems in obtaining information that the Commission has experienced.

required of a clearing FCM by a clearing organization and should not preclude investment of customer funds by originating FCMs. Certain other concerns raised by commentators, such as what types of instruments will be accepted by carrying FCMs and how much credit will be accorded to them, are best resolved between the carrying FCM and originating FCM. Although a greater amount of funds will be shifted from originating FCMs to carrying FCMs under Rule 1.58, as compared to the current system, this should not affect materially the opportunities for investment of customer funds available to originating FCMs.

Some commentators expressed the view that the gross collection of exchange-set margins for omnibus accounts would have anti-competitive effects because there would be increases in costs to firms which would lead to a fewer number of firms, due to mergers or due to some firms going out of business, and the surviving firms would be the larger firms. The Commission does not agree that the costs will increase to the extent cited by the commentators, since the Commission does not believe, as discussed in the preceding paragraph, that investment of customer funds will be affected materially. The Commission is also aware that the argument about increased costs has been raised whenever changes have been proposed which might require that more capital be maintained by firms. In those circumstances, and with respect to the gross collection of exchange-set margins for omnibus accounts, the Commission believes that any increased costs are necessary in the interest of customer protection.

Operational concerns were cited by several commentators, especially the fact that computer programming changes would be necessary. The Commission recognizes that a problem could exist for some firms in this area, and has therefore made the effective date of Rule 1.58 ninety days after publication of this notice, rather than the normal thirty days, so that any required computer programming changes can be made. Some commentators raised the issue of verification of the reports received by carrying FCMs from originating FCMs, especially if spread or hedge positions are reported in accordance with Rule 1.58(b). Carrying FCMs would not be expected to make independent verification of reports filed in accordance with Rules 17.04 and 1.58, unless there was reason to believe that such reports were inaccurate. Such reports can be verified readily during audits conducted by the Commission's staff, the NFA or any self-regulatory organization.

One commentator stated that in order to comply with Rule 1.58, all omnibus accounts would effectively be required to be handled on an "instruct basis." [3] The Commission believes that this is not necessarily the case because Rule 1.58 only requires carrying FCMs to collect margin based on positions already being reported in accordance with Rule 17.04. Further, this commentator asserted that, based on a survey which it conducted, nearly 60% of omnibus accounts surveyed are currently handled on an instruct basis. Since many omnibus accounts are already handled on an instruct basis, it is the Commission's view that, if some FCMs find that it is necessary to handle omnibus accounts on an instruct basis in order to comply with Rule 1.58, there should not be a material effect on operations.

Two commentators stated that the Commission lacks statutory authority to promulgate Rule 1.58. The only limitations on the Commission's authority with respect to margin contained in the Commodity Exchange Act, as amended ("Act") are found in sections 5a(12) and 8a(7), respectively (7 U.S.C. 7a(12) and 12a(7) (1976 & Supp. IV 1980)).[3] These sections preclude the Commission from approving or disapproving contract market rules relating to setting of levels of margin or altering or supplementing contract market rules for the setting of levels of margin. The intention of these restrictions on the Commission's rule approval authority was to assure that the exchanges retained the power to protect themselves by making daily and an even hourly adjustments of margin. It is for the reason that the control of the amount of margin is left to the exchanges.[4] Rule 1.58 does not purport to affect or to interfere in any way with the setting of levels of margin by a contract market. Under this rule, the Commission wishes to point out that the authority to establish margin levels and to thereby respond quickly to changing market situations remains with the contract markets consistent with the recognition by Congress of their expertise. However, the Act does not preclude the Commission from making rules which prescribe where margin funds must be maintained and how they must be collected and segregated.

Rule 1.58 prescribes where margin as set by an exchange with respect to a specific contract must be held. As such it is intended to increase the strength and credibility of the Commission's segregation and minimum financial rules which are relied on by customers to maintain the customer funds deposited in connection with their commodity transaction intact, as trust funds, even in the event of the insolvency of the firm with which they are doing business. Rule 1.58 would not affect the level of margin established by an exchange or the amount assessed to the beneficial holder of a position.

The Commission is also adopting, in the form proposed, amendments to § 17.04, so that option positions traded through omnibus accounts will be required to be reported on a gross basis. None of the comments addressed this aspect of the proposals. At the present time, § 17.04 applies only to futures positions traded through an omnibus account. The Commission intended to have option positions traded through an omnibus account reported on a gross basis, but believed that this objective could be achieved through rules promulgated by the exchanges establishing a large trader reporting system for options. The large trader reporting system for options will be administered by the exchanges, and the Commission will review the rules of the exchanges relating to large trader reporting in connection with its review of designation applications. Because the Commission proposes to include option positions within the coverage of Rule 1.58, however, and because Rule 1.58 will incorporate § 17.04 by reference, the Commision is amending § 17.04 so that it will apply to options.

III. Certification Under the Regulatory Flexibility Act

When the Commission proposed Rule 1.58, the Chairman certified, on behalf of the Commission and pursuant to the Regulatory Flexibility Act, that if the rule were promulgated as proposed, it would not have a significant economic impact on a substantial number of small entities. However, the Commission particularly invited comment from any firms or other persons which believed that promulgation of the rule might have a significant economic impact upon their activities.[5]

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[3] Under such a system, all positions are held open by the carrying FCM until the originating FCM gives specific instructions as to which positions, if any, to offset.

[3] *But see* Sections 4c(b) and 8a(9) of the Act, 7 U.S.C. 6c(b) and 12a(9) (1976 & Supp. IV 1980), which grant the Commission plenary authority with respect to options and in times of emergency, respectively.

[4] 120 Cong. Rec. H10766 (daily ed. April 11, 1974) (remarks of Rep. Poage).

[5] It should be noted that any impact of Rule 1.58 will fall on FCMs. The Commission has determined

Continued

As discussed above, certain commentators expressed the view that costs will increase for the relatively smaller firms under Rule 1.58. As also stated above, the Commission does not believe that substantial additional costs will result from the adoption of Rule 1.58, and the Commission further believes that any increased costs are necessary in the interest of customer protection. Having undertaken its own reconsideration of this issue and having reviewed the suggestions set forth by the commentators, the Commission believes that there is no satisfactory alternative to the rule which would as effectively accomplish the objectives and policies of the Act.

IV. List of Subjects in 17 CFR Part 1

Commodity futures, Customer protection, Segregated funds.

17 CFR Part 17

Commodity futures, Futures commission merchants, Foreign brokers, Reporting requirements.

V. Paperwork Reduction Act

Information collection requirements contained in regulation Section 1.58 have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB #3038-0026.

In consideration of the foregoing and pursuant to the authority contained in Sections 4c, 4d, 4f, 4g and 8a of the Act, 7 U.S.C. 6c, 6d, 6f, 6g and 12a (1976 & Supp. IV 1980), the Commission hereby amends 17 CFR Part 1 by adding a new § 1.58, and amends 17 CFR Part 17 by revising § 17.04, as set forth below. In adopting these rules, the Commission has taken into consideration the public interest to be protected by the antitrust laws and has endeavored to take the least anti-competitive means of achieving the regulatory objectives of the Act.

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. 17 CFR Part 1 is amended by adding § 1.58 to read as follows:

§ 1.58 Gross collection of exchange-set margins.

(a) Each futures commission merchant which carries a commodity futures or commodity option position for another futures commission merchant on an omnibus basis must collect, and each futures commission merchant for which the omnibus account is being carried must deposit, initial and maintenance margin on each position reported in accordance with § 17.04 of this chapter at a level no less than that established for customer accounts by the rules of the applicable contract market.

(b) If the futures commission merchant which carries a commodity futures or commodity option position for another futures commission merchant on an omnibus basis allows a position to be margined as a spread position or as a hedged position in accordance with the rules of the applicable contract market, the carrying futures commission merchant must obtain and retain a written representation from the futures commission merchant for which the omnibus account is being carried that each such position is entitled to be so margined.

PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS, MEMBERS OF CONTRACT MARKETS AND FOREIGN BROKERS

2. 17 CFR Part 17 is amended by revising § 17.04 to read as follows:

§ 17.04 Reporting Omnibus Accounts to the Carrying Futures Commission Merchant or Foreign Broker.

(a) Any futures commission merchant, clearing member or foreign broker who establishes an omnibus account with another futures commission merchant or foreign broker shall report to that futures commission merchant or foreign broker the total open long positions and the total open short positions in each future of a commodity, and, for commodity option transactions, the total open put options purchased, the total open put options granted, the total open call options purchased, and the total open call options granted for each commodity option expiration date, in such account at the close of trading each day. The information required by this section shall be reported in sufficient time to enable the futures commission merchant or foreign broker with whom the omnibus account is established to comply with Part 17 of these regulations and reporting requirements established by the contract markets.

(b) In determining open long and open short futures positions, and open purchased and open granted option positions, in an omnibus account for purposes of complying with § 17.00(f), § 1.37(b) and § 1.58 of this chapter, a futures commission merchant, clearing member or foreign broker shall total the open long positions of all traders and the open short positions of all traders in each future of a commodity, and, for commodity option transactions, shall total the open put options purchased, the open put options granted, the open call options purchased, and the open call options granted of all traders for each commodity option expiration date. The futures commission merchant, clearing member or foreign broker shall, if both open long and short positions in the same future are carried for the same trader, compute open long or open short futures positions as instructed below.

(1) Include both the total open long and the total open short positions of the trader if:

(i) The positions represent transactions on a contract market which requires long and short positions in the same future held in accounts for the same trader to be recorded and reported on a gross basis; or

(ii) The account is an omnibus account of another futures commission merchant or foreign broker; or

(2) Include only the net long or net short positions of the trader if the positions represent transactions on a contract market which does not require long and short positions in the same future held in accounts for the same trader to be recorded and reported on a gross basis.

Issued in Washington, D.C. on May 11, 1982, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-13361 Filed 5-14-82; 8:45 am]

BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release Nos. 33-6395; 34-18648; 35-22456; IC-12376; FR-1]

Codification of Financial Reporting Policies

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation and notice of availability.

SUMMARY: The Commission announces the publication of a codification of certain existing Accounting Series Releases (ASRs).[1] The material included in the codification represents only those portions of these ASRs that are relevant today. This publication is part of the Commission's continuing efforts to

that a registered FCM not be considered a "small entity" within the meaning of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1165, 1166 (5 U.S.C. 601 (3) and (6)). *See* 47 FR 18618 (April 30, 1982).

[1] Note.—This codification is a separate publication issued by SEC. It will not be published in the Federal Register/Code of Federal Regulations system.

review its rules, regulations and releases, and to delete requirements that are no longer necessary and to simplify the remainder. The Commission expects that the codification will make the material therein more useful to issuers, accountants and others. The Commission also announces a new series of releases—Financial Reporting Releases (FRRs)—which will replace ASRs as the title of releases announcing accounting and auditing matters of general interest. This release is the first of the new series.

FOR FURTHER INFORMATION CONTACT: David F. Martin or Edmund Coulson (202–272–2130), Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washingon, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission has identified the relevant portions of certain existing Accounting Series Releases (ASRs) and is publishing a codification of that material. The purpose of the codification is to provide one document which is organized in a logical manner and which can be used as a reference for the Commission's current published positions on accounting and auditing matters relating to financial reporting. The codification will be updated by the issuance of Financial Reporting Releases (FRRs).

In a related action today, the Commission is publishing Accounting and Auditing Enforcement Release (AAER) No. 1 as the first of a series of releases which will be used to announce accounting and auditing matters that are related to Commission enforcement activities. The status of previous ASRs relating to the Commission's enforcement activities is unaffected by the issuance of AAER No. 1, and they are not republished or codified therein. However, the Commission has developed a topical index for the material included in the 100 ASRs which address various accounting and auditing matters in an enforcement context. This index, which is included in AAER No. 1, should facilitate reference to specific areas addressed by the Commission in those releases.

As a result of the Commission's actions today, no further ASRs will be issued since future announcements will be made in FRRs and AAERs.

Background

Since 1937, the Commission has issued 307 ASRs to inform interested parties about matters relating to accounting and auditing. Approximately 200 of the ASRs announced adoption or amendment of accounting related rules or presented the Commission's views on accounting issues. Much of the information in these releases is no longer relevant. Additionally, certain topics are addressed in more than one ASR and some ASRs supersede portions of previously issued ASRs. Because of the volume of ASRs and the variety of topics covered, it has become extremely difficult to determine which ASRs, or portions thereof, are relevant at any given point in time. To simplify the use of the guidance provided in these releases, the Commission has codified the relevant portions of the non-enforcement related releases.

Codification

The codification is a compendium of the Commission's current published views and interpretations relating to financial reporting. It supplements the rules set forth in Regulations S–X (17 CFR Part 210) and S–K (17 CFR Part 229) by providing background and rationale for certain of the rules therein.

The codification process was conducted by performing a comprehensive review of the content of the ASRs. This review indicated that the content of 79 ASRs was no longer relevant, and therefore they have not been carried forward. Previous Commission actions had rescinded 57 other ASRs. The remaining 71 ASRs have been placed in the codification by extracting those portions of the ASRs which provide current, meaningful guidance to registrants, independent accountants and others in complying with the Commission's requirements. The extractions have been organized by topic and, where necessary, editorial comments to explain the sequence of events have been inserted [these are shown in brackets in the codification]. Minor editorial changes were also made in the extractions so that the extractions would fit into the context of the codification. Additionally, all references to rules and regulations of the Commission have been updated to the appropriate current reference. A topical index has been included in order to facilitate easy reference to the material.

The Commission expects that as sections of the codification become obsolete, or otherwise require modification, because of private-sector initiatives, Commission actions, or environmental changes, sections of the codification will be rescinded or appropriately modified. Additionally, in the future when the Commission finds it necessary to issue statements about accounting and auditing matters related to financial reporting, the codification will be appropriately updated.

Financial Reporting Releases (FRR's)

FRRs will be the means by which the codification of financial reporting policies will be updated. The title of these releases has been changed from ASRs to more closely reflect the nature of the material covered. It is not expected that the topics addressed by FRRs will be different from the types of topics addressed in the ASRs except that enforcement related matters will now be announced in a separate series of releases as discussed above.

Status of ASR's

The Commission intends that the codification stand on its own. Therefore, there should be no need to refer to individual ASRs when complying with Commission rules and regulations. To assist users in understanding the codification, a cross-reference index reflecting the status of each of the individual ASRs is included as an appendix to the codification. Further, the material in the codification is referenced to the ASR from which it was extracted.

Finally, the Commission is updating Part 211 of Title 17, Chapter II of the Code of Federal Regulations which lists certain interpretive ASRs. All remaining references to individual ASRs are being deleted because the relevant portions of those ASRs have been included in the codification.

Where appropriate, previously issued ASRs have been published in the **Federal Register.** Therefore, this codification will not be printed in the **Federal Register.** Copies of the codification will be available from the Commission's Public Reference Room of the Office of Consumer Affairs and Information Services, or by calling (202) 523–3761. Where appropriate, future FRRs will be printed in the **Federal Register.**

List of Subjects in 17 CFR Part 211

Accounting, Reporting requirements, Securities.

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS

Commission Action

1. The Commission hereby rescinds and removes the following releases in the accounting series, in Subpart A, Part 211 of Title 17, Chapter II of the Code of Federal Regulations. Accounting Series Release Nos. 4, 8, 19, 21, 22, 25, 27, 36, 44, 47, 51, 81, 90, 98, 103, 112, 113, 115, 116, 118, 123, 124, 126, 130, 135, 142, 146, 146A, 150, 162, 219, 220, 234, 244, 251, 289, 293, 297, 300, 305, 307.

2. The Commission hereby revises the titles of Part 211 of Title 17, Chapter II of the Code of Federal Regulations and of Subpart A thereof to read as follows:

PART 211—INTERPRETATIONS RELATING TO FINANCIAL REPORTING MATTERS

Subpart A—Financial Reporting Releases

The Commission adds a reference to this release to Subpart A of Part 211.

By the Commission.

George A. Fitzsimmons,

Secretary.

April 15, 1982.

[FR Doc. 82-13211 Filed 5-14-82; 8:45 am]

BILLING CODE 8010-01-M

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17 CFR Part 211

[Release Nos. 33-6396; 34-18649; 35-22457; IC-12377; AAER-1]

Index of Accounting and Auditing Enforcement Releases

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: The Commission announces the publication of a topical index to its Accounting Series Releases that have announced enforcement actions involving accountants. The topical index is intended to facilitate reference to the Commission's views on particular accounting and auditing matters that have given rise to Commission enforcement actions. The Commission also announces the institution of a new series of releases entitled Accounting and Auditing Enforcement Releases. In the future, Commission enforcement actions involving accountants will be announced in Accounting and Auditing Enforcement Releases to enable interested persons to easily distinguish enforcement releases involving accountants from other Commission releases.

FOR FURTHER INFORMATION CONTACT: George Diacont or Michael Kigin (202/272-2130), Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Since 1937, the Commission has issued 307 Accounting Series Releases (ASRs) to announce rulemaking and enforcement actions and its interpretations of accounting and auditing matters. The Commission's staff has reviewed the nonenforcement related releases to determine which are outdated or have been superseded. In a related action today, the Commission is publishing Financial Reporting Release No. 1 which announces the codification of the material in those ASRs that continues to be relevant to financial reporting.

The Commission's staff has also reviewed the approximately 100 ASRs that announced enforcement related actions involving accountants. Those releases have not been included in the codification although some of them contain explanations of the Commission's views on accounting and auditing and may be useful to registrants and accountants in the preparation of certification of financial statements being filed with the Commission, or otherwise.

In lieu of including the enforcement related ASRs in the codification, the Commission is publishing a topical index (Appendix A) to those ASRs. The index consists of an alphabetical list of accounting, auditing and related topics that are discussed or referred to in the identified enforcement related ASRs. The index is intended to be used as a reference to the particular ASRs and not as a comprehensive representation of the Commission's views on these matters. Publication of the topical index should facilitate research of certain of the Commission's enforcement actions relating to accounting and auditing matters and to the Commission's views on particular accounting and auditing deficiencies. A list of the enforcement related ASRs is also attached as Appendix B.

The issuance of the topical index has no effect on the legal status of the enforcement related ASRs. Those releases remain in effect and persons interested in the Commission's views on the topics listed in the index should consult the particular ASRs, which are not codified or republished herein.

The Commission is also announcing the institution of a new series of releases. This release is the first of that series. Future Commission releases announcing enforcement actions involving accountants will be issued as Accounting and Auditing Enforcement Releases ("AAER"). Henceforth, interested persons will be able to easily distinguish enforcement releases involving accountants from releases in which the Commission announces the adoption or revision of rules related to financial reporting or discusses its interpretive views on financial reporting matters.

AAER No. 1 will be listed in new Subpart C of Part 211 of the Code of Federal Regulations because it is a topical guide to the Commission's views on accounting and auditing matters expressed in connection with enforcement proceedings involving accountants. Future AAERs will not be listed in Subpart C, however, because they will be announcing Commission enforcement actions. Periodically, the topical index may be updated to include references to future AAERs to facilitate research of the Commission's views on particular accounting and auditing issues.

List of Subjects in 17 CFR Part 211

Accountants, Accounting, Financial Statements, Reporting Requirements, Securities.

Commission Action

The Commission hereby amends Part 211 of Title 17, by adding Subpart C to read as follows:

Subpart C—Accounting and Auditing Enforcement Releases

Subject	Release No.	Date	Fed. Reg. vol. and page
Index of Accounting and Auditing Enforcement Releases	1	Apr. 15, 1982	

By the Commission.

George A. Fitzsimmons,

Secretary.

April 15, 1982.

Appendix A.—Topical Index of Enforcement Actions Involving Accountants

Introduction

This is a topical index of certain accounting and auditing matters which have been addressed in enforcement related Accounting Series Releases ("AS"). The index is intended to be used only as a reference to the particular Accounting Series Release and not as a comprehensive representation of the Commission's views on these matters.

Some Accounting Series Releases discuss matters related to more than one company. Accordingly, to facilitate the research of topics in lengthy Accounting Series Releases the following key to major headings, as they are set forth in the releases, is provided:

AS 173-1 National Student Marketing Corporation
AS 173-2 Talley Industries, Inc.
AS 173-3 Republic National Life Insurance Company
AS 173-4 The Penn Central Company

AS 173–5 Stirling Homex
AS 196–1 Cenco Incorporated
AS 196–2 Equity Funding Corporation of America
AS 196–3 Omni-Rx Health Systems
AS 196–4 SaCom
AS 227–1 Cosmopolitan Investors Funding Co.
AS 227–2 Western Properties Limited Partnership
AS 227–3 Co-Build Companies, Inc.
AS 238–1 In the Matter of National Telephone Co., Inc.
AS 238–2 In the Matter of Continental Mortgage Investors
AS 241–1 Fisco, Inc.
AS 241–2 The Falstaff Brewing Corporation
AS 241–3 Oceanography Mariculture Industries, Inc.
AS 241–4 Ampeco Securities, Inc.
AS 292–1 Mattel, Inc.
AS 292–2 Geon Industries, Inc.

Index

Accounting Principles

- The independent accountant must be satisfied that in his professional judgment the principles selected are those which appropriately describe the business reality within the general framework of the accounting approach to economic measurement, (AS 173)
- Failure to obtain sufficient competent evidential matter to provide a basis for concluding that the use of an accounting method was appropriate in the circumstances and that the computations required by the method had been properly made, (AS 238–1)

Accounting Principles Board Opinions ("APBO")

- APBO No. 9, (AS 173–1)
- APBO No. 10, (AS 248)
- APBO No. 16, (AS 241–1)
- APBO No. 20, (AS 292–2)
- APBO No. 21, (AS 238–1)

Accounting Principles Board Statements ("APB Statement")

- APB Statement No. 4 (AS 173–5)

Accounting Research Bulletins ("ARB")

- ARB No. 13, (AS 292)
- ARB No. 43, (AS 227–3)
- ARB No. 45, (AS 173–5)
- ARB No. 48, (AS 248)
- ARB No. 51, (AS 173–4)

Accounts Payable (See "Payables")
Accounts Receivable (See "Receivables")
Accrued Interest (See "Receivables")
Accrued Liabilities (See "Payables")

Advances

- Advances to general partner improperly recorded by limited partners, (AS 227–2)
- Disclosure of advances inadequate, (AS 241–3)

Advertising

- Advertising credits overstated, (AS 153A)
- Advertising expense improperly capitalized, (AS 288)

Allowance (See "Reserves")
Alteration of Accounting Records

- Retail inventory records falsified; inventory purchases not recorded in proper period, (AS 105)
- Inventory quantities altered on inventory count tags and on the computer listing prepared to compile the physical count, (AS 196–1)
- Labor time records altered, (AS 196–4)
- Overstatement of inventory accomplished by the addition of computer punch cards representing non-existent inventory, (AS 210)
- Closing inventory figures falsified, (AS 230, AS 231, AS 232)

Analytical Review Procedures

- Comparative inventory schedule reflected significant increases from prior year; auditor unduly relied on management explanations for increases and did not take appropriate steps to verify their reasonableness, (AS 196–1)

Appraisal Surplus

- Appraisal surplus falsely recorded on books, (AS 179A)

Appraisals

- Auditor should have insisted upon receiving appraisals based upon current value, (AS 173–3)
- Auditor should not have relied on an appraisal prepared by the president of the registrant for valuation of assets acquired by the registrant, (AS 282)

Audit (Report Issued Although Examination Not Conducted)

- Auditor certified financial statements without examining the companies' books, (AS 48, AS 88)
- An accountant (having no participation in, or control or supervision of, an audit) certified financial statements that were prepared and examined entirely by another accountant, (AS 91)
- Balance sheet prepared by auditor on the basis of information supplied over the telephone; report stated that the books and records had been reviewed, (AS 92)
- Audit consisted mainly of discussions with management; no independent verification of company's assets and liabilities, (AS 192)
- Auditor permitted financial information about a company to be transcribed on his letterhead stationery without any independent verification, (AS 198)
- Auditor relied on work papers prepared by the client; made no independent review of the books and records, (AS 213)

Audit Fee

- Fee ostensibly forgiven to show reduced cost in registration statement, (AS 196–3, AS 196–4)
- Audit fee not accrued even though the amount was clearly material, (AS 283)

Audit Program

- Audit program for advertising credits inadequate because the sample selected for external verification was limited, (AS 153A)
- Audit program should have been expanded to test intercompany transactions in greater depth, (AS 173–4)
- Written audit programs needed, (AS 210)
- Audit program was inappropriate, (AS 241–4)

Audit Report

- Auditor failed to withdraw report on basis of new information, (AS 238)
- Unqualified audit report signed by mistake, (AS 241–4)
- Report signed prior to completion of field work and partner's review of workpapers, (AS 285)

Audit Scope

- Audit program for advertising credits inadequate because the sample selected for external verification was limited, (AS 153A)
- Additional audit procedures should have been performed to determine reasons for inventory test count differences, (AS 196–1)
- Vessel commitments made subsequent to the period being audited should have been examined because they had a direct impact on the financial statements in question, (AS 209)
- No adequate audit steps were taken to determine authenticity of investment transaction where auditors knew that individuals managing investment fund had been indicted for bankruptcy fraud, (AS 227–1)
- Further audit work warranted because of suspicious circumstances, (AS 248)

- Failure to extend auditing procedures where the client's treatment of particular assets strongly suggested the need for follow-up, (AS 288)

Bad Debt Allowance (See "Reserves")

Bookkeeping

- Accountant held liable for entries made in client's books which concealed looting, (AS 179A)

Broker-Dealer

- Inadequate audit, (AS 48, AS 51, AS 59, AS 67, AS 97, AS 110, AS 143, AS 160, AS 201, AS 233, AS 241–4, AS 283)

Business Combinations (See "Pooling" and "Merger")

Capitalization

- Improper capitalization of purported start-up costs and test-market costs, (AS 168)
- Improper capitalization of contract costs; inadequate audit, (AS 196–4)
- Auditor unable to determine that items capitalized by a credit to expense had ever been charged to expense, (AS 227–3)
- Improper capitalization of advertising, repair and maintenance, computer and construction costs; inadequate audit, (AS 288)

Cash Basis Accounting

- Failure to adequately disclose modification of supposedly cash basis financials, (AS 227–2)
- Use of cash basis accounting not disclosed, (AS 252)
- Audit report unqualified even though financial statements prepared on a cash basis, (AS 262)

Change in Accounting Principles

- Failure to disclose change in application of accounting principles, (AS 238–1, AS 243)

Change in Auditors (See "Successor Auditor's Responsibilities")

Claims

- Auditors could not verify the amount of the claim because of the insufficiency of the supporting documentation, (AS 196–4)
- Insurance claim recorded at incorrect amount, (AS 292–1)

Collateral

- Need for thorough inquiry into adequacy of collateral (AS 238)

Collectibility

- Auditor failed to inquire regarding the existence of funding, (AS 174)

Combined Financial Statements

- Presentation of combined financial statements of registrant and an affiliate necessary to prevent results from being misleading, (AS 227–3)

Comfort Letter

- Auditor should have made additional disclosures in comfort letter, (AS 173–2)

Commercial Paper

- Investment in non-existent commercial paper recorded by registrant, (AS 196–2)

Computer

- Inventory quantities on computer listing altered, (AS 196–1)
- Overstatement of inventory accomplished by the addition of computer punch cards representing non-existent inventory, (AS 210)

Concurring Partner Review

- Concurring partner failed to discover that the audit engagement had not been conducted in accordance with generally accepted auditing standards, (AS 285)

Confirmations (See also "Receivables")

- Confirmation procedures inadequate, (AS 110)
- Confirmation procedures did not include direct inquiry of bank, (AS 153)
- No confirmation obtained from purchaser of lease, (AS 153)
- Written confirmation of credits necessary, (AS 153A)
- Written confirmations of commitments not obtained; auditors did not insist on proper audit controls for oral confirmations, (AS 173–1)
- Failed to confirm existence of financing commitment, (AS 173–5)
- Bank confirmations cannot be replaced by alternative audit procedures due to the pervasive nature of audit evidence that they provide, (AS 282)
- Certain confirmations not sent at client's request, (AS 285)
- Auditor failed to follow-up on customer confirmations containing material exceptions, (AS 292–1)

Consultations

- Failure to document, (AS 288)

Contingent Liabilities

- Reserve for losses and contingencies materially inadequate, (AS 78)
- Liability for guarantees could not accurately be estimated, (AS 173–1)
- Major contingent liabilities not disclosed, (AS 252)

Correspondent Auditor

- Duty of auditing firm issuing a report to insure that work performed by correspondent auditors complies with generally accepted auditing standards, (AS 209)

Deferred Assets (See also "Capitalization")

- Deferral of public offering cost and accounting fees, (AS 196–3)
- Costs originally charged to cost of goods sold were subsequently reclassified as tooling, leasehold improvements, contract award and acquisition costs and deferred without a reasonable basis, (AS 196–4)
- Deferral of pre-opening costs not justified; inadequate audit, (AS 288)
- Improper deferral of tooling costs and royalty expense, (AS 292–1)

Disciplinary Actions

- Adoption of procedures, (AS 153, AS 167, AS 173, AS 210, AS 285)
- Censure (AS 143, AS 153, AS 153A, AS 157, AS 167, AS 174, AS 191, AS 210, AS 248, AS 255, AS 285, AS 288, AS 292)
- Continuing professional education, (AS 168, AS 170, AS 179A, AS 186, AS 191, AS 198, AS 208, AS 213, AS 233, AS 246)
- Dismissal of proceedings, (AS 67, AS 77, AS 78, AS 99, AS 249, AS 263, AS 266)
- Peer review or other review of practice, (AS 144, AS 153, AS 153A, AS 160, AS 167, AS 168, AS 173, AS 176, AS 191, AS 196, AS 209, AS 210, AS 223, AS 227, AS 233, AS 238, AS 241, AS 246, AS 273, AS 283, AS 285)
- Prohibition from accepting new SEC clients for a limited period, (AS 144, AS 153, AS 168, AS 173, AS 176, AS 196, AS 209, AS 210, AS 223, AS 227, AS 233, AS 241)
- Reinstatement, (AS 87, AS 101, AS 240, AS 256)
- Research project, (AS 173, AS 241)
- Resignation, (AS 51, AS 94, AS 104, AS 105, AS 108, AS 109, AS 110, AS 129, AS 131, AS 139, AS 158, AS 187, AS 198, AS 201, AS 208, AS 213, AS 215, AS 216, AS 217, AS 230, AS 231, AS 232, AS 243, AS 246, AS 252, AS 262, AS 265)
- Review of work by other qualified persons, (AS 186, AS 196, AS 213, AS 233, AS 239, AS 283)
- Suspension:
  - 1 month or less, (AS 68, AS 73, AS 78, AS 82, AS 200);
  - 3 months or less, (AS 28, AS 97, AS 191, AS 196, AS 239, AS 241, AS 248);
  - 6 months or less, (AS 153A, AS 196, AS 229, AS 238, AS 241, AS 288);
  - 1 year or less, (AS 59, AS 68, AS 166, AS 209, AS 238, AS 248, AS 282, AS 285);
  - 2 years or less, (AS 160, AS 267);
  - Indefinite, (AS 48, AS 82, AS 88, AS 91, AS 92, AS 127, AS 161, AS 170,

AS 179A, AS 182, AS 186, AS 192, AS 199, AS 202, AS 204, AS 205, AS 207, AS 212, AS 214, AS 221, AS 222, AS 224, AS 260, AS 275)

Disclosure

- Establishment of reserves for possible losses on mortgage loans and real estate not an adequate substitute for disclosure, (AS 173–3)
- Footnote contained inaccurate and misleading statements, (AS 174)
- Respondents should have clarified by financial statement notes or other acceptable methods, the items "cash" and "notes payable" on the year-end balance sheets to reflect the effect on those items of certain borrowings and their repayment, (AS 191)
- Auditor knew or should have known that certain disclosures contained in a client's prospectus were inaccurate and that material facts were omitted, (AS 227–3)
- Disclosure of security agreements inadequate, (AS 241)
- Disclosure of revenue recognition policy false, (AS 262)

Documentation (See "Working Papers")

Due Process

- Respondents not deprived of a fair hearing because of Commission involvement in concurrent Chapter X proceedings, (AS 248)

Errors and Irregularities

- Accountants can be expected to detect gross overstatements of assets and profits whether resulting from collusive fraud or otherwise, (AS 19)
- Substantial irregularities on the books and records should have altered the auditors to the possibility of fraud, (AS 209)
- Auditor failed to adequately search for material errors and irregularities, (AS 285)

Expert Witnesses

- Extent of reliance by Administrative Law Judge on expert witnesses in a Commission hearing, (AS 248)

Experts

- Auditor did not seek expert advice, (AS 174)

Exploration Costs

- No indication of any work performed by auditor regarding source of item, the details behind it, any examination of supporting documents, or any other substantive audit work, (AS 196–2)

Extraordinary Income

- Improper netting of extraordinary and ordinary items of income, (AS 173–1)
- Inclusion with ordinary income, (AS 248)

Finders Fees (See "Undisclosed Fees")

Generally Accepted Auditing Standards (See also "Statements on Auditing Procedure" and "Statements on Auditing Standards")

- Commission will not prescribe audit scope or procedures to be followed in the audit of various types of issuers of securities, (AS 19)

Guarantees (See "Contingent Liabilities")

Imputed Interest

- Improperly low interest rates used in discounting future lease payments; auditor failed to gather sufficient competent evidential matter to conclude that interest rates used were proper, (AS 238–1)

Independence

- Partner had direct or material indirect financial interest in client, (AS 28, AS 215, AS 229)
- Auditor made no examination of registrant's books and accepted financial statement prepared by registrant without question, (AS 48)
- Accountant was so enmeshed in the promotion of his client that he could no longer be considered independent, (AS 68)
- Auditor certified financial statements of a company in which his audit partner was a promoter, principal officer and controlling stockholder, (AS 82)
- Auditor was an employee of a subsidiary of his client, (AS 91)
- Auditor lacked independence, (AS 97, AS 110, AS 204)
- Auditor had a creditor-debtor relationship with client or officer of company being audited, (AS 108, AS 229)
- Partners and employees of accounting firm received payments from the general partners of a client for participation in the purchase and sale of "hot issues" during the period of time when the financial statements were being prepared, (AS 144)
- Auditors involved in the organization and financing of a client, (AS 196–3)
- Audit manager and an associate jointly purchased stock of client, (AS 196–4)
- Audit partner signed guarantee agreements for a bank loan by a client used to pay overdue audit fee, (AS 196–4)
- Auditor held direct and indirect nominal interests in securities of certain audit clients, (AS 200)
- Auditor was related to an undisclosed principal of his client, (AS 246)

Insurance

- Audit failed to detect understated casualty claims reserves, (AS 241–1)
- Data contained in development schedules prepared by client should have been tested for completeness by tracing amounts from original claims files to the schedules, (AS 241–1)
- Improper premium recognition method used, (AS 241–1, AS 248)
- Insurance claim recorded at incorrect amount, (AS 292–1)

Intangible Assets

- Intangible assets overstated as a result of the arbitrary use of the par and stated value of shares of stock issued to acquire the assets, (AS 73)

Intercompany Transactions

- Audit program should have been expanded to test intercompany transactions in greater depth, (AS 173–4)
- Material amounts of intercompany inventory profits not eliminated from consolidated income, (AS 292–2)

Internal Control

- Comprehensive knowledge of the client's system of internal check and control is necessary, (AS 19)
- Representation by auditor that company's system of internal control was dependable was misleading, (AS 64)
- Inventory internal controls inadequate, (AS 196–1)
- Failure to properly review and report on significant internal control weaknesses of a broker-dealer, (AS 201)
- Reliance on a system of internal control which was demonstrably inadequate, (AS 209)
- Internal controls not adequately evaluated or tested in certain areas, (AS 285)

Inventory

- Observation of inventory endorsed as a required audit procedure, (AS 19)
- Failure to conduct physical inventory of work-in-process, (AS 64, AS 67)
- Retail inventory records falsified; inventory purchases not recorded in proper period, (AS 105)
- Failure to adequately control inventory count tags, (AS 157)
- Improper use of program cost method of accounting for cost of sales resulted in overstatement of inventory, (AS 173–2)
- Inventory tags created and altered to record quantities of nonexistent inventory, (AS 196–1)
- Failure of auditor to obtain sufficient assurance that the count medium was properly controlled, (AS 210)
- Inadequate write-off of obsolete inventory; inclusion in inventory

account of consigned equipment, fixed assets and trade-in equipment, (AS 212)
- Failure to perform adequate tests to determine value and ownership of the inventory purchased, (AS 227–3)
- Closing inventory figures falsified, (AS 230, AS 231, AS 232)
- Failure to adequately reduce value of inventory for obsolete merchandise, (AS 292–1)
- Material amounts of intercompany inventory profits not eliminated from consolidated income, (AS 292–2)
- Not acceptable under FIFO to use current costs for pricing inventory if inventory turnover is slow, (AS 292–2)

Irregularities (See "Errors and Irregularities")

Leases
- Inadequate allowance and provision established for doubtful lease receivables, (AS 176)
- Lease arrangements improperly reported as sales, (AS 212)
- Present value of long-term lease payments improperly recognized as sales, (AS 238)

Legal Opinion
- Auditors placed too great a reliance on the opinions of counsel and the representations of management with respect to the audit of extraordinary gains from the sale of two subsidiaries, (AS 173–1)
- Auditor should have been aware that certain factual premises underlying lawyer's opinion letter were incorrect, (AS 238–1)

Management (Accountants as Members of Management)
- Responsibility of a corporate officer who is also a certified public accountant, (AS 186, AS 239)
- Officer of a commodity trading firm offered and sold unregistered investment contracts by means of false and misleading statements, (AS 202)
- Undisclosed "kick-back" of a substantial portion of the audit fee to an officer of the company; audit based solely on a review of workpapers prepared by management, (AS 214)
- Violations of the anti-fraud provision of the federal securities laws, (AS 216, As 217)
- Officer played significant role in federal securities law violations, (AS 222)
- Purchasers of unregistered shares of stock concealed in an effort to make it appear that the sales were not subject to registration requirements of the Securities Act, (AS 224)
- Closing inventory figures false, (AS 230, AS 231, AS 232)

Management Representation Letter
- Management has a duty to verify facts before signing representation letter, (AS 255)
- Auditor failed to obtain management representation letter, (AS 282)

Management Representations
- Overreliance on management representations by auditor, (AS 78, AS 153A, AS 173–5, AS 227, AS 238–1, AS 238–2, AS 241–1, AS 241–2, AS 282, AS 285)
- Auditors placed too great a reliance on the opinions of counsel and the representations of management with respect to the audit of extraordinary gains from the sale of two subsidiaries, (AS 173–1)
- Auditor should have refused to rely upon any representations made by the President of the company when confronted with evidence that he had diverted corporate funds to his family corporation, (AS 209)
- Audit based solely on a review of workpapers prepared by management, (AS 214)
- Audit inadequate because of overreliance on management representations and a failure to obtain sufficient competent evidential matter, (AS 248)
- Auditor accepted various management representations with little or no verification or documentation, (AS 292–1, AS 292–2)

Manipulations (Market)
- Auditor facilitated manipulation of trading market, (AS 246)
- Accountant engaged in a scheme to raise and maintain artificially the price of common stock of a company to induce purchase and sales of the stock by others, (AS 260)

Matching Concept
- Deferrals of start-up costs did not appropriately match revenues against costs associated with those revenues, (AS 238–1)

Merger (of Accounting Firms)
- Audit firm's pre-combination examination procedures believed to be inadequate, (AS 196)

Nonmonetary Transactions
- Recording of income was unwarranted because the exchange represented the substitution of an investment in one form for essentially the same investment in another form, (AS 173–4)

Notification
- Accountant's duty to notify the Commission of material adverse changes in unaudited financial statements, (AS 173–1)

Offering Circular
- Failure to exercise appropriate diligence in reviewing issuer's offering circulars, (AS 208)

Other Auditor (See "Correspondent Auditor" and "Reliance on Another Auditor")

Partner's Review
- Involvement of partners in the review of audits is, in the Commission's view, a necessary element of sound auditing practice, (AS 196)

Payables
- Unrecorded accounts payable, (AS 105, AS 153A)
- Liability for construction loan not reported, (AS 227–2)
- Audit fee not accrued even though the amount was clearly material, (AS 283)
- Audit failed to detect unrecorded liabilities, (AS 288)

Percentage of Completion Method
- Application of percentage of completion accounting method was inappropriate, (AS 173–1)
- Allocation of the contract price between module manufacture and installation was arbitrary, (AS 173–5)
- Standard cost sheets of the stage completed were falsified to reflect an unrealistically low cost to construct a house; no adequate test performed by auditors, (AS 227–3)

Planning and Supervision
- Care should be given to the organization of the audit team so that responsibilities are clearly defined, (AS 153A)
- Inadequate supervision of audit personnel, (AS 241–1, AS 285)

Pooling
- Incorrect use of pooling method; inadequate audit, (AS 248)

Post Audit Review
- Auditors failed to make appropriate use of information gained from a post audit review, (196–4)
- Post audit review failed to detect audit deficiencies, (AS 285)

Predecessor Auditor (See "Successor Auditor's Responsibilities")

Premium Recognition Method (See "Insurance")

Pre-Opening Costs (See "Deferred Assets")

Prior Period Adjustment
- Material prior period adjustment recorded without proper accounting or disclosure, (AS 252)

- Corrections of understated beginning inventories of pooled companies improperly treated as current income, (AS 292–2)

Proxy Statement

- Auditor must share responsibility for incomplete disclosure in proxy statement, (AS 157)
- Review of unaudited financial statements included in a proxy statement, (AS 173–1)

Quality Control

- Accounting firms that practice before the Commission are expected to adopt, implement and maintain a thorough system of quality control policies and procedures, (AS 285)

Receivables

- Confirmation of accounts and notes receivable endorsed as a required audit procedure, (AS 19)
- Receivables from affiliates improperly included with trade receivables, (AS 78, AS 255)
- Audit tests of unbilled receivables not adequate or sufficiently documented, (AS 173–1)
- Nearly all of the client's sales and resulting accounts receivable were either improperly recorded or fictitious; auditors unduly relied on management representations without independent verification of their accuracy, (AS 173–5)
- Inadequate allowance and provision established for doubtful lease receivables, (AS 176)
- Interest receivable accrued for bonds that were in default, (AS 179A)
- Confirmations intercepted by client personnel and fictitious responses returned, (AS 196–2)
- No apparent attempt to confirm contractural receivables with the individual plan investors, (AS 196–2)
- Supporting documentation for agent receivables not requested, (AS 196–2)
- Substantial provision for losses on affiliate receivables necessary, (AS 196–3)
- Failure to obtain confirmation of demurrage receivables, (AS 209)
- Alternative confirmation procedures restricted, no aging tests performed, (AS 212)
- Workout borrowers had virtually no assets other than projects financed by the lender, (AS 238–2)
- Allowance for uncollectible receivables inadequate, (AS 239, AS 262)
- Conditional corporate receivable improperly reported as an asset, (AS 246)
- Failure to complete audit of accounts receivable, (AS 285)

Registration

- Report of investigation pursuant to Section 8(e) of the Securities Act of 1933, (AS 64)
- Misuse of proceeds, (AS 196–3)

Regulation S–X

- Rule 1–02, (AS 227)
- Rule 2–01, (AS 196, AS 275)
- Rule 2–01(b), (AS 91)
- Rule 2–02, (AS 275)
- Rule 2–05, (AS 91)
- Rule 3–14, (AS 179A)
- Rule 3–16(r), (AS 282)
- Rule 5–02.3 (AS 173–2)
- Rule 5–02.6, (AS 173–2)
- General reference, (AS 97, AS 275)

Related Party Transactions

- Presence of transactions between affiliates raises questions as to the meaningfulness of financial information, (AS 153)
- Certain transactions were incorrectly reported as bona fide arm's length business transactions, (AS 167)
- Auditors should be especially alert to the possibility of a related party transaction when an ongoing relationship exists, (AS 173–3)
- No disclosures made in financial statements of the relationship of certain officers and directors to the corporations from which investments were purchased, (AS 227–1)
- Auditor failed to clearly understand the nature of the relationship between related entities, (AS 227–2)
- Material amounts of income were recognized from undisclosed related party transactions, (AS 252)
- Window dressing transactions not discovered by auditor because of failure to audit related party transactions, (AS 283)

Reliance on Another Auditor

- Financial statements were certified (without having audited or seen the books and records) in reliance on an audit conducted by another accountant, (AS 91)
- Auditor relied on predecessor auditor's opinion for valuation of assets without contacting him or reviewing his workpapers, (AS 282)
- Auditor purchased workpapers of terminated predecessor, (AS 283)

Repairs and Maintenance

- Capitalization of repairs and maintenance expense improper; inadequate audit, (AS 288)

Representations (See "Management Representations")

Representations Made to Commission's Staff

- Accountant testified falsely in a Commission investigation, (AS 88)
- Staff's advice sought concerning auditor's continued independence without providing the staff with all material facts, (AS 157)
- Unverified statements by auditor to staff constitute unacceptable professional behavior in practice before the Commission, (AS 173–5)

Reserves

- Failure to include a provision for unrecoverable costs resulting from product guarantees, (AS 64)
- Reserve for losses and contingencies materially inadequate, (AS 78)
- Auditor should have resolved question of the propriety of a charging ordinary maintenance costs off against a liability reserve for rehabilitation costs, (AS 173–4)
- Establishment of certain reserves was not an adequate substitute for disclosure, (AS 173–3)
- Accounts receivable reserves inadequate, (AS 176, AS 239, AS 262)
- Substantial provision for losses on affiliate receivables necessary, (AS 196–3)
- Allowances for future maintenance costs inadequate, (AS 238–1)
- Casualty insurance companies' loss reserves understated, (AS 241–1)

Revenue

- Propriety of recognizing income is questioned where payment would not have been made absent advances by the investor company, (AS 173–3)
- Mere formal compliance with the technical legal requirement of a sale is not necessarily sufficient to justify revenue recognition, (AS 173–4)
- Improper recognition of revenue with respect to the manufacture and installation of modular dwelling units, (AS 174)
- Accounting treatment of charter-hire revenues questionable, (AS 209)
- Improper premium recognition method used, (AS 241–1, AS 248)

Review (See "Partner's Review" and "Planning and Supervision")

Rules Cited (See "Securities Act of 1933" and "Securities Exchange Act of 1934")

Rules of Practice before the Commission (17 CFR 201 et seq.)

- Rule 6, (AS 248)
- Rule 8, (AS 196, AS 209, AS 227, AS 285, AS 292)
- Rule 11, (AS 248)
- Rule 16, (AS 196, AS 209, AS 227, AS 292)
- Rule 17, (AS 127, AS 205)

Sales

- Sale of leasehold interest in properties, (AS 153)

- Terms of agreement had not shifted risk of loss to buyer, (AS 153)
- Sales transactions not substantially completed as of the year-end, (AS 168)
- Auditors placed too great a reliance on the opinions of counsel and the representations of management with respect to the audit of extraordinary gains from the sale of two subsidiaries, (AS 173–1)
- Insufficient conversion of interest in the property to justify treatment of the transaction as a sale, (AS 173–4)
- Sales recognized on the basis of a feasibility letter, (AS 173–5)
- Company's future profits sold, (As 196–2)
- Merchandise shipped after cut-off date, (AS 196–4)
- Proceeds of a bank loan recorded as revenue, (AS 196–4)
- Fictitious sales; auditor failed to coordinate inventory and sales work, (AS 212)
- Purchaser did not have sufficient economic interest in the property to justify the current recognition of the sale by the seller; auditor should have obtained current financial statements to determine purchaser's ability to fulfill sales contract, (AS 227–3)
- Audit work should have been extended because of suspicious circumstances surrounding purported sales of oil and gas properties, (AS 248)
- Improper recording of sales where no merchandise was shipped or segregated and customer could cancel order at any time prior to shipment, (AS 292–1)

Securities Act of 1933 (15 U.S.C. 77a et seq., as amended)

- Sections cited:
  3(b), (AS 208);
  5(a), (AS 161, AS 192, AS 202, AS 204, AS 221, AS 222, AS 224, AS 265);
  5(c), (AS 161, AS 192, AS 202, AS 204, AS 221, AS 222, AS 224, AS 265);
  8(d), (AS 48, AS 64);
  8(e), (AS 64);
  11, (AS 64);
  12(2), (AS 64);
  13, (AS 64);
  17(a), (AS 144, AS 158, AS 161, AS 179A, AS 182, AS 192, AS 202, AS 204, AS 207, AS 215, AS 216, AS 217, AS 221, AS 222, AS 224, AS 265, AS 273, AS 275);
  19(a), (AS 275)
- Rules cited (17 CFR 230 et seq.):
  463, (AS 196–2)

Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended)

- Sections cited:
  9(a), (AS 260);
  10(b), (AS 139, AS 144, AS 158, AS 161, AS 167, AS 168, AS 179A, AS 182, AS 192, AS 202, AS 204, AS 207, AS 212, AS 214, AS 215, AS 216, AS 217, AS 221, AS 222, AS 224, AS 230, AS 231, AS 232, AS 252, AS 260, AS 265, AS 273, AS 275);
  12(g), (AS 212, AS 273);
  13(a), (AS 167, AS 168, AS 186, AS 207, AS 212, AS 214, AS 215, AS 230, AS 231, AS 232, AS 239, AS 267, AS 273, AS 288);
  13(b), (AS 267, AS 275);
  14(a), (AS 157, AS 186, AS 207, AS 214, AS 230, AS 231, AS 232);
  15(c), (AS 283);
  15(d), (AS 239);
  17(a), (AS 51, AS 110, AS 201, AS 283);
  19(a), (AS 88);
  21(a), (AS 19, AS 174);
  23(a), (AS 275);
  32(a), (AS 207)
- Rules cited (17 CFR 240 et seq.)
  10b–5, (AS 139, AS 144, AS 158, AS 161, AS 167, AS 179A, AS 182, AS 192, AS 202, AS 204, AS 207, AS 212, AS 215, AS 216, AS 217, AS 221, AS 222, AS 224, AS 230, AS 231, AS 232, AS 252, AS 260, AS 265, AS 275);
  13a–1, (AS 167, AS 186, AS 212, AS 215, AS 230, AS 231, AS 232);
  13a–11, (AS 230, AS 231, AS 232);
  13a–13, (AS 186, AS 230, AS 231, AS 232);
  14a–3, (AS 186, AS 230, AS 231, AS 232);
  14a–9, (AS 157, AS 186, AS 230, AS 231, AS 232);
  15c3–1, (AS 241, AS 283);
  17a–5, (AS 51, AS 59, AS 108, AS 109, AS 110, AS 143, AS 160, AS 201, AS 233, AS 241);
  17a–13, (AS 283)

Security Agreements

- Disclosure of security agreements inadequate, (AS 241)

Statements on Auditing Procedure ("SAP")

- SAP (1951 Codification), (AS 97)
- SAP No. 33, (AS 153, AS 227–2, AS 248)
- SAP No. 33, Ch. 6, (AS 153A)
- SAP No. 33, Ch. 9, (AS 153A)
- SAP No. 38, (AS 179, AS 179A)
- SAP No. 41, (AS 227–3)

Statements on Auditing Standards ("SAS")

- SAS No. 1, Sect. 110, (AS 153)
- SAS No. 1, Sect. 150, (AS 174–5, AS 210, AS 227–2)
- SAS No. 1, Sect. 230, (AS 153)
- SAS No. 1, Sect. 330, (AS 153A)
- SAS No. 1, Sect. 331, (AS 173–1)
- SAS No. 1, Sect. 338, (AS 173–1, AS 288)
- SAS No. 1, Sect. 320, (AS 241, AS 285)
- SAS No. 1, Sect. 516, (AS 179A)
- SAS No. 1, Sect. 561, (AS 173–5, AS 227–3, AS 241–2)
- SAS No. 3, (AS 285)
- SAS No. 4, (AS 153A, AS 285)
- SAS No. 6, (AS 227–2)
- SAS No. 19, (AS 282)
- SAS No. 25, (AS 285)

Subsequent Discovery of Facts

- Auditor took no steps to reexamine or otherwise take a fresh look at prior audit, (AS 173–1)
- Auditor's duty to disclose subsequently acquired information which existed at the date of the auditor's report, (AS 173–5)
- Auditor failed to withdraw prior reports based on subsequently discovered facts, (AS 196–4)
- Auditors required to assure that there is disclosure of certain newly discovered facts, and their impact on the financial statements, (AS 227–3)
- Failure to assure that adequate disclosure of omissions and misstatements in the financial statements was made, (AS 241–2)

Substance Over Form

- Importance of substance over form in determining accounting principles to be applied to particular transactions and situations, (AS 173)

Successor Auditor's Responsibilities

- Communication between accounting firms was not as complete as it should have been, (AS 153)
- Information pertaining to the integrity of management should be communicated between predecessor and successor auditors, (AS 173–1)
- Duty to closely examine the working papers of the predecessor auditors for evidence of substantive disagreements with management and for other unreconciled auditing problems, (AS 209)
- Failed to communicate with predecessor auditor, (AS 282)

Supervision of Audit Personnel (See "Planning and Supervision")

Testimony (See "Representations Made to Commission's Staff")

Treasury Stock

- Treasury stock recorded as an asset, (AS 179A)

Unaudited Financial Statements

- Auditor should have insisted on revised financial statements being sent to shareholders, (AS 173–1)

Undisclosed Fees

- Accountant recommended to clients and others purchase of investment

contracts without disclosing he was paid a substantial fee for each sale consummated. (AS 129, AS 131)
- Partners and employees of accounting firm received payments from the general partners of a client for participation in the purchase and sale of "hot issues," (AS 144)

Window Dressing Transactions

- Respondents should have clarified by financial statement notes or other acceptable methods, the items "cash" and "notes payable" on the year-end balance sheets to reflect the effect on those items of certain borrowings and their repayment. (AS 191)
- Not discovered by auditor because of failure to audit related party transactions. (AS 283)

Working Papers

- Alteration of working papers after investigation began. (AS 108)
- Failure to document either discussions with management or the scope of review of sales projections. (AS 173–2)
- Insufficient information in the workpapers as to the basis of calculations to support the adequacy of the reserve for possible losses on mortgage loans. (AS 173–3)
- Alterations and additions to the workpapers should be properly documented and indicate the time and circumstances under which they are made. (AS 196, AS 209)
- No indication of any work performed by auditor regarding source of item, the details behind it, any examination of supporting documents, or any other substantive audit work. (AS 196–2)
- Auditor on what he understood to be instructions from one of his superiors improperly removed from the workpapers an audit document relating to the existence of guarantees by two partners of his firm of a bank loan to the client whose financial statements were the subject of the engagement. (AS 200)
- Certain workpapers were in an incomplete and disorganized condition, including a lack of cross references and proper documentations, and unnumbered, undated and uninitialled workpapers. (AS 285)
- Working papers failed to permit reasonable identification of work done; consultations not documented. (AS 288)
- Audit workpapers did not indicate that auditor correlated audit procedures with known internal control weaknesses. (AS 292–2)

Write Downs

- Investment seriously impaired. (AS 173–4)

APPENDIX B.—LIST OF ENFORCEMENT RELATED ACCOUNTING SERIES RELEASES

Accounting series release No.	
19	In the Matter of McKesson & Robbins, Inc.—Summary of findings and conclusions (Price Waterhouse & Co.).
28	Findings and Opinion of the Commission in the Matter of proceedings under Rule 2(e) of the Rules of Practice, to determine whether the privilege of Kenneth N. Logan to practice as an accountant before the Securities and Exchange Commission should be denied, temporarily or permanently.
48	Findings and Opinion of the Commission in the Matter of C. Cecil Bryant, proceeding pursuant to Rule 2(e), Rules of Practice—Permanent disqualification of accountant from practice before the Commission.
51	Disposition of Rule 2(e) proceedings against certifying accountant failing to observe appropriate audit requirements as to financial statements of broker-dealer under Rule X-17A-5 (unnamed).
59	Findings and Opinion of the Commission in the Matter of proceeding under Rule 2(e) of the Rules of Practice, to determine whether the privilege of Williams and Kingsolver, to practice as accountants before the Securities and Exchange Commission should be denied, temporarily or permanently (Oliver M. Williams).
64	In the Matter of Drayer-Hanson, Incorporated—Report of investigation pursuant to Section 8(e) of the Securities Act of 1933, File No. 2-6670 (Barrow Wade Guthrie & Co.).
67	Findings and Opinion of the Commission in the Matter of proceedings under Rule 2(e) of the Rules of Practice, to determine whether the privilege of Barrow, Wade, Guthrie & Co., Henry H. Dalton and Everett L. Mangam to practice as accountants before the Securities and Exchange Commission should be denied, temporarily or permanently.
68	Findings and Opinion of the Commission in the Matter of proceedings under Rule 2(e) of the Rules of Practice to determine whether the privilege of F. G. Masquelette & Co. and J. E. Cassel to practice as accountants before the Securities and Exchange Commission should be denied, temporarily or permanently.
73	Findings and Opinion of the Commission in the Matter of Haskins & Sells and Andrew Stewart, File No. 4-66, (Rules of Practice—Rule 2(e)).
77	Disposition of Rule 2(e) proceedings against certifying accountant alleged to have failed to observe appropriate audit requirements as to financial statements of broker-dealer under Rule X-17A-5 under the Securities Exchange Act of 1934 (unnamed).
78	Findings and Opinion of the Commission in the Matter of Touche, Niven, Bailey & Smart, Henry Eugene Mendes, William W. Werntz and Oscar Blomquist, proceeding pursuant to Rule 2(e), Rules of Practice.
82	Findings and Opinion of the Commission in the Matter of Bollt and Shapiro, Theodore Bollt, and Bernard L. Shapiro, proceeding pursuant to Rule 2(e), Rules of Practice.
87	In the Matter of Bollt and Shapiro, Theodore Bollt, and Bernard L. Shapiro. Order readmitting accountant to practice before the Commission.
88	Findings and Opinion of the Commission in the Matter of Myron Swartz, pursuant to Rule 2(e), Rules of Practice.

APPENDIX B.—LIST OF ENFORCEMENT RELATED ACCOUNTING SERIES RELEASES—Continued

Accounting series release No.	
91	Findings and Opinion of the Commission in the Matter of Arthur Levison and Levison and Company, proceeding pursuant to Rule 2(e), Rules of Practice.
92	Findings and Opinion of the Commission in the Matter of Morton I. Myers, pursuant to Rule 2(e), Rules of Practice.
94	Order in the Matter of Nathan Wechsler, pursuant to Rule 2(e), Rules of Practice.
97	Findings and Opinion of the Commission in the Matter of Harmon R. Stone, pursuant to Rule 2(e), Rules of Practice.
99	Order dismissing proceedings in the Matter of Roberts & Morrow, pursuant to Rule 2(e), Rules of Practice.
101	Order readmitting accountant to practice before Commission in the Matter of Morton I. Myers, pursuant to Rule 2(e), Rules of Practice.
104	Order in the Matter of John C. Hurdman, doing business as Hurdman and Company.
105	Order accepting withdrawal from practice and dismissing proceedings—In the Matter of Homer E. Kerlin, pursuant to Rule 2(e), Rules of Practice.
108	Order in the Matter of Nicolas J. Raftery, a certified public accountant.
109	Order in the Matter of Edwin Aronowitz, a public accountant.
110	Order in the Matter of Meyer Weiner, a certified public accountant.
127	Notice that initial decision has become final in the Matter of Martin L. Sanchez.
129	Order accepting resignation from Commission practice in the Matter of Barry L. Kessler.
131	Order accepting resignation from Commission practice in the Matter of Robert Trivision.
139	Order accepting resignation from Commission practice in the Matter of Ralph Duckworth.
143	Findings and Order imposing remedial sanction in the Matter of Robert Lynn Burroughs.
144	Order instituting proceedings and imposing remedial sanctions in the Matter of Laventhol Krekstein Horwath & Horwath.
153	Findings, Opinion and Order accepting waiver and consent and imposing remedial sanctions in the Matter of Touche Ross & Co.
153A	Opinion and order pursuant to rule 2(e) of the Commission's Rules of Practice in the Matter of Touche, Ross & Co., Armin J. Frankel, and Edwin Heft.
157	Findings and Opinion accepting waiver and consent and imposing remedial sanctions in the Matter of Arthur Andersen & Co.
158	Order accepting sworn undertaking not to engage in practice before the Commission in the Matter of Adolph F. Spear.
160	Findings and Order suspending from Commission practice in the Matter of Loux, Gose & Co. and Galen Lloyd Gose.
161	Order permanently suspending accountant from appearance or practice before Commission in the Matter of Jerry A. McFarland.
167	Order instituting proceedings and imposing remedial sanctions in the Matter of Westheimer, Fine, Berger & Co.
168	Order instituting proceedings and imposing remedial sanctions in the Matter of Benjamin Botwinick & Co. and Alvin I. Mindes.

APPENDIX B.—LIST OF ENFORCEMENT RELATED ACCOUNTING SERIES RELEASES—Continued

Accounting series release No.	
170	Order suspending accountant from appearance or practice before the Commission in the Matter of Tubber T. Okuda.
173	Opinion and Order in a proceeding pursuant to Rule 2(e) of the Commission's Rules of Practice in the Matter of Peat, Marwick, Mitchell & Co.
173A	Amendment to opinion and order pursuant to Rule 2(e) of the Commission's Rules of Practice in the Matter of Peat, Marwick, Mitchell & Co.
174	Opinion and Order instituting proceedings and imposing remedial sanctions in the Matter of Harris, Kerr, Forester & Co.
176	Findings and Order imposing remedial sanctions in the Matter of Hertz, Herson & Co.
179	(Omitted; replaced by ASR 179A).
179A	Amended Order suspending accountant from appearance or practice before the Commission in the Matter of Thomas R. Mathews (Replaced ASR 179).
182	Notice of permanent disqualification from appearance or practice before the Commission in the Matter of Charles H. Southerland.
186	Order instituting proceeding and imposing sanctions pursuant to Rule 2(e) of the Commission's Rules of Practice in the Matter of Robet L. Ingis.
187	Order accepting resignation from Commission practice as an accountant in the Matter of Bill D. Steele (Rule 2(e) of the Rules of Practice).
191	Findings, Opinion and Order imposing remedial sanctions in the Matter of Rudolph, Palitz & Co. and Harvey B. Spiegel.
192	Notice of permanent disqualification from appearance or practice before the Commission in the Matter of Archie S. Barnhill.
196	Opinion and order pursuant to Rule 2(e) of the Commission's Rules of Practice in the Matter of Seidman & Seidman, Al A. Finci, Neill W. Freeman, Arthur Glatzer and Joseph DeArmas.
196A	Amendment to the opinion and order pursuant to Rule 2(e) of the Commission's Rules of Practice in the Matter of Seidman & Seidman (ASR 196).
198	Order accepting resignation from Commission practice as an accountant in the Matter of Leigh A. Verley.
199	Order suspending accountant from appearance or practice before the Commission in the Matter of George E. Weaver.
200	Order pursuant to Rule 2(e) of the Commission's Rules of Practice in the Matter of Richard Sommer.
201	Order accepting resignation from Commission practice as accountant in the Matter of Paul D. Klinger.
202	Notice of permanent disqualification from appearance or practice before the Commission in the Matter of Phillip Shelby Merkatz.
204	Notice of permanent disqualification from appearance or practice before the Commission in the Matter of E. Veon Scott.
205	Notice that initial decision has become final in the Matter of Robert N. Campbell.
207	Order instituting proceeding and permanently barring from practice before the Commission in the Matter of Joseph Scansaroli.

APPENDIX B.—LIST OF ENFORCEMENT RELATED ACCOUNTING SERIES RELEASES—Continued

Accounting series release No.	
208	Order accepting resignation from Commission practice as accountant in the Matter of Bernard C. Zipern.
209	Opinion and order pursuant to Rule 2(e) of the Commission's Rules of Practice in the Matter of S. D. Leidesdorf & Co., Kenneth Larsen, Joseph Grendi.
210	Opinion and order pursuant to Rule 2(e) of the Commission's Rules of Practice in the Matter of Reich, Weiner & Co.
212	Order instituting proceedings and imposing remedial sanctions in the Matter of Eugene Testa and W. A. Stebbins.
213	Order pursuant to Rule 2(e) of the Commission's Rules of Practice in the Matter of Maurice Rosen.
214	Notice of permanent disqualification from appearance or practice before the Commission in the Matter of Marvin F. Rosenbaum.
215	Opinion and order pursuant to Rule 2(e) of the Commission's Rules of Practice in the Matter of Phillip J. Wolfson.
216	Order accepting resignation from Commission practice as an accountant in the Matter of John W. Hosford, d/b/a John W. Hosford & Co.
217	Order accepting resignation from Commission practice as an accountant in the Matter of Wilbert S. Fox.
221	Notice of permanent disqualification from appearance or practice before the Commission in the Matter of C. Wayne Litchfield.
222	Notice of permanent disqualification from appearance or practice before the Commission in the Matter of Ernest C. Neuman.
223	Opinion and order pursuant to the Commission's Rules of Practice in the matter of Thomas Leger & Company and Thomas Leger.
224	Notice of permanent disqualification from appearance or practice before the Commission in the Matter of Allen M. Lindenberg.
227	Order instituting proceedings and opinion and order pursuant to Rule 2(e) of the Commission's Rules of Practice in the Matter of Laventhol & Horwath, Louis Goldfine, Jeffrey Lipschutz, and Jack E. Klein.
229	Opinion and order pursuant to Rule 2(e) of the Commission's Rules of Practice in the Matter of Luke J. LaLande, John F. Swart, Jr., and William A. Owens.
230	Order accepting resignation from Commission practice as an accountant in the Matter of Bruce Flamm.
231	Order accepting resignation from Commission practice as an accountant in the Matter of Harvey Fein.
232	Order accepting resignation from Commission practice as an accountant in the Matter of Stephen Kneapler.
233	Order for proceedings and opinion and order pursuant to Rule 2(e) of the Commission's Rules of Practice in the Matter of Norman A. Weiner. C.P.A.
238	Litigation involving Price Waterhouse & Co., Roger Bruttomesso, Michael Bright, R. W. Faulk and M. B. Kearney.
239	Opinion and order pursuant to Rule 2(e)(1) of Commission's Rules of Practice in the Matter of Paul N. Conner.
240	Order granting accountant's application for reinstatement to practice before the Commission in the Matter of Thomas R. Mathews.

APPENDIX B.—LIST OF ENFORCEMENT RELATED ACCOUNTING SERIES RELEASES—Continued

Accounting series release No.	
241	Order instituting proceedings and opinion and order pursuant to Rule 2(e) of the Commission's Rules of Practice in the Matter of Haskins and Sells, Eugene Cobaugh, Timothy FitzGerald and Billy R. Thomas.
243	Order accepting resignation from Commission practice as an accountant in the Matter of Clifford E. Roop.
246	Order instituting and settling Rule 2(e) proceedings in the matter of Stephen A. Yordon.
248	Opinion and order pursuant to Rule 2(e) of the Commission's Rules of Practice in the Matter of Ernst & Ernst, Cleveland, Ohio, Clarence T. Isensee, and John F. Maurer.
249	Order vacating temporary suspension order and dismissing proceedings in the Matter of Julian F. Martin.
252	Order accepting resignation from Commission practice as an accountant in the Matter of Donald R. Ford.
255	Opinion and order pursuant to Rule 2(e) of the Commission's Rules of Practice in the Matter of Gerald J. Flannelly.
256	Order granting accountant's application for reinstatement to practice before the Commission in the Matter of Bruce Flamm.
260	Notice of permanent disqualification from appearance or practice before the Commission in the Matter of Gerald Greenspan.
262	Order instituting and settling Rule 2(e) proceeding in the Matter of Phillip Steven Lieberman.
263	Order terminating proceeding in the Matter of S. D. Leidesdorf & Co.
265	Order instituting proceeding and accepting resignation from practice and appearance before the Commission in the Matter of Lawrence J. Stern.
266	Order dismissing proceeding in the Matter of James M. Lynch.
267	Opinion and order pursuant to Rule 2(e) of the Commission's Rules of Practice in the Matter of Martin E. Davis.
273	Litigation involving Martineau and Bushman.
275	Notice of permanent disqualification from appearance or practice before the Commission in the Matter of Darrel L. Nielsen.
282	Opinion and order pursuant to Rule 2 (e) of the Commission's Rules of Practice in the Matter of Saul Glazer.
283	Order instituting and settling Rule 2(e) proceeding in the Matter of Norlin G. Boyum.
285	Opinion and order pursuant to Rule 2(e) of the Commission's Rules of Practice in the Matter of Lester Witte & Co., and John P. Shea.
288	Opinion and order pursuant to Rule 2(e) of the Commission's Rules of Practice in the Matter of Kenneth Leventhal & Company and Joseph F. King.
292	Order instituting proceedings and opinion and order pursuant to Rule 2(e) of the Commission's Rules of Practice in the Matter of Arthur Andersen & Co.

[FR Doc. 82-13210 Filed 5-14-82; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 82-93]

Changes in the Field Organization of the Customs Service in New Orleans Region and San Francisco Region

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This rule amends the Customs Service regulations relating to customs regions, districts and ports, and the rules on entry, and clearance of vessels, to change the field organization in the New Orleans Region and the San Francisco Region. The changes are part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

EFFECTIVE DATE: June 16, 1982.

FOR FURTHER INFORMATION CONTACT: Richard C. Coleman, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

Gramercy, Louisiana

Gramercy, Louisiana, is currently a very busy Customs station in the New Orleans, Louisiana, Customs Region (Region V). In reviewing the application of the South Louisiana Port Commission for designation of Gramercy as a Customs port of entry, Customs has found that the workload at this station has increased significantly over the past few years and now far exceeds the established workload standards used by Customs for creating a new port of entry. The Gramercy station now handles more than 2,000 cargo vessels annually. The minimum requirement recommended in Customs workload standards is 350 cargo vessels annually. Accordingly, Gramercy, Louisiana, should be established as a Customs port of entry.

Juneau and Anchorage, Alaska

As part of a general revision of the Customs Regulations, by T.D. 77-241, published in the **Federal Register** on October 5, 1977 (42 FR 54274), Part I of Title 19, Code of Federal Regulations (19 CFR Part I), which had set forth the general provisions relating to the operation of the Customs Service, including a listing of the Customs regions, districts, ports, and stations, was replaced with a new Part 101 (19 CFR Part 101).

One of the changes of T.D. 77-241 amended § 101.4, Customs Regulations, (19 CFR 101.4), to indicate that Annette Island, Eagle, Haines, Hyder, and Tok, Alaska, were Customs stations in the Anchorage, Alaska, District. Although this change, which was made to reflect the transfer of the district office from Juneau to Anchorage, was published in the **Federal Register**, the amendment to § 101.4 was never made, and that Customs Regulations section still incorrectly indicates that these Customs stations are in the Juneau District.

Section 101.4 is being amended to indicate that the Eagle, Haines, and Hyder stations are in the Anchorage District, rather than in the Juneau District.

To increase management effectiveness and adjust to the changing traffic patterns in Anchorage, Alaska, it is now considered desirable to abolish the Annette Island and Tok Customs stations. The abolishment of these Customs stations is further warranted by the fact that neither station has been staffed by Customs for some time now due to the lack of requests for services.

To provide the most economical and efficient service to the public and to meet the expanding needs of the importing public in the Anchorage area, it also has been determined to abolish Kodiak, Pelican, and Petersburg, as ports of entry in the Anchorage, Alaska, District, and to designate those three locations as Customs stations in the Anchorage District. All of these areas have peak activity during the summer fishing season and little or no activity at other times. Therefore, it is not practical or feasible that they be retained as Customs ports of entry.

It has been determined to abolish the port of Sand Point. The workload there is so small that it is not practical to retain that location as a Customs station.

Accordingly, to provide the most economical and efficient service to the public and to meet the expanding needs of Customs-related activities in the Gramercy, Louisiana, and Anchorage, Alaska, areas, Customs published a notice in the **Federal Register** on September 14, 1981 (46 FR 45625), proposing to change the field organization of the Customs Service as follows:

(1) In the New Orleans, Louisiana, Customs Region (Region V), (a) establish a new Customs port of entry at Gramercy, Louisiana; and (b) revoke the designation of Gramercy, Louisiana, as a Customs station.

(2) In the San Francisco, California, Customs Region (Region VIII), (a) revoke the designation of Annette Island and Tok, Alaska, as Customs stations under the jurisdiction of the Juneau, Alaska, District; (b) transfer jurisdiction of the Customs stations of Eagle, Haines, and Hyder, Alaska, from the Juneau to the Anchorage, Alaska, District; (c) revoke the designation of Kodiak, Pelican, Petersburg, and Sand Point, Alaska, as Customs ports of entry; and (d) designate Kodiak, Pelican, Petersburg, Barrow, Dutch Harbor, Fort Yukon, Kaktovik, Kenai, and Northway, Alaska, as Customs stations under the jurisdiction of the Anchorage, Alaska, District.

Only three comments were received in response to the notice. Two commenters were concerned with the port codes used by the Bureau of Census for reporting imports for statistical purposes. It was requested that the Gramercy port code remain 20-10, and that the port-limits continue to include the area along the Mississippi River from La Place to Uncle Sam, Louisiana (mileage markers 135 through 160).

The coordinates stated in the notice intersect mileage markers 129 and 165, but the additional markers do not include any additional active work sites. Further, the port code will be maintained as 20-10.

A third commenter requests that the Gramercy port limits be expanded to the area included in the South Louisiana Port Commission, and that the new port of entry be known as the "South Louisiana Port."

One aspect of Customs mission is to provide service to the public when and where it is required. The establishment of new ports of entry in various locations throughout the country is a necessary response to the public demand for increased Customs service. Further, Customs does have minimum workload and facility standards for the establishment of new ports of entry which are applied to prevent the unjustified proliferation of new ports. Prior to establishing ports of entry, Customs carefully reviews the data submitted in support of each application to verify that it meets the criteria. In evaluating the request to establish a Customs port of entry at Gramercy, Louisiana, Customs must be guided by the actual need for the service compared with the service which presently exists. While we appreciate the concerns of the commenter, Customs believes the proposed Gramercy port boundaries are appropriate in light of the jurisdictions of the existing ports of entry of Baton Rouge and New Orleans, Louisiana. The

suggested port name of "South Louisiana Port" is too vague to define the actual port location and could cause confusion regarding the port's relationship to the New Orleans and Baton Rouge ports of entry. Customs believes that the public is better served by a name that specifies the geographical entity where the service will be available.

No comments were received relating to the proposals concerning the Anchorage, Alaska, District.

Accordingly, Customs has determined to adopt the changes as proposed.

Changes in the Customs Field Organization

Under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949–1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101–5 (47 FR 2449), the field organization of the Customs Service is changed as follows:

(1) A new Customs port of entry is established at Gramercy, Louisiana, in the New Orleans, Louisiana, Customs District. The geographical limits of the Gramercy, Louisiana, Customs port of entry include that portion of the Parishes of St. Charles, St. John the Baptist, and St. James, lying within the area bounded on the East where the longitudinal line of 90°27′30″ intersects on the North at the latitudinal line of 30°06′ and intersects on the South at the latitudinal line of 29°57′; and bounded on the West where the longitudinal line of 90°54′ intersects on the North at the latitudinal line of 30°06′ an intersects on the South at the latitudinal line of 29°57′.

(2) The Customs station at Gramercy, Louisiana, is abolished.

(3) The Customs stations at Annette Island and Tok, Alaska, in the Juneau, Alaska, District are abolished.

(4) The jurisdiction of the Customs stations of Eagle, Haines, and Hyder, Alaska, is transferred from the Juneau, Alaska, District to the Anchorage, Alaska, District.

(5) The Customs ports of entry at Kodiak, Pelican, Petersburg, and Sand Point, Alaska, are abolished.

(6) Kodiak, Pelican, Petersburg, Barrow, Dutch Harbor, Fort Yukon, Kaktovik, Kenai, and Northway, Alaska, are established as Customs stations under the jurisdiction of the Anchorage, Alaska, District.

These changes will update the description of the Customs field organization in the Customs Regulations. They also will help Customs to use its resources more effectively by abolishing Customs ports and stations no longer needed and by creating new stations where they are needed.

Amendments to the Regulations

PART 101—GENERAL PROVISIONS

§ 101.3 [Amended]

1. To reflect these changes, the list of Customs regions, districts, and ports of entry in § 101.3(b), Customs Regulations (19 CFR 101.3(b)), is amended (1) by adding "Gramercy, Louisiana, including territory described in T.D. 82–93." directly below "Chattanooga, Tenn." in the column headed "Ports of entry" in the New Orleans, Louisiana, District (Region V); and (2) by removing the ports of entry of "Kodiak, Alaska (T.D. 55206)." "Pelican (E.O. 10238, Apr. 27, 1951; 16 FR 3627)." "Petersburg (E.O. 4132, Jan. 24, 1925)." and "Sand Point (T.D. 53514)." directly below "Ketchikan, Alaska, including territory described in T.D. 74–100.", in the column headed "Ports of entry" in the Anchorage, Alaska, District (Region VIII).

§ 101.4 [Amended]

2. To reflect the changes relating to the entry and clearance of vessels at Customs stations, the list of Customs stations in § 101.4(c), Customs Regulations (19 CFR 101.4(c)), is amended by: (1) Removing "Gramercy, La." directly below "Biloxi, Miss." in the column headed "Customs stations", and deleting "New Orleans." directly below "Mobile." in the column headed "Port of entry having supervision", in the New Orleans, Louisiana, District; and (2) by removing "Annette Island, Alaska", "Eagle, Alaska", "Haines, Alaska", "Hyder, Alaska", and "Tok, Alaska", in the column headed "Customs stations" and "Ketchikan", "Fairbanks", "Dalton Cache", "Ketchikan", and "Fairbanks" in the column headed "Port of entry having supervision" and "Juneau, Alaska" directly below "San Francisco, Calif." under the column headed "District"; and (3) by inserting the following under the columns headed "District," "Customs stations," and "Ports of entry having supervision" directly below "San Francisco, Calif."

District	Customs stations	Port of entry having supervision
Anchorage, Alaska	Barrow, Alaska	Fairbanks.
	Dutch Harbor, Alaska.	Anchorage.
	Eagle, Alaska	Alcan.
	Fort Yukon, Alaska.	Fairbanks.
	Haines, Alaska	Dalton Cache.
	Hyder, Alaska	Ketchikan.
	Kaktovik (Barter Island), Alaska.	Fairbanks.
	Kenai (Nikiski), Alaska.	Anchorage.
	Kodiak, Alaska	Anchorage.
	Northway, Alaska	Alcan.
	Pelican, Alaska	Juneau.
	Petersburg, Alaska.	Wrangell.

Executive Order 12291

Because these amendments will not result in a "major rule" as defined in section 1(b) of E.O. 12291, the regulatory impact analysis and review prescribed by section 3 of the E.O. is not required.

Regulatory Flexibility Act

Pursuant to the provisions of section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), it is certified that the regulations set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, the regulations are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Customs routinely establishes, expands, eliminates and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although these amendments may have a limited effect upon some small entities in the affected areas, it is not expected to be significant because the establishment of Customs ports of entry in other locations has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Regulatory Flexibility Act.

Drafting Information

The principal authors of this document were Barbara E. Whiting and Gerard J. O'Brien, Jr., Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 101

Organization and functions (government agencies).

Dated: March 18, 1982.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 82–13332 Filed 5–14–82; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The Parole Commission is revising its procedures for waiver of parole consideration by eliminating the requirement that a prisoner who fails either to apply for parole or sign a waiver form be seen by the Commission's hearing examiners. The revision is intended to simplify waiver procedures and avoid unnecessary hearings. Although these hearings are few in number, they can be very costly when they involve Federal prisoners in non-Federal institutions.

EFFECTIVE DATE: June 16, 1982.

FOR FURTHER INFORMATION CONTACT: Toby Slawsky, U.S. Parole Commission Office of General Counsel, 5550 Friendship Blvd., Chevy Chase, MD, 20815, telephone: 301–492–5959.

SUPPLEMENTARY INFORMATION: The Parole Commission is simplifying its procedures for waiver of parole hearing by eliminating the provision that prisoners who neither apply for parole or formally waive parole consideration be interviewed by the Commission's representatives. The revision provides that any prisoner who either declines to apply for parole or refuses to formally waive parole consideration will be deemed to have waived parole consideration. Where a prisoner declines either to apply for or waive parole consideration, a memorandum to the prisoner's file will be prepared in each case noting that the prisoner has been advised of (1) his right to apply for parole consideration and (2) that failure to apply for parole is deemed as a waiver of parole consideration; and that the prisoner has declined to file a parole application or waiver.

This revision will avoid unnecessary hearings. Although these hearings are few in number, they can be very costly when they involve federal prisoners in non-federal institutions.

A prisoner who is deemed to have waived parole consideration under the revised procedure may later apply for parole and, under the terms set forth in 28 CFR 2.11(b), be heard during the Commission's next visit to the institution at which he is confined.

PART 2—PAROLE, RELEASE, SUPERVISION, AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR 2.11(c) is revised as follows:

§ 2.11 Application for parole; notice of hearing.

* * * * *

(c) A prisoner who declines either to apply for or waive parole consideration is deemed to have waived parole consideration.

* * * * *

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: April 30, 1982.

Benjamin F. Baer,

Chairman, Parole Commission.

[FR Doc. 82-13329 Filed 5-14-82; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 1

[CGD 82-040]

Written Warnings by Coast Guard Boarding Officers

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending 33 CFR Subpart 1.08, Written Warnings by Coast Guard Boarding Officers, to authorize the issuance of written warnings for violations of Visual Distress Signal regulations. The intended effect of this amendment is to emphasize the eductional rather than the punitive nature of the Coast Guard's enforcement posture regarding the regulation.

EFFECTIVE DATE: This amendment becomes effective May 17, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. William B. Sobeck, Office of Boating, Public, and Consumer Affairs (G–BEL), U.S. Coast Guard Headquarters, 2100 Second Street S.W., Washington, D.C. 20593, (202) 426–4176.

SUPPLEMENTARY INFORMATION: Since this amendment relates solely to agency policy and procedure, it is exempt from the notice and public comment requirements of 5 U.S.C. 553(b)(3)(A). Under the provisions of 5 U.S.C. 553(d), this rule may be made effective in less than 30 days. This amendment has been reviewed under Executive Order 12291 and the Department of Transportation's Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5) and has been determined not to be a major or significant rule. An economic evaluation has not been conducted since its impact is expected to be minimal. A possible savings may occur to certain boaters, in that they may receive a warning in lieu of a possible monetary penalty. Because no Notice of Proposed Rulemaking is required under 5 U.S.C. 553(b)(3)(A), this action is exempt from the Regulatory Flexibility Act (94 Stat. 1164). However, the requirements of that Act were taken into consideration, and it is certified that this rule will not have a significant economic impact on a substantial number of small entities.

DISCUSSION: This warning procedure is being adopted because Coast Guard enforcement policy is tempered by an understanding of the problems being encountered by the boating public. Coast Guard policy permits the issuance of written warnings for certain violations of boating laws and regulations. These warnings are issued by the boarding officers who discover the violations. The issuance of a written warning, as opposed to an action for the assessment of a monetary penalty, has been determined to be an effective way for boarding officers to handle minor boating violations that involve first offenders who indicate that discrepancies will be quickly corrected.

There is a specific list of violations, in 33 CFR 1.08–1, for which a warning may be issued. This amendment will extend that list to include 33 CFR 175 Subpart C, Visual Distress Signals. It will authorize written warnings to be issued to operators of boats not in compliance with Federal Regulations for Visual Distress Signals, when good faith in bringing about compliance is demonstrated.

Since the list of "warnable" violations also includes rules concerning various topics and applies to certain commercial vessels, the term "boating safety" is deleted from § 1.08–1, Applicability. Also, since subparagraph (a)(2) of § 1.08–1 was intended to apply only to personal flotation devices, and not all equipment requirements, that subparagraph is made more specific by including the words "subpart B".

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Lieutenant (junior grade) Christopher M. Stratton, Project Manager, Office of Boating, Public, and Consumer Affairs, and Lieutenant Walter J. Brudzinski, Project Attorney, Office of the Chief Counsel.

List of Subjects in 33 CFR Part 1

Marine safety.

Final Regulations

In consideration of the foregoing, Part 1 of Title 33, Code of Federal Regulations is amended as follows:

PART 1—GENERAL PROVISIONS.

1. The authority citation for Subpart 1.08 is revised to read as follows:

Authority: Pub. L. 89–554, 80 Stat. 383 (5 U.S.C. 552); 14 U.S.C. 633; sec. 39, Pub. L. 92–75, 85 Stat. 221 (46 U.S.C. 1488); sec. 6 (b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b) and (n)(1).

2. By revising paragraph (a) introductory text, paragraph (a)(2) and by adding a new paragraph (a)(10) to § 1.08–1 to read as follows:

§ 1.08–1 Applicability.

(a) The regulations in this subpart apply to certain violations of the following statutes and regulations for which Coast Guard boarding officers are authorized to issue written warnings instead of recommending civil or criminal penalty procedures under subpart 1.07 of this part:

* * * * *

(2) 33 CFR Part 175, Subpart B and 46 CFR Subpart 25.25, Personal Flotation Devices.

* * * * *

(10) 33 CFR 175 Subpart C, Visual Distress Signals

* * * * *

Dated: April 26, 1982.

V. W. Driggers,

Captain, U.S. Coast Guard, Acting Chief, Office of Boarding, Public and Consumer Affairs.

[FR Doc. 82-13072 Filed 5-14-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2112-5]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The EPA announces today final rulemaking on revisions to the Wisconsin State Implementation Plan (SIP). The revisions pertain to a variance from sections 154.13(4) (e) and (f), Wisconsin Administrative Code (WAC), for the W. H. Brady Company, located in Milwaukee, and to a variance from section NR 154.13(5)(a), WAC, from the Albany Carbide Corporation, located in Albany. The revisions were submitted to EPA by the State to satisfy the requirements of Part D of the Clean Air Act (Act). The purpose of this notice is to discuss EPA's evaluation of the variances and to proceed with final action approving these revisions to the Wisconsin SIP.

EFFECTIVE DATE: This action is effective July 16, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the SIP revisions, and other materials relating to this rulemaking are available for inspection at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, Room 2404, 401 M Street, S.W., Washington, D.C. 20460

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster Street, Madison, Wisconsin 53707

FOR FURTHER INFORMATION CONTACT: Comments on this action should be addressed to: Sharon Reinders, 312/886–6034.

SUPPLEMENTARY INFORMATION: Under Section 107 of the Act, EPA has designated certain areas in each State as not attaining National Ambient Air Quality Standards (NAAQS). On March 3, 1978 (43 FR 8962), and on October 5, 1978 (43 FR 45993), EPA designated certain areas in the State of Wisconsin as nonattainment areas for ozone. Milwaukee County, where the W. H. Brady Company is located, is designated as nonattainment for ozone.

For ozone nonattainment areas, Part D of the Act requires each State to revise its SIP to provide for attaining the primary NAAQS by December 31, 1982, or, in certain cases by December 31, 1987.

An adequate Part D SIP for ozone is one which includes control of Volatile Organic Compound (VOC) emissions from stationary sources to provide for attainment of the NAAQS. For stationary sources, the plan must include legally enforceable requirements reflecting the application of reasonably available control technology (RACT) for those sources of VOC for which EPA had published a control techniques guideline (CTG) before January, 1978. Each CTG describes techniques available for reducing emissions of VOC from a category of sources and recommends levels of control. For further discussion of CTG's see the **Federal Register** dated September 17, 1979 (44 FR 53761).

The requirements for an approvable SIP are described in a **Federal Register** notice published April 4, 1979 (44 FR 20372) as supplemented on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

On June 4, 1979, the State of Wisconsin submitted Sections NR 154.01 and NR 154.13, WAC as revisions to the SIP. These revisions included new or additional controls for fifteen categories of stationary sources which emit VOC. These controls are a part of Wisconsin's strategy to attain the ozone standard. In EPA's January 11, 1980, final rulemaking (45 FR 2319), EPA approved these revisions as part of the Wisconsin SIP.

The Wisconsin DNR has authority to grant source-specific variances from the SIP under section NR 154.02(3), although such variances do not become effective until submitted to and approved by EPA.

Requests for Variances

W. H. Brady Company

On September 30, 1980, the Wisconsin DNR received a request from W. H. Brady Company for an extended final compliance date to December 31, 1987, to meet the limitations for paper, fabric and vinyl coating contained in sections NR 154.13(4) (e) and (f) of the WAC. The Wisconsin DNR granted the variance and on January 22, 1982, submitted it to the EPA as a SIP revision.

In support of its request, W. H. Brady Company demonstrated to the DNR that it was not technically and economically feasible to use add-on control equipment to meet the limitations in the WAC by December 1, 1981, as required. The extra time is required because of the multitude of products and coatings for which the company needs to develop low solvent and water-based coatings meeting specific product quality considerations as well as the limits of section NR 154.13(4) (e) and (f) of the WAC. The time extension results in substantial engineering and operating cost savings when compared to meeting the limitations through use of add-on control equipment.

The variance contains an enforceable schedule with interim dates for low

solvent coating development, quarterly and semi-annual reports, additional recordkeeping to determine compliance and a final compliance date of December 31, 1987. The plan includes interim reduction requirements so that W. H. Brady is demonstrating reasonable further progress towards final compliance. The variance also includes a contingency plan should the research and development program fail. The variance requires the company to make a determination by December 30, 1983, in the success of the low solvent and water-based coatings. Should the development of these products fail, the company must submit new plans for compliance by June 29, 1984 and achieve final compliance by September 30, 1986.

The EPA has reviewed this variance request and has determined that approval of this revision will not interfere with the attainment and maintenance of the ozone standard. Additionally, development of a low solvent program will achieve greater emission reductions than those using the add-on controls and will be more energy efficient. Hence, it will be a more economical compliance operation. Therefore, the EPA is approving the variance from sections NR 154.13(4) (e) and (f) as a revision to the Wisconsin SIP.

Albany Carbide Corporation

On March 30, 1981, the Wisconsin DNR received a request from Albany Carbide Corporation in Albany, Wisconsin, for a variance from section NR 154.13(5)(a)2.b., WAC. NR 154.13(5)(a)2.b. prohibits the use of cutback asphalt after May 1, 1980, during the ozone season. RACT requirements call for the substitution of emulsified asphalt for solvent-based cutback asphalt. Because the unique properties of the product and equipment used by Albany Carbide do not lend themselves to substitution to emulsified asphalt, Albany Carbide Corporation is requesting a time extension variance to October 1, 1983, in order to develop a compliance asphalt to meet the State rule. The State granted the variance and on December 22, 1981, submitted it to the EPA as a SIP revision. Albany Carbide Corporation conducts pavement preservation operations using a product called Gilsabind. Gilsabind is made from gilsonite which is a naturally occurring bituminous asphaltite ore. It is blended with petroleum solvents to produce Gilsabind, Gilsabind combines with the asphalt binder in the pavement to form a new gilsonite asphalt compound, thus preserving and extending the useful life of the pavement.

The company has demonstrated that it is both technologically and economically unreasonable to meet the Wisconsin rule by May 1, 1980, because of the unique properties of Gilsabind. These properties include low temperature requirements, zero surface penetration, high softening point and use on recently paved road surfaces to improve surface conditions rather than to add a new layer of material to provide a new wear course for the pavement. Gilsabind's properties are different from those of conventional cutback asphalt, and, thus, converting it to emulsified asphalt is not technically feasible.

The above properties which cause technical problems for the firm also make it economically unreasonable to switch to emulsified asphalts in the near future. The annualized cost for conversion to emulsified asphalt generally exceeds the average net income of the Corporation for the years 1977 through 1980. Therefore, the State believes that economic unreasonableness has been demonstrated.

The variance contains interim emission limits, recordkeeping, reporting requirements to indicate progress toward developing an alternative product and a final compliance date of October 1, 1983.

Finally the State has determined that reasonable further progress toward attainment of the NAAQS by December 31, 1987 in nonattainment areas is assured and that this variance will not cause a violation of the ozone standard in the attainment areas of the State. Therefore, the EPA is approving this variance as a revision to the Wisconsin SIP.

Because EPA considers today's actions as noncontroversial and routine, it is approving them without prior proposal. The public is advised that this action will be effective July 16, 1982. However, if notice is received by EPA within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will be published before the effective date. The notice will withdraw the final action and begin a new rulemaking by announcing a proposal of the action and a comment period.

Regulatory Flexibility Analysis

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Executive Order 12291

The Office of Management and Budget (OMB) has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Judicial Review

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days of today. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Note.—Incorporation by reference of the State Implementation Plan for the State of Wisconsin was approved by the Director of the Federal Register on July 1, 1981. This notice is issued under authority of Sections 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502).

Dated: May 7, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

Part 52 is amended by adding § 52.2570(c) (25) and (26) to read:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(25) Revision to plan allowing W. H. Brady Company in Milwaukee variance from regulation NR 154.13(4) (e) and (f), Wisconsin Administrative Code, submitted January 22, 1982, by the State Department of Natural Resources.

(26) Revision to plan allowing Albany Carbide Corporation in Albany variance from regulation NR 154.13(5)(a), Wisconsin Administrative Code, submitted on December 22, 1981, by the State Department of Natural Resources.

[FR Doc. 82-13204 Filed 5-14-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 123

[SW-5-FRL 2126-2]

Illinois, Phase I Interim Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (USEPA), Region V.

ACTION: Granting of Phase I Interim Authorization to State hazardous waste program.

SUMMARY: The State of Illinois has applied for Interim Authorization of its hazardous waste program under Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended (RCRA) and EPA guidelines for the approval of State hazardous waste programs (40 CFR Part 123, Subpart F). USEPA has reviewed the Illinois hazardous waste program and has determined that the Illinois hazardous waste program is substantially equivalent to the Federal program. USEPA is hereby granting Phase I Interim Authorization to Illinois to operate a hazardous waste program in lieu of Phase I of the Federal hazardous waste program in its jurisdiction.

EFFECTIVE DATE: May 17, 1982.

FOR FURTHER INFORMATION CONTACT: Richard J. Clarizio, Regulatory Analysis and Information Unit, State Programs and Information Section, Waste Management Branch (5HW–TUB), U.S. Environmental Protection Agency, 111 West Jackson, Chicago, Illinois 60604, (312) 353–8319.

SUPPLEMENTARY INFORMATION:

I. Background

Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), requires USEPA to establish a comprehensive Federal program to assure the safe management of hazardous waste. Once a Federal program is established, USEPA is authorized under section 3006 of RCRA to approve certain State hazardous waste programs to operate in lieu of the Federal program in their jurisdictions. Two types of State program approvals are authorized under RCRA: "Final Authorization" is a permanent approval which may be granted to States whose programs are "equivalent" to and "consistent" with the Federal program and provide adequate enforcement; "Interim Authorization" is a temporary approval for States which might not meet the requirements of Final Authorization but whose programs are at least "substantially equivalent" to the Federal program. RCRA contemplates that States receiving Interim Authorization will use the Interim Authorization period to make the changes in their regulations and statutes necessary to qualify for Final Authorization.

On May 19, 1980, USEPA published the first phase of the Federal hazardous waste program (40 CFR Parts 260–263 and 265) and guidelines for authorizing State hazardous waste programs under section 3006 of RCRA (40 CFR Part 123). These guidelines set forth the requirements for Interim Authorization and the procedures which USEPA will follow in acting on State applications for Interim Authorization. They also provide that USEPA will grant Interim Authorization in two major phases (Phase I and Phase II), corresponding to the two major phases of the Federal program.

On October 16, 1981, the State of Illinois submitted to USEPA its complete application for Phase I Interim Authorization (IA application). Included in the IA application was a copy of the Illinois hazardous waste regulations (regulations) which were adopted by the Illinois Pollution Control Board (Board) on September 16, 1981. In the November 4, 1981, **Federal Register** (46 FR 54770), USEPA announced the availability for public review of the Illinois IA application. USEPA also indicated that a public hearing would be held on December 8, 1981, with the public record open until December 18, 1981.

At the December 8, 1981, hearing, two individuals requested an extension of time for filing of comments. On December 14, 1981, the Illinois Environmental Protection Agency (IEPA) waived its right for a final determination on this IA application until May 5, 1982. USEPA accepted this waiver and suspended its final determination until May 5, 1982. As a result of the waiver and the requests received from commenters, USEPA, in the January 11, 1982, **Federal Register** (47 FR 1155), extended its comment period until March 15, 1982. Presented below in Section II of this notice is a synopsis of the significant public comments and USEPA's response.

After detailed review of the final Illinois IA application, USEPA transmitted comments to the State of Illinois on December 11, 1981. These comments requested minor additions and revisions to the Program Description, Attorney General's Statement, Memorandum of Agreement and Authorization Plan portions of the IA application. On March 12, 1982, IEPA responded to USEPA's December 11, 1981, letter by submitting amendments to the above-mentioned portions of the Illinois IA application. In response to concerns raised by commenters at the public hearing, IEPA also submitted to USEPA, on March 12, 1982, amendments to the State's regulations which the Board adopted on February 4, 1982. These amendments primarily correct minor typographical and technical errors contained in the September 16, 1981, State regulations. A copy of USEPA's December 11, 1981, comments and IEPA's submittals are available at the USEPA Region V offices.

II. Responses to Public Comments

Four individuals presented oral and/or written testimony on the Illinois IA application. One individual supported USEPA granting interim authorization to Illinois and three individuals requested USEPA to withhold its decision until certain deficiencies were corrected. The significant issues raised by these commenters and USEPA's responses are summarized below.

Issue. USEPA should defer its consideration of the Illinois IA application until a later time because the Appellate Court for the Third Judicial District issued an order which stayed the effective date of the Illinois regulations.

Response. On March 31, 1982, the State Appellate Court issued an order which vacated its November 19, 1981, stay.

Issue. The RCRA regulations which the Board adopted on September 16, 1981, and the amendments it adopted on February 4, 1982, are invalid under State law because the Board did not follow the proper State rulemaking procedures when it adopted certain of these regulations. Without properly adopted regulations, the Illinois RCRA program cannot be considered "substantially equivalent" to the Federal RCRA program.

Response. Absent a contrary decision by a court of competent jurisdiction, USEPA must assume that regulations which the appropriate governmental body adopts and which the Attorney General has certified as lawfully adopted are valid under State law. In Illinois, the Board is authorized to adopt regulations and IEPA is authorized, among other things, to submit to USEPA the Board-adopted regulations. On October 20, 1981, USEPA received from IEPA the Illinois regulations which the Board adopted on September 16, 1981. IEPA submitted the February 4, 1982, amendments to USEPA on March 12, 1982.

Pursuant to Section 125(a), Part 123 of Title 40 of the Code of Federal Regulations [40 CFR 123.125(a)], the State submitted, as part of its IA application, a statement from the Attorney General. In that document, the Attorney General stated that, among other things, the statutes and regulations adopted as of the time of the statement were lawfully adopted and would be fully effective at the time the program is approved.

Issue. The RCRA regulations which the Board adopted on September 16, 1981, are invalid under State law since the Board adopted new regulations on February 4, 1982. USEPA cannot approve the Illinois IA application until the February 4, 1982, amendments have been officially submitted to USEPA and made part of the Illinois application.

Response. IEPA officially submitted a copy of the February 4, 1982, amendments to USEPA on March 12, 1982. The amendments which the Board adopted on February 4, 1982, were in response to public comments, and consisted of minor corrections of typographical and technical errors contained in the September 16, 1981, regulations. In USEPA's opinion, the February 4, 1982, regulations contained provisions which are identical to those contained in the September 16, 1981, regulations.

Issue. USEPA should provide notice and an opportunity for hearing for any and all revisions which the State may make in its program or its rules. Such notice and opportunity should be held for the amendments which the Board adopted on February 4, 1982. Failure to provide such notice and opportunity in this specific case, or in any subsequent case, would be a violation of the Federal Administrative Procedures Act, 5 U.S.C. § 551.

Response. According to 40 CFR 123.123(c), USEPA will recommence its formal review of a State IA application only in those instances where the State submission is *materially* changed during the formal review period. USEPA does not believe that the amendments which the Board adopted on February 4, 1982, have materially altered the Illinois hazardous waste program.

Issue. The October 9, 1981, Attorney General's Statement is deficient and must be amended. The commenter asserts that the Attorney General's Statement does not certify that the September 16, 1981, State regulations are valid under State law. Furthermore, the commenter asserts that the Attorney General's Statement must be amended to certify that the February 4, 1982, amendments will be fully effectively by the time the program is approved.

Response. USEPA believes that the October 9, 1981, Attorney General's Statement is acceptable and does not need to be revised, amended or updated. The requirements for an acceptable Attorney General's Statement are detailed in 40 CFR 123.125. The Attorney General's Statement must contain, among other things, an evaluation of whether the State's laws provide adequate authority to carry out its hazardous waste program. The October 9, 1981, Attorney General's Statement satisfies this requirement. It states in pertinent part that "* * * the laws of the State of Illinois provide adequate authority, except to the extent noted, to carry out * * *" its RCRA program. The Attorney General further states that these authorities "* * * are contained in statutes or regulations lawfully adopted at the time of this statement * * *". The exceptions cited by the Attorney General are to "* * * amendments which are administrative or technical in nature, omissions/additions which do not affect the substance of the Federal regulations adopted * * * or typographical errors or omissions * * *". The Attorney General concludes "* * * (The State's hazardous waste program) appears to be identical or substantially equivalent to the Federal RCRA program." Although the Attorney General's Statement does not address the amendments which the Board adopted on February 4, 1982, 40 CFR 123.125 does not require the State to submit an amended Attorney General's Statement for amendments such as those adopted by the Board.

Issue. USEPA must clarify which provisions it regards as Federally enforceable in the absence of State enforcement. Under RCRA, the only matters USEPA can enforce as Federal law are federally-required conditions contained in State issued RCRA permits. These conditions are federally enforceable only if the State fails to enforce the federally-required permit conditions in the first instance.

Response. Section 3008 of RCRA provides that USEPA may take enforcement action whenever it has determined that there has been a violation of any of the provisions of Subtitle C of RCRA. According to Section 3006 of RCRA, where a State is authorized by USEPA to carry out its hazardous waste program, it operates that program in lieu of the Federal program developed under Subtitle C of RCRA. Section 7003(a) provides that USEPA may take action against a source whenever there may be present "an imminent and substantial endangerment to health or the environment." Furthermore, the ability of USEPA to take action under section 3013 is not limited by authorization of a State program.

Issue: The IA application is deficient because it does not guarantee that the State will effectively enforce its regulations nor does it provide the public with an opportunity to meaningfully participate in the permit application process. Finally, this commenter asserts that the Illinois hazardous waste management plan does not provide for prompt regulation of on-site disposal of hazardous waste because it may require up to five years for the State to compile an inventory of these sites.

Response: USEPA has reviewed the Illinois IA application and has concluded that the State's Phase I hazardous waste program is substantially equivalent to the Phase I Federal program. Illinois presently has sufficient authority to implement its regulations and to regulate both offsite and on-site disposal of hazardous waste. Through submission of the required RCRA Section 3010 notifications and Section 3004 Part A permit applications, the State may commence the regulation of these sites as soon as its hazardous waste management regulations become effective. USEPA will periodically evaluate the administration and enforcement of the Illinois hazardous waste program through the annual grant process and the Memorandum of Agreement to ensure that it is being implemented consistent with RCRA, the State's regulations and the Memorandum of Agreement. The procedural requirements for public participation in the permitting process are to be addressed by the State when they apply for Phase II interim authorization.

III. Decision

EPA has reviewed the complete application for Phase I Interim Authorization from the State of Illinois, and has determined that the State program is "substantially equivalent", as defined in 40 CFR Part 123, Subpart F, to the Phase I Federal program. In accordance with section 3006(c) of RCRA, the State of Illinois is hereby granted Interim Authorization to operate its hazardous waste program in lieu of Phase I of the Federal hazardous waste program. The practical effect of this decision is that generators, transporters, and owners and operators of hazardous waste management facilities in Illinois will be subject to the State of Illinois hazardous waste program in lieu of the Federal hazardous waste program (40 CFR Part 260–263 and 265) and will not again be subject to Phase I of the Federal program unless (1) the State fails to obtain final authorization by the deadline specified in 3006(c) of RCRA and implementing regulations, or (2) authorization is withdrawn for cause by EPA.

IV. Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the

requirements of Section 3 of Executive Order 12291.

V. Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

VI. Authority

This notice is issued under the authority of Section 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

List of Subjects in 40 CFR Part 123

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: April 21, 1982.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 82-13328 Filed 5-14-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 435, 436, 440, 441, and 447

Medicare and Medicaid Program; Nurse-Midwife Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: These regulations specify Federal requirements under Medicaid (title XIX of the Social Security Act) for the provision of nurse-midwife services. They implement section 965 of Pub. L. 96-499, the Omnibus Reconciliation Act of 1980, which mandates that payment must be made for nurse-midwife services to categorically needy recipients. The purpose of the regulations is to define nurse-midwife services and specify how States are to pay for these services under Medicaid.

EFFECTIVE DATE: July 16, 1982 or, if State legislation is needed in order to conform the State Medicaid plan to these requirements, the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after May 17, 1982.

Although these regulations are final, comments may be submitted as described below. To assure consideration, comments should be mailed by June 16, 1982.

ADDRESS: Address comments in writing to: Administrator, Department of Health and Human Services, Health Care Financing Administration, P.O. Box 17073, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to Room 309-G Hubert H. Humphrey Building, 200 Independence Ave, SW., Washington, D.C., or to Room 789, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to BPP-133-FC. Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309-G of the Department's office at 200 Independence Ave., SW., Washington, D.C., 20201 on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, if as a result of comments, we believe that changes are needed in these regulations, we will publish the changes in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Anthony Lovecchio, (301) 594-8561.

SUPPLEMENTARY INFORMATION:

Background

Nurse-midwives are registered nurses with additional educational and clincial background in midwifery. Within the scope of their authority under State law or regulation, nurse-midwives manage the care of mothers and newborn babies throughout the maternity cycle—pregnancy, labor, birth, and the immediate postpartum period. They usually work in association with obstetrician-gynecologists or other physicians to whom they refer patients with high-risk conditions or complications.

Acceptance of nurse-midwives has grown in recent years in the United States. In 1976, for example, nurse-midwives accounted for one percent of the deliveries in this country. To promote and assure quality care, nurse-midwives have their own professional organization, the American College of Nurse-Midwives (ACNM) which, among other activities, reviews and approves nurse-midwifery educational programs. These programs vary from eight-month specialty programs in midwifery to two-year Master's degree programs for registered nurses. Presently, most States have laws or regulations authorizing the practice of nurse-midwifery, including management of labor and delivery.

Currently, States may provide coverage under their Medicaid programs for nurse-midwives in a variety of ways, in accordance with title XIX of the Social Security Act. For example, States may recognize nurse-midwife services as within the scope of "inpatient hospital services", "outpatient hospital services", "physician services", or "clinic services" (sections 1905(a) (1), (2), (5), and (9) of the Act). In these cases, payment to the nurse-midwife is made by the State agency on an indirect basis. That is, payment is made to the hospital, physician, or clinic that employs the nurse-midwife. States may also identify nurse-midwives as independent providers of services under "medical care, or any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice as defined by State law" (section 1905(a)(6) of the Act). In this case, reimbursement is made directly to nurse-midwives for services that they furnish. In addition, States are required by statute to provide for "rural health clinic services" (section 1902(a)(13)(B) of the Act). Federal regulations specify that rural health clinic services may include the services of nurse-midwives (42 CFR 440.20(b)(2)).

Statutory Provisions

In order to increase the availability and accessibility of nurse-midwife services to women eligible for Medicaid, Congress enacted section 965 of Pub. L. 96-499, the Omnibus Reconciliation Act of 1980. Section 965 enacted sections 1905(a)(17) and (m) of the Social Security Act, and made conforming amendments to sections 1902(a) (13) and (14) of the Act. These provisions require States to provide coverage for nurse-midwife services to the extent that the nurse-midwife is authorized to practice under State law or regulation. The statute has the effect of requiring also that States offer direct reimbursement to

nurse-midwives as one of the payment options. In other words, the State plan must provide that the nurse-midwife may enter into an independent provider agreement with the State Medicaid agency, regardless of whether the nurse-midwife is under the supervision of, or in association with, a physician or other health care provider.

Nurse-midwife services are mandated for the categorically needy (persons who are eligible for Medicaid and who meet the financial eligibility requirements of a related cash assistance program—Aid to Families with Dependent Children (title IV–A of the Act), Supplemental Security Income (title XVI of the Act), or a State Supplement Program). States may also provide these services to the medically needy (persons whose income exceeds the categorically needy level but is within limits set by the State).

Section 1902(a)(14) of the Act prohibits the Medicaid agency from imposing any deductible, coinsurance, co-payment, or similar charge on the categorically needy for services mandated by the statute. Pub. L. 96–499 amended that section of the Act to include nurse-midwife services.

Section 1905(m) of the Act also states that, for purposes of these provisions, a nurse-midwife must be a registered nurses who either is certified (as a nurse-midwife) by an organization recognized by Secretary or has completed a program of study and clinical experience that has been approved by the Secretary. Section 1905(m) also specifies that nurse-midwives perform services in the area of management of the care of mothers and babies throughout the maternity cycle. Sections 1905(a)(17) and (m) specify that nurse-midwife services must be those which the nurse-midwife is legally authorized to perform under State law and regulations.

Reimbursement levels for nurse-midwife services are not specifically provided for in the Omnibus Reconciliation Act, or in these final regulations. Since general rules on reimbursement levels for Medicaid services, including those furnished by nurse-midwives are provided for in 42 CFR Part 447—Payment for Services, additional regulations are not necessary. For example, if a nurse-midwife chooses direct reimbursement as a payment method, the State would reimburse the nurse-midwife under appropriate State-established payment schedules in accordance with general criteria specified under "Individual Practitioners" (42 CFR 447.341).

Provisions of the Regulations

These regulations contain the following provisions, and interpretations of provisions, set forth in Pub. L. 96–499:

1. Nurse-midwife services are services furnished by a nurse-midwife, whether or not he or she is under the supervision of, or associated with, a physician or other health care provider, except as specified below in item 4.

Because Congress described nurse-midwives as having arrangements with physicians for referral and consultations in the event of complications (H.R. Rep. No. 96–1167, 96th Congress, 2nd Session 80 (1980)), we considered whether we should include in this regulation the requirement that nurse-midwives have such arrangements. Such a standard would also conform to the policy of the American College of Nurse-Midwives (ACNM), which describes nurse-midwives as managing the care of essentially healthy women and newborns and working through mutual agreement and collaboration with a physician in the case of medical complications. (See the ACNM "Functions, Standards, and Qualifications", adopted 1975.) We concluded, however, that such a requirement did not comport well with the clear statutory language that reimbursement is provided for services furnished by a nurse/midwife "whether or not he is under the supervision of, or associated with, a physician or other health care provider" (section 1905(a)(17) of the Act, as enacted by Pub. L. 96–499). Moreover, we believe it is better for this issue not to be resolved by Federal regulation, but rather to be resolved by the State law or regulation governing the practice of nurse-midwives, by the policies of hospitals regarding the granting of staff provileges, and by the professional judgments of the health professions.

2. Nurse-midwife services are those concerned with management of the care of mothers and newborns throughout the maternity cycle.

3. The "maternity cycle" includes pregnancy, labor, birth, and the immediate postpartum period. This reflects the intent of Congress, since this definition is contained in the Report of the Committee on the Budget on the Omnibus Reconciliation Act of 1980 (H.R. Rep. No. 96–1167, p. 80). In addition, these regulations define the "immediate postpartum period" as not exceeding six weeks. We believe that a six-week maximum postpartum period is appropriate since it is a time frame that is generally accepted among health professionals, including the American College of Obstetricians and Gynecologists. We welcome comments and suggestions on the definition of the "maternity cycle" if readers believe that this one is inappropriate in any respect.

4. Services must be furnished within the scope of practice as defined by State law or regulation. This reflects sections 1905 (a)(17) and (m) of the Act, which state that nurse-midwives perform services they are "legally authorized to perform" in the State. Moreover, Congress expressly stressed that the provisions of Pub. L. 96–499 should not preempt State law or regulations relating to the legality or scope of practice of nurse-midwives (H.R. Rep. No. 96–1167, p. 80). Accordingly, a nurse-midwife cannot furnish services without physician supervision if State licensure provisions require that nurse-midwives practice under the supervision of a physician.

5. State Medicaid plans must provide that these nurse-midwife services be furnished to the categorically needy, to the extent nurse-midwives are legally authorized to practice under State law or regulations. State may choose to provide for these services for the medically needy in their State Medicaid plans.

6. State plans must provide that the nurse-midwife can enter into an independent provider agreement, whether or not he or she is under the supervision of, or in association with, a physician or other health care provider.

7. States must not impose any fee or charge for nurse-midwife services on the categorically needy.

8. Nurse-midwives are registered nurses who successfully complete a program of study and clinical experience prescribed by the State for nurse-midwives. If the State does not prescribe such requirements, nurse-midwives must meet the requirements specified in these regulations. Briefly, the individual must be certified as a nurse-midwife by the ACNM, be eligible to take the ACNM certification examination, or meet a "grandfather" clause.

This provision is based on the statute that specifies that a nurse-midwife must be a registered nurse "who has successfully completed a program of study and clinical experience meeting guidelines prescribed by the Secretary, or has been certified by an organization recognized by the Secretary" (section 1905(m) of the Act). We have chosen, for purposes of this statutory requirement, to adopt State standards and recognize actions by State licensing authorities and, where State standards are absent, to mandate that nurse-midwives meet the ACNM-related requirements of these regulations. We believe that the study

and clinical experience requirements imposed by States that have established standards for nurse-midwives are generally consistent with the ACNM-related requirements that we are specifying for States that have not established standards. Since the statute permits the Secretary to recognize any organization as a certifying authority for nurse-midwives, and confers broad authority on the Secretary to specify the requisite program of study and clinical experience, it is appropriate for the Department to recognize State licensure activity and to utilize State standards where they exist. A State that has explicitly addressed the question of study and clinical experience requirements for nurse-midwives has had the opportunity to tailor those requirements to the needs of the State and those judgments are appropriately recognized. Of course, if a State has no such standards, then it will be necessary for the nurse-midwives of that State to meet the Federal guidelines for study and clinical experience prescribed in these regulations.

It should be noted, however, that this provision, related to study and clinical experience, is distinct from the provision discussed above in item 4, scope of service. In item 4 we addressed the fact that State laws regarding the legality of nurse-midwives remain intact and are not affected by these Federal regulations. Item 4 implements the statutory provision that nurse-midwives can perform only those services they are "legally authorized to perform in the State" (sections 1905(a)(17) and (m) of the Act).

While providing for ACNM-related requirements in these regulations, we also include a "grandfather" provision. Since the ACNM is a recently formed organization, established in 1955, it is possible that there are qualified nurse-midwives who are not certified by the ACNM, nor eligible to take the ACNM examination, but who can practice under State law or regulations. In particular, there may be nurse-midwives currently participating in the Medicaid program, and providing quality care, who would be unnecessarily excluded from furnishing services under section 965 of Pub. L. 96-499 if we did not include some kind of a "grandfather" provision. There is a "grandfather" provision in the rural health clinic regulations (42 CFR 405.2401(b)(10)(iii)) that defines a nurse-midwife as a registered nurse who successfully completed a formal educational program in gynecological and obstetrical care and who also practiced as a nurse-midwife for 12 months during the 18-month period that preceded the effective date of the regulations regarding certification of rural health clinics (August 8, 1976 to February 7, 1978). This particular grandfather provision was adopted because, at the time, we knew there were nurse-midwives practicing with previously established rural health clinics, who might have been denied continuing participation.

In this final rule, we are adopting a similar provision; but we are expanding the period covered by the "grandfather" clause to include anyone who was practicing as a nurse-midwife for a total of 12 months out of any 18-month period from August 8, 1976 to the effective date of these regulations.

In order to provide for consistency throughout the Medicaid and Medicare programs, we are amending the definition of "nurse-midwife" for rural health clinic purposes to conform to the definition used to implement the new "nurse-midwife services" of section 965 of Pub. L. 96-499. This will facilitate State implementation of the new "nurse-midwife services" in those States currently providing for services of nurse-midwives in rural health clinics. Also, it will avoid the anomaly of prohibiting a qualified nurse-midwife from practicing under one section of Federal regulations, but not under another.

However, it should be noted that the statutory requirements for physician supervision for purposes of "rural health clinic services" and "nurse-midwife services" are different. Section 1905(a)(17) enables the nurse-midwife to be reimbursed under Medicaid without regard to whether he or she is under the supervision of a physician. However, the nurse-midwife who furnishes services that are identified for reimbursement purposes as "rural health clinic services" must be under the medical supervision of a physician. See sections 1861(aa)(2) and 1905 (a)(2) and (l) of the Act and 42 CFR 405.2414 and 440.20(b) for required physician supervision for "rural health clinic services".

9. This final rule makes a technical amendment to the rural health clinic regulations in 42 CFR 405.2401(b)(10). Those regulations provide that one qualifies as a nurse-midwife if he or she satisfactorily completes a formal education program that (a) makes one eligible to take the ACNM certification examination and (b) meets certain other specified educational and training requirements. (For example, the educational program is required to include at least four months of classroom work and a component of clinical practice.) In discussing the additional educational and training requirements with the ACNM, we learned that those requirements are also necessary to be eligible to take the ACNM certification examination. To eliminate this redundancy, we are amending 42 CFR 405.2401(b)(10) to delete specific mention of those educational and training requirements that are already prerequisites to taking the ACNM certification examination.

10. The Medicaid definitions of "inpatient hospital services" (42 CFR 440.10), "outpatient hospital services" (42 CFR 440.20), and "clinic services" (42 CFR 440.90) are revised to provide for services that are furnished by or under the direction of a nurse-midwife, but not under the direction of a physician.

Effective Date

These regulations become effective July 16, 1982. On that date State plans are required to provide for "nurse-midwife services", to the extent that nurse-midwives are legally authorized to furnish those services under State law or regulation. States are also required to provide that nurse-midwives can enter into independent provider agreements with the State agency, without regard to whether the nurse-midwife is practicing under the supervision of, or in association with, a physician or other health care provider. If State legislation is necessary to enable the Medicaid agency to comply with those requirements, there is lead time for States to enact appropriate legislation. In those cases, the State plan must comply with the nurse-midwife requirements no later than the first day of the first calendar quarter that begins after the close of the first regular session of the State legislature that begins after the date of publication of these regulations.

The statutory effective date of these regulations is July 1, 1981. However, these regulations require that States amend their State plans. If we implemented these regulations retroactively to the statutory effective date, all State plans would automatically be placed in a position of noncompliance. Therefore, it would not be practical to issue these regulations retroactively, even though we believe the law they implement is clear. We are providing a 90-day period following publication of these regulations to allow States to prepare and submit their State plan amendment regarding nurse-midwife services.

Waiver of Proposed Rulemaking

We are publishing these regulations in final form since, as noted in the Effective Date section above, we believe

that the law is clear, in nearly all respects, as to what States are required to do. For these reasons, proposed rulemaking procedures are unnecessary and contrary to public interest. We believe that it is in the public's best interest to increase the availability and accessibility of nurse-midwife services to women eligible for Medicaid. However, we invite comments from States, recipient groups, professional organizations, and other interested in this new Medicaid benefit, and we will publish in the **Federal Register** any changes to the regulations that are appropriate.

Executive Order 12291

We have determined that this rule does not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291. That is, this rule will not have an annual effect on the economy of $100 million or more; or cause a major increase in costs of prices for consumers, government agencies, industry, or a geographic region; or cause significant adverse effects on business or employment. Rather, we anticipate a decrease in expenditures. Because nurse-midwife services are generally less expensive than traditional obstetrical care, we anticipate that these regulations will result in a savings in Federal dollars ranging from $2.2 million for fiscal year 1983 to $2.8 million for fiscal year 1985.

Regulatory Flexibility Analysis

Section 603(a) of Pub. L. 96-354 (the Regulatory Flexibility Act of 1980) requires Federal agencies to prepare a regulatory flexibility analysis when regulations have a significant economic impact on a substantial number of small businesses or small governmental jurisdictions. Small governmental jurisdictions are defined by section 3(a) of the Act as cities, counties, towns, townships, villages, school districts, or special districts, with fewer than 50,000 residents. Since these regulations mandate nurse-midwife services under Medicaid, they affect the States, which are not small governmental jurisdictions. For this reason, and because the economic impact is not significant, a regulatory flexibility analysis is not required.

List of Subjects in 42 CFR Parts 435, 436, 440, 441, and 447

Medicaid, Nurse-midwife services.

42 CFR Chapter IV is amended as set forth below.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart X—Rural Health Clinic Services

The authority citation for Part 405, Subpart X reads as follows:

Authority: Secs. 1102, 1833, 1861(aa), 1871, Social Security Act; 49 Stat. 647, 79 Stat. 302, 322, and 331, 91 Stat. 1485; 42 U.S.C. 1302, 1395l, 1395hh, and 1395x(aa), unless otherwise noted.

A. Section 405.2401 is amended by revising paragraph (b)(10) to read as follows:

§ 405.2401 Scope and definitions.

* * * * *

(b) *Definitions.* * * *

(10) "Nurse-midwife" means a registered professional nurse who meets the following requirements:

(i) Is currently licensed to practice in the State as a registered professional nurse.

(ii) Is legally authorized under State law or regulations to practice as a nurse-midwife.

(iii) Except as provided in paragraph (b)(10)(iv) of this section, has completed a program of study and clinical experience for nurse-midwives, as specified by the State.

(iv) If the State does not specify a program of study and clinical experience that nurse-midwives must complete to practice in that State, meets one of the following conditions:

(A) Is currently certified as a nurse-midwife by the American College of Nurse-Midwives.

(B) Has satisfactorily completed a formal education program (of at least one academic year) that, upon completion, qualifies the nurse to take the certification examination offered by the American College of Nurse-Midwives.

(C) Has successfully completed a formal educational program for preparing registerted nurses to furnish gynecological and obstetrical care to women during pregnancy, delivery, and the postpartum period, and care to normal newborns, and was practicing as a nurse-midwife for a total of 12 months during any 18-month period from August 8, 1976 to (the effective date of these regulations).

* * * * *

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA, AND THE NORTHERN MARIANA ISLANDS

The authority citation for Part 435 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

B. In § 435.3, the uncodified introductory paragraph is reprinted and the first citation of section 1905(a) of the Act is revised to read as follows:

§ 435.3 Basis.

This part implements the following sections of the Act, which state eligibility requirements and standards:

* * * * *

1905(a) (clause following (18)) Prohibitions against providing Medicaid to certain institutionalized individuals.

* * * * *

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

The authority citation for Part 436 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

C. In § 436.2, the uncodified introductory paragraph is reprinted and the second citation of section 1905(a) of the Act is revised to read as follows:

§ 436.2 Basis.

This part implements the following sections of the Act, which state requirements and standards for eligibility:

* * * * *

1905(a) (clause following (18)) Prohibitions against providing Medicaid to certain institutionalized individuals.

* * * * *

PART 440—SERVICES: GENERAL PROVISIONS

The authority citation for Part 440 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

D. Part 440 is amended as set forth below:

1. Section 440.1 is revised to read as follows:

§ 440.1 Basis and purpose.

This subpart interprets section 1905(a) of the Act, which lists the services included in the term "medical assistance," sections 1905(c), (d), (f)–(i), (l), and (m), which define some of those services, and section 1915(c), which lists as "medical assistance" certain home

and community-based services provided under waivers under that section to individuals who would otherwise require institutionalization. It also implements sec. 1902(a)(43) with respect to laboratory services (see also §§ 447.10 and 447.342 for related provisions on laboratory services).

2. Section 440.10 is amended by revising the uncodified introductory paragraph and redesignating it as (a)(1), (a)(2), and (a)(3), revising paragraph (c), redesignating existing paragraphs (a), (b), (c), and (d) as (a)(3) (i), (ii), (iii), and (iv), and reserving a new paragraph (b). As revised, § 440.10 reads as follows:

§ 440.10 Inpatient hospital services, other than services in an institution for tuberculosis or mental diseases.

(a) "Inpatient hospital services" means services that—

(1) Are ordinarily furnished in a hospital for the care and treatment of inpatients;

(2) Except in the case of nurse-midwife services, as specified in § 440.165, are furnished under the direction of a physician or dentist; and

(3) Are furnished in an institution that—

(i) Is maintained primarily for the care and treatment of patients with disorders other than tuberculosis or mental diseases;

(ii) Is licensed or formally approved as a hospital by an officially designated authority for State standard-setting;

(iii) Except in the case of medical supervision of nurse-midwife services, as specified in § 440.165, meets the requirements for participation in Medicare; and

(iv) Has in effect a utilization review plan, applicable to all Medicaid patients, that meets the requirements of § 405.1035 of this chapter, unless a waiver has been granted by the Secretary.

(b) [Reserved].

3. Section 440.20 is amended by revising paragraph (a) to read as follows:

§ 440.20 Outpatient hospital services and rural health clinic services.

(a) *"Outpatient hospital services"* means preventive, diagnostic, therapeutic, rehabilitative, or palliative services that—

(1) Are furnished to outpatients;

(2) Except in the case of nurse-midwife services, as specified in § 440.165, are furnished by or under the direction of a physician or dentist; and

(3) Are furnished by an institution that—

(i) Is licensed or formally approved as a hospital by an officially designated authority for State standard-setting; and

(ii) Except in the case of medical supervision of nurse-midwife services, as specified in § 440.165, meets the requirements for participation in Medicare.

* * * * *

4. Section 440.90 is revised to read as follows:

§ 440.90 Clinic services.

"Clinic services" means preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services that—

(a) Are provided to outpatients;

(b) Are provided by a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients; and

(c) Except in the case of nurse-midwife services, as specified in § 440.165, are furnished by or under the direction of a physician or dentist.

5. Section 440.165 is added to read as follows:

§ 440.165 Nurse-midwife service.

(a) "Nurse-midwife services" means services that—

(1) Are concerned with management of the care of mothers and newborns throughout the maternity cycle;

(2) Are furnished by a nurse-midwife within the scope of practice authorized by State law or regulation and, in the case of inpatient or outpatient hospital services or clinic services, are furnished by or under the direction of a nurse-midwife to the extent permitted by the facility; and

(3) Unless required by State law or regulations or a facility, are reimbursed without regard to whether the nurse-midwife is under the supervision of, or associated with, a physician or other health care provider. (See § 441.21 of this chapter for provisions on independent provider agreements for nurse-midwives.)

(b) "Nurse-midwife" means a registered professional nurse who meets the following requirements:

(1) Is currently licensed to practice in the State as a registered professional nurse.

(2) Is legally authorized under State law or regulations to practice as a nurse-midwife.

(3) Except as provided in paragraph (b)(4) of this section, has completed a program of study and clinical experience for nurse-midwives, as specified by the State.

(4) If the State does not specify a program of study and clinical experience that nurse-midwives must complete to practice in that State, meets one of the following conditions:

(i) Is currently certified as a nurse-midwife by the American College of Nurse-Midwives.

(ii) Has satisfactorily completed a formal educational program (of at least one academic year) that, upon completion, qualifies the nurse to take the certification examination offered by the American College of Nurse-Midwives.

(iii) Has successfully completed a formal educational program for preparing registered nurses to furnish gynecological and obstetrical care to women during pregnancy, delivery, and the postpartum period, and care to normal newborns, and was practicing as a nurse-midwife for a total of 12 months during any 18-month period from August 8, 1976 to (the effective date of these regulations).

(c) "Maternity cycle" means a period limited to—

(1) Pregnancy;

(2) Labor;

(3) Birth; and

(4) The immediate postpartum period, not to exceed six weeks.

6. Section 440.210 is revised to read as follows:

§ 440.210 Required services for the categorically needy.

A State plan must specify that, as a minimum, categorically needy recipients are provided the services as specified in §§ 440.10–440.50, 440.70, and (to the extent nurse-midwives are authorized to practice under State law or regulation) 440.165.

7. Section 440.220 is amended by revising the introductory paragraph and paragraph (d) to read as follows:

§ 440.220 Required services for the medically needy.

A State plan that includes the medically needy must specify that the medically needy are provided, as a minimum, the following services:

* * * * *

(d) If the State plan includes services in an institution for mental diseases (§ 440.140 or 440.160) or in an intermediate care facility for the mentally retarded (§ 440.150(c)) for any group of medically needy, either of the following sets of services to each of the medically needy groups:

(1) The services contained in §§ 440.10–440.50 and (to the extent nurse-midwives are authorized to practice under State law or regulation) 440.165; or

(2) The services contained in any seven of the sections in §§ 440.10–440.165.

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

E. Part 441 is amended as set forth below:

1. The table of contents is amended by adding a new section 441.21 under Subpart A to read as follows:

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

Sec.
441.1 Purpose.

Subpart A—General Provisions

* * * * *

441.21 Nurse-midwife services.

* * * * *

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

2. In § 441.10, the introductory paragraph is reprinted, paragraph (e) is revised, and a new paragraph (f) is added to read as follows:

Subpart A—General Provisions

§ 441.10 Basis.

This subpart is based on the following sections of the Act which state requirements and limits on the services specified or provide Secretarial authority to prescribe regulations relating to services:

* * * * *

(e) Section 1905(a) (following (a)(18)), which prohibits FFP in expenditures for certain services (§ 441.13).

(f) Section 1905 (a)(17) and (m) for nurse-midwife services (§ 441.21).

3. A new § 441.21 is added to read as follows:

§ 441.21 Nurse-midwife services.

If a State plan, under § 440.210 or 440.220 of this subchapter, provides for nurse-midwife services, as defined in § 440.165, the plan must provide that the nurse-midwife may enter into an independent provider agreement, without regard to whether the nurse-midwife is under the supervision of, or associated with, a physician or other health care provider.

PART 447—PAYMENTS FOR SERVICES

The authority citation for Part 447 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

F. Section 447.53 is amended by revising paragraph (a)(1) to read as follows:

Deductible, Coinsurance, Co-Payment or Similar Cost-Sharing Charge

§ 447.53 Applicability; specifications; multiple charges.

(a) *Categorically needy.* (1) The plan must provide that the Medicaid agency does not impose any deductible, coinsurance, co-payment, or similar charge upon categorically needy individuals for those services listed in §§ 440.10–440.50, 440.70, and 440.165 of this subchapter. These services are inpatient and outpatient hospital services; rural health clinic services; other laboratory and X-ray services; skilled nursing facility services for individuals 21 years of age or older; early and periodic screening, diagnosis and treatment of individuals under the age of 21; family planning services and supplies for individuals of child-bearing age; physicians' services; home health care services; and nurse-midwife services.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; No. 13.774, Medicare—Supplementary Medical Insurance Program)

Dated: February 23, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: April 22, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-13346 Filed 5-14-82; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL MARITIME COMMISSION

46 CFR 524

[Docket No. 81-40]

Exemption of Exclusive Equipment Interchange Agreements From the Filing and Approval Requirements of Section 15 of the Shipping Act, 1916

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This exempts from the filing and approval requirements of section 15 of the Shipping Act, 1916, exclusive equipment interchange agreements covering the exchange of empty containers, chassis, LASH/SEABEE barges and related equipment between two or more persons subject to the Act. The Commission has determined that this exemption will not substantially impair effective regulation of common carrier practices, result in unjust discrimination or be detrimental to commerce.

DATE: Effective June 16, 1982.

ADDRESS: For further information contact: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Section 35 of the Shipping Act, 1916 (46 U.S.C. 833a) allows the Commission to exempt any class of agreements between persons subject to the Act, or any specified activity of such persons from any requirement of the Act, where it finds that such exemption will not substantially impair effective regulation by the Commission, be unjustly discriminatory, or be detrimental to commerce. Under this authority, the Commission previously gave notice (46 FR 32459–32460) that it proposed to amend 46 CFR Part 524 to exempt exclusive equipment interchange agreements from the filing and approval requirements of section 15 of the Act (46 U.S.C. 814).

Carriers often find that they have an imbalance of equipment, *i.e.*, a surplus of equipment at one location and a scarcity at another location. One remedy for this imbalance is for a carrier to move empty equipment from one location to another location. A second remedy is to lease the necessary equipment from another carrier. While the second alternative may render the same result as the first, the time required to obtain Commission approval of other than nonexclusive arrangements may make them commercially unacceptable to the parties. This exemption will afford carriers additional flexibility to meet and respond, in a timely manner, to the problems of equipment imbalance. Participants in such arrangements should also be able to make more effective use of expensive equipment with resultant benefits to shippers and consignees.

Six responses to the notice of proposed rulemaking were filed on behalf of 24 conference/rate agreements and 2 independent carriers. The Japan/Korea-Atlantic & Gulf Freight Conference, the Japan-Puerto Rico & Virgin Islands Freight Conference, the Trans-Pacific Freight Conference of Japan/Korea, the parties to the 8900 Lines Rate Agreement and both independents, Sea-Land Service, Inc. and American President Lines, Ltd. (APL), support the rule.

Sea-Land's support is premised on the availability of section 15 approval for such arrangements at the request of interested parties, something which is already provided by 46 CFR 524.7. APL favors the exemption but requests that it be further enlarged to include the

interchange of loaded containers made in connection with a nonexclusive transshipment agreement. The Commission is presently considering a rulemaking to exempt nonexclusive transshipment agreements from the filing requirements of section 15 and APL's request will be considered in this context.

The 8900 Lines suggest that the title of 46 CFR Part 524 be modified to reflect the fact that it exempts both "nonexclusive transshipment agreements" and "exclusive equipment interchange agreements." This has already been accomplished. In Docket No. 80–34, *Exemption of Nonexclusive Transshipment Agreements From Section 15 Approval Requirements*, the title of 46 CFR Part 524 was amended to read: "Exemption of Certain Agreements From the Requirements of Section 15, Shipping Act, 1916."[1]

Eleven conferences responding as the North European Conferences (NEC) support adoption of the rule, but suggest that the language of the rule be modified to make it clear that any equipment involved in an exclusive interchange agreement could be used by the receiving carrier to transport its own cargo. The final rule has been so modified.

Nine conferences responding as the Associated Latin American Freight Conferences (ALAFC) oppose the rule.[2] Their objection is that the rule will not confer antitrust immunity upon the parties to the exclusive equipment interchange agreement unless the agreement is filed with the Commission for approval. They contend that an exempted agreement should be immune from the antitrust laws. This argument has heretofore been expressly rejected by the Commission in Docket No. 81–18, *Exemption of Agreements Covering the Collection, Compilation and Exchange of Credit Information*, Order serve March 3, 1982. Nothing presented herein persuades the Commission to alter its position.

List of Subjects in 46 CFR Part 524

Maritime carriers.

PART 524—EXEMPTION OF CERTAIN AGREEMENTS FROM THE REQUIREMENTS OF SECTION 15, SHIPPING ACT, 1916

§ 524.2 [Amended]

Therefore, pursuant to sections 15, 35 and 43 of the Shipping Act, 1916 (46 U.S.C. 814, 833a and 841a) and 5 U.S.C. 553, 46 CFR Part 524 is amended by revising paragraph (b) of § 524.2 *Definitions*, to read as follows:

* * * * *

(b) An equipment interchange agreement is an agreement between two or more common carriers by water for the exchange of empty containers, chassis, empty LASH/SEABEE barges, and related equipment, which provides only for the transportation of the equipment as required, payment therefor, management of the logistics of transferring, handling and positioning equipment, its use by the receiving carrier, its repair and maintenance, damages thereto, and liability incidental to the interchange of equipment, and no other subject.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-13337 Filed 5-14-82; 8:45 am]

BILLING CODE 6730-01-M

[1] The final rule in Docket No. 80–34 exempted only nonexclusive equipment interchange agreements.

[2] Sea-Land, a member of five ALAFC conferences, disassociated itself from these comments.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Thirty-sixth Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96–254, this order authorizes various railroads to provide interim service over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 12:01 a.m., May 15, 1982, and continuing in effect until 11:59 p.m., September 30, 1982, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275–7840 or 275–1559.

SUPPLEMENTARY INFORMATION:

Decided: May 11, 1982.

Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96–254 (RITEA), the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for those operations.

In view of the urgent need for continued rail service over RI's lines pending the implementation of long-range solutions, this order permits carriers to provide service to shippers which may otherwise be deprived of essential rail transportation.

Appendix A, to the previous order, is revised by adding at Item 25A., the authority for the South Central Arkansas Railway, Inc. (SCAR) to extend its operations from Lillie to Ruston, Louisiana, a distance of approximately 29.5 miles.

The previous order is further revised by extending the expiration date, in this order, until September 30, 1982.

Appendix B of Thirteenth Revised Service Order No. 1473 is unchanged, and becomes Appendix B to this Order.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the named appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered:

§ 1033.1473 Thirty-sixth revised Service Order No. 1473.

(a) *Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, debtor (William M. Gibbons, Trustee).* Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in

accordance with pertinent authority conferred upon it by Section 122(a) Pub. L. 96–254.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations. Termination of interim operations will require at least (30) thirty days notice to the Railroad Service Board and affected shippers.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a) of this section, operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(1) In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

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

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., May 15, 1982.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 30, 1982, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and Section 122, Pub. L. 96–254.

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

List of Subjects in 49 CFR Part 1033

Railroads.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

Appendix A—RI Lines Authorized to be Operated by Interim Operators

1. *Louisiana and Arkansas Railway Company (LA):*
   A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.
2. *Peoria and Pekin Union Railway Company (PPU):*
   A. All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.
   B. Mossville, Illinois (milepost 148.23) to Peoria, Illinois (milepost 161.0) including the Keller Branch (milepost 1.55 to 6.15).
3. *Union Pacific Railroad Company (UP):*
   A. Beatrice, Nebraska.
   B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.
4. *Toledo, Peoria and Western Railroad Company (TPW):*
   A. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.
5. *Chicago and North Western Transportation Company (CNW):*
   A. From Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.
   B. From Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).
   C. From Inver Grove (milepost 344.7) to Northwood, Minnesota.
   D. From Clear Lake Junction (milepost 191.1) to Short Line Junction, Iowa (milepost 73.6).
   E. From Short Line Junction Yard (milepost 354) to West Des Moines, Iowa (milepost 364).
   F. From Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).
   G. From Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).
   H. From Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).
   I. From Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).
   J. From Iowa Falls (milepost 97.4) to Estherville, Iowa (milepost 206.9).
   K. From Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).
   L. From Palmer (milepost 454.5) to Royal, Iowa (milepost 502).
   M. From Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).
   N. From Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.
   O. From Newton (milepost 320.5) to Earlham, Iowa (milepost 388.6).
   P. At Sibley, Iowa.
   Q. At Worthington, Minnesota.
   R. At Altoona to Pella, Iowa.
   S. From Carlisle to Indianola, Iowa.
   T. At Omaha, Nebraska, (between milepost 502 to milepost 504).
   U. From Earlham, (milepost 388.6) to Dexter, Iowa (milepost 393.5).
   V. Peoria Terminal Company trackage from Iowa Junction (RI milepost 164.32/PTC milepost .91) through Hollis, Illinois to the Illinois River bridge (milepost 7.40).
6. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW):*
   A. From West Davenport, through and including Muscatine, to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland.
   B. At Washington, Iowa.

C. From Newport, Minnesota to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.
D. From Davenport to Iowa City, Iowa.
E. At Davenport, Iowa.

7. *St. Louis Southwestern Railway Company (SSW):*
A. From Brinkley to Briark, Arkansas, and at Stuttgart, Arkansas.
B. At North Topeka and Topeka, Kansas.

8. *Little Rock & Western Railway Company (LRWN):*
A. From Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2).
B. From Little Rock (milepost 136.4) to the Missouri Pacific/RI Interchange (milepost 130.6).

9. *Missouri Pacific Railroad Company (MP):*
A. From Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5).
B. From Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0).
C. From Hot Springs Junction (milepost 0.0) to and including Rock Island milepost 4.7.
D. From Wichita, Kansas (milepost 243.7) to Kechi, Kansas (milepost 235.9).

10. *Norfolk and Western Railway Company (NW):* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track, for the purpose of serving industries located adjacent to such tracks. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

11. *Cadillac and Lake City Railway Company (CLK):*
A. From Sandown Junction (milepost 0.1) to and including junction with DRGW Belt Line (milepost 2.7) all in the vicinity of Denver, Colorado, a distance of approximately 6.6 miles.
B. From Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado (milepost 602.8), all in the vicinity of Colorado Springs, Colorado, and Eastward from Colorado Springs to Falcon, Colorado (milepost 590.3), a total distance of approximately 25.1 miles.
C. From Simla, Colorado (milepost 558.3) to Colby, Kansas (milepost 387.0), a distance of approximately 171.3 miles.
D. Rock Island trackage rights over Union Pacific Railroad Company between Limon and Denver, Colorado, a distance of approximately 83.8 miles.

12. *Baltimore and Ohio Railroad Company (BO):*
A. From Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.
B. From Bureau, Illinois (milepost 114.12) to Henry, Illinois (milepost 126.94) a distance of approximately 12.8 miles.

13. *Keota Washington Transportation Company (KWTR):*
A. From Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.
B. At Vinton, Iowa (milepost 120.0 to 123.0).
C. From Vinton Junction, Iowa (milepost 23.4) to Iowa Falls, Iowa (milepost 97.4).

14. *The La Salle and Bureau County Railroad Company (LSBC):*
A. From Chicago (milepost 0.60) to Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois. Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.
B. From Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), at Blue Island, Illinois.
C. From Gresham (subdivision 1, milepost 10.0) to South Chicago (subdivision 1B, milepost 14.5) at Chicago, Illinois.
D. From Pullman Junction, Chicago, Illinois, (milepost 13.2) running southerly to the entrance of the Chicago International Port, a distance of approximately five miles, for the purpose of bridge rights only.

15. *The Atchison, Topeka and Santa Fe Railway Company (ATSF):*
A. At Alva, Oklahoma.
B. At St. Joseph, Missouri.

16. *The Brandon Corporation (BRAN):*
A. From Belleville, Kansas (milepost 226.1), to Manhattan, Kansas (milepost 143.0), a distance of approximately 83 miles.

17. *Iowa Northern Railroad Company (IANR):*
A. From Cedar Rapids, Iowa (milepost 100.5), to Manly, Iowa (milepost 225.1).
B. At Vinton, Iowa, and west on the Iowa Falls Line to milepost 24.3.

18. *Iowa Railroad Company (IRRC):*
A. From Council Bluffs (milepost 490.15) to Dexter, Iowa (milepost 393.0) a distance of approximately 97.15 miles.
B. From Audubon Junction (milepost 440.7) to Audubon, Iowa (milepost 465.1) a distance of approximately 24.4 miles.
C. From Hancock, Iowa (milepost 6.4) to Oakland, Iowa (milepost 12.3) a distance of approximately 5.9 miles.
D. From Bureau, Illinois (milepost 114.2) to a point west of Rock Island, Illinois sufficient to provide service to the Rock Island Arsenal.
E. From Rock Island, Illinois through Milan, Illinois, to a point west of Milan sufficient to serve the Rock Island Industrial Complex.
F. At Rock Island, Illinois, including 26th Street Yard.

19. *Missouri-Kansas-Texas Railroad Company (MKT):*
A. From Oklahoma City, Oklahoma (milepost 496.4) to McAlester, Oklahoma (milepost 365.0), a distance of approximately 131.4 miles.

20. *Chicago Short Line Railway Company (CSL):*
A. From Pullman Junction easterly for approximately 1,000 feet to serve Clear-View Plastics, Inc., all in the vicinity of the Calumet switching district.
B. From Rock Island Junction westerly for approximately 3,000 feet to Irondale Wye.

21. *Kyle Railroad Company (Kyle):*
A. From Belleville (milepost 187.0) to Caruso, Kansas (milepost 430.0), a distance of approximately 243 miles. Kyle will be responsible for the maintenance of the jointly used track between Colby and Caruso as mutually agreed upon with CLK, and for coordinating operations.

22. *North Central Texas Railway, Inc (NCTR):*
A. From Chico, Texas (milepost 562) to Dallas (North Junction), Texas (milepost 643.8).
B. Joint right-of-way district between Dallas (North Junction) and Endot, Texas (milepost 646.4).

23. *Enid Central Railway, Inc. (ENIC):*
A. From Enid, Oklahoma (milepost 345.27) to Kremlin, Oklahoma (milepost 330.03), including operations on the Ponca City Branch line from milepost 0.02 to milepost 0.30.
B. From North Enid, Oklahoma (milepost 0.30) to Ponca City, Oklahoma (milepost 54.8).

24. *North Central Oklahoma Railway, Inc. (NCOR):*
A. From Mangum, Oklahoma (milepost 97.2) to Chickasha, Oklahoma (milepost 0.0).
B. From Richards Spur, Oklahoma (milepost 486.45) to Anadarko, Oklahoma (milepost 463.39).
C. From Chickasha, Oklahoma (milepost 434.69) to El Reno, Oklahoma (milepost 400.31).
D. From El Reno, Oklahoma (milepost 513.31) to Council, Oklahoma (milepost 494.5).

25. *South Central Arkansas Railway, Inc. (SCAR):*
+A. From El Dorado, Arkansas (milepost 99) to Ruston, Louisiana (milepost 154.77).

26. *Burlington Northern Railroad Company (BN):*
A. At Burlington, Iowa (milepost 0 to milepost 2.06).
B. At Okeene, Oklahoma.
C. At Lawton, Oklahoma.

27. *Fort Worth and Denver Railway Company (FWD):*
A. From Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately three (3) miles northerly along the old Liberal Line.
B. At North Fort Worth, Texas (mileposts 603.0 to 611.4).

+Added.

[FR Doc. 82-13285 Filed 5-14-82; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 95
Monday, May 17, 1982

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 213 and 752

Schedule B Appointment Authority for Professional and Administrative Career Positions; Correction

AGENCY: Office of Personnel Management.

ACTION: Republication of proposed regulations; correction.

SUMMARY: On May 11, 1982, (47 FR 20264) the Office of Personnel Management published proposed regulations to amend 5 CFR Parts 213 and 752. Because the proposal as published contained invadvertent errors, the proposed regulations are republished in their entirety with corrections.

These proposed regulations establish a new appointing authority which agencies may use during a period when the Office of Personnel Management does not have a register of eligibles for use in filling professional and administrative career positions subject to the decree entered on November 19, 1981, by the United States District Court for the District of Columbia in the civil action known as *Luevano* v. *Devine* and numbered as No. 79–271. This new authority is applicable only when agencies must utilize external recruiting and hiring procedures to fill such positions. The proposed regulations also contain an amendment to extend adverse action protections to individuals appointed under the new authority.

DATE: Comments must be received on or before June 16, 1982.

ADDRESS: Written comments may be sent to Richard B. Post, Associate Director for Staffing, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415, or delivered to Room 6F08, 1900 E Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:
Part 213: William Bohling—(202) 632–6000.
Part 752: Cynthia Field—(202) 254–5517.

SUPPLEMENTARY INFORMATION: On November 19, 1981, the United States District Court for the District of Columbia entered a decree in the civil action known as *Luevano* v. *Devine* and numbered as No. 79–271. Defendants in that lawsuit included the Director of the United States Office of Personnel Management (OPM) and the heads of 45 other Federal departments, agencies, and establishments in the Legislative and Executive Branches of the United States Government. Pursuant to that decree, OPM must eliminate the use of the Professional and Administrative Career Examination (PACE) and registers of eligibles derived therefrom. At the present time, OPM has no equivalent register of eligible applicants for entry-level professional and carrer positions and, pending further notice, will not establish such a register.

Because of substantial reductions in Federal governmental operations and spending, most agencies will not engage in significant outside hiring for the probable life of the decree. Instead, agencies generally will fill many vacancies that arise either by internal placement; by reinstatment of individuals with career status; or by interagency transfer to accommodate Federal employees who have been displaced by reduction in force, abolition of function, reorganization, or some other agency action taken either to achieve compliance with budgetary or personnel ceiling limitations or to accomplish desirable program changes. In filling vacancies, agencies will give precedence to individuals with priority placement rights and will make maximum use of available applicant sources such as (a) OPM Displaced Employee and VIPP lists and (b) agency repromotion and reemployment priority lists.

OPM recognizes, however, that agencies may experience vacancies in positions that were covered by the PACE on the effective date of the consent decree and that can be filled only through external hiring at the GS–5 and GS–7 entry levels. In the absence of OPM registers of eligible applicants for such positions, and in the event that agencies need to make external appointments to such positions, the agencies must have a special authority to do so. Thus, OPM, pusuant to its authority under Civil Service Rule VI, has determined that such entry-level professional and administrative career positions at the GS–5 and GS–7 grades should be excepted from the competitive service on a case-by-case, position-by-position basis when it is necessary to fill those positions through external hiring. Excepting these positions from the competitive service and placing them in Schedule B is appropriate because, given the elimination of PACE and the unavailability of alternative written tests and other merit selection procedures, it is impracticable to hold competitive examinations for the positions.

The Director of OPM finds that, on account of the urgent needs of several agencies to effect appointments to positions that were formerly covered by PACE, good cause exists for setting the comment period on this proposed rulemaking at 30 days.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase 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 United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains solely to procedures for appointment of employees by Federal agencies.

List of Subjects

5 CFR Part 213

Goverment employees.

5 CFR Part 752

Administrative practice and procedures, Government employees.

Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, OPM proposes to amend Title 5, Code of Federal Regulations, as follows:

PART 213—EXCEPTED SERVICE

1. 5 CFR 213.3202 is amended by adding paragraph (1) to read as follows:

§ 213.3202 Entire executive civil service.

* * * * *

(1) Professional and administrative careeer (PAC) positions at the GS–5 or GS–7 grade level which are subject to the decree entered on November 19, 1981, by the United States District Court for the District of Columbia in the civil action known as *Luevano* v. *Devine* and numbered as No. 79–271, and which were not removed from coverage of the Professional and Administrative Career Examination (PACE) prior to the effective date of the consent decree. When a Federal agency needs to fill a PAC position that was not removed from PACE coverage before the consent decree became effective, and when no qualified applicant already in the competitive service is available for appointment thereto, and the agency has made maximum use of priority placement sources, then the agency may apply to OPM for authority to make a new appointment under this paragraph. Such appointments shall be made pursuant to such Schedule B authorities for PAC positions as shall be prescribed in the Federal Personnel Manual. An incumbent of a Schedule B PAC position may be appointed to a competitive position upon a demonstration by the agency that the employee has met qualifications on the basis of either an examination, review of the employee's performance, or such other means as may be prescribed for such position by civil service laws, rules, and regulations. Terms of service under this appointment authority shall be established by a delegation agreement to be executed for each position excepted from the competitive service pursuant to this authority.

PART 752—ADVERSE ACTIONS

(2) 5 CFR 752.401(b) is amended by adding paragraph (4) to read as follows:

§ 752.401 Coverage.

* * * * *

(b) *Employees covered.* The following are covered by this subpart: * * *

(4) An employee who occupies a professional and administrative career (PAC) position in Schedule B of Part 213 of this title, provided that the employee has completed a trial period of one year after initial appointment in such a position.

Authority: 5 U.S.C. 3301, 3302; E.O. 10577.

[FR Doc. 82–13435 Filed 5–13–82; 4:06 pm]

BILLING CODE 6325–01–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 563b, 563c, and 563d

[No. 82–312]

Information Disclosure Requirements in Connection With Conversions From the Mutual to the Stock Form of Organization, Filings Under the Securities Exchange Act of 1934, and the Issuance of Mutual Capital Certificates and Debt Securities

Dated: April 28, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rules.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC") proposes to amend its regulations governing the information disclosure requirements applicable to institutions, insured by the FSLIC, that are converting from the mutual to the stock form of organization. Proposed changes are also made to disclosure requirements of insured institutions which have registered a class of its securities with the Board under Section 12 of the Securities and Exchange Act of 1934. The amendments also would affect the form and content of financial statements included in offering circulars required to be filed with the Board in connection with the offer and sale by an insured institution of mutual capital certificates and debt securities. The amendments are designed to: (1) Provide specific guidance as to appropriate financial statement and related financial information disclosure for insured institutions; (2) eliminate inconsistencies between the disclosure requirements of the Board's Conversion Regulations, Part 563b of the Rules and Regulations for Insurance of Accounts ("Insurance Regulations"), and the disclosure requirements of the Board's regulations under the 1934 Act, Part 563d of the Insurance Regulations; and (3) simplify the financial disclosure requirements and eliminate, where possible, duplication between disclosure in the Notes to Financial Statements and the text of the particular disclosure document.

DATES: Comments must be received by: July 9, 1982.

ADDRESS: Comments should be sent to the Director, Information Services, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION, CONTACT: Craig A. Dabroski, Accounting Fellow (202–377–6992) or William Dobrzykowski, Deputy Chief Accountant (202–377–6539), Office of Examinations and Supervision, regarding financial statement and related financial information requirements; and Thomas J. Haggerty (202–377–6911), Senior Attorney, Office of General Counsel, Federal Home Loan Bank Board, regarding legal matters, at the above address.

SUPPLEMENTARY INFORMATION:

I. Background

The proposed amendments pertain to the disclosure required: (1) In proxy statements and offering circulars used in connection with mutual-to-stock conversions; (2) in filings with the Board under the Securities Exchange Act of 1934 ("1934 Act"); and (3) in offering circulars required to be filed with the Board in connection with the offer and sale of mutual capital certificates and debt securities. In addition, a technical change is proposed in Form AC, the Board's application for mutual-to-stock conversions.

Under the Board's Conversion Regulations, Part 563b of the Insurance Regulations, a converting institution must obtain approval of the conversion by its members, and must sell its stock for a price equal to the estimated pro forma market value of the stock based on an independent valuation. The stock must be offered to members of the converting institution pursuant to certain subscription rights and, if not fully subscribed, to the public. Forms PS and OC under the Conversion Regulations prescribe the information to be included in (1) the proxy statement soliciting membership approval of the conversion, and (2) the offering circulars required to be used in the sale of conversion stock in the subscription and public offerings. Subpart A of Part 563c of the Insurance Regulations specifies the form and content of the financial statements required by Forms PS and OC. The same financial statement disclosure is required in offering circulars filed with the Board under § 563.7–4 of the Insurance Regulations, relating to mutual capital certificates, and §§ 563.8 and 563.8–1 of the

Insurance Regulations, relating to debt securities.

An institution which has a class of equity securities registered with the Board under Section 12 of the 1934 Act is subject to Part 563d of the Insurance Regulations, which adopts the regulations of the Securities and Exchange Commission ("SEC") governing registration, periodic reporting, and proxy solicitation. In addition, Part 563d adopts Regulation S-X of the SEC, 17 CFR § 210.1-01 *et seq.*, which governs the form and content of financial statements required in connection with 1934 Act filings.

II. Proposed Amendments

1. *General.*

The proposed amendments are based upon three premises.

(1) Disclosure of information the compilation of which imposes upon an institution a burden which outweighs any benefit should not be required, provided that investors receive meaningful disclosure of all material information.

(2) In order to avoid unnecessary duplication, there should be deleted from the textual sections of disclosure documents information which is adequately presented in the financial statements and the notes to the financial statements.

(3) The disclosure required in connection with a mutual-to-stock conversion should conform to that which will be required of the converting institution when it registers its equity securities under the 1934 Act.

2. *Form AC.*

Item 7 of Form AC (Application for Conversion) is proposed to be amended to substantially increase the dollar amount of savings account balances of personnel required to trigger disclosure, and to provide for the disclosure of appropriate current information.

3. *Items 5, 6, 7(n) and 9 of Form PS.*

The SEC is engaged in a program of integrating the various disclosure requirements under the Federal securities laws. The SEC's program to integrate the disclosure requirements imposed by the transaction-oriented framework of the Securities Act of 1933 ("1933 Act") with the disclosure requirements imposed by the status-oriented framework of the 1934 Act was discussed comprehensively in SEC Release No. 33-6235 (September 2, 1980) (45 FR 63695), and has been effectuated most recently by the SEC's adoption of an Integrated Disclosure System in SEC Release No. 33-6383 (March 3, 1982) (47 FR 11380). The goal of the SEC's integrated disclosure program has been to revise or eliminate overlapping or unnecessary disclosure and dissemination requirements, thereby reducing burdens on registrants, while at the same time ensuring that security holders, investors, and the marketplace will be provided with meaningful nonduplicative information upon which to base investment decisions.

A principal method by which the SEC has effected its integrated disclosure program has been its adoption and expansion of Regulation S-K, 17 CFR Part 229. Since its initial adoption in SEC Release No. 33-5893 (December 23, 1977) (42 FR 65554), Regulation S-K has evolved from a source of certain standardized registrant-related disclosure provisions to a compendium of disclosure requirements applicable to both 1933 Act and 1934 Act filings.

In recognition of this central role played by Regulation S-K in the disclosure requirements under the Federal securities laws, and the fact that all converted institutions are required to register their stock under the 1934 Act, the Board is proposing to coordinate, where feasible, the disclosure required in mutual-to-stock conversion filings with the disclosure required under the 1934 Act through adoption of certain Regulation S-K requirements. This would benefit converting institutions since they will not be subject to different disclosure obligations.

Accordingly, the Board proposes to amend Item 5 of Form PS, Directors and executive officers, Item 6 of Form PS, Management renumeration and transactions, Item 7(n) of Form PS, Legal proceedings, and Item 9 of Form PS, Description of capital stock, to require the information called for by the equivalent Items of Regulation S-K. However, certain disclosure matters specifically applicable to converting institutions are retained in these Form PS Items. In addition, the proposed Item 5 disclosure requirement concerning directors and officers would incorporate certain disclosure requirements of an equivalent Item under the SEC's proxy regulations, 17 CFR § 240.14a-101, and would increase from $40,000 to $50,000 the minimum salary level of directors and highest paid officers which would be required to be disclosed. These proposed revisions would not result in significantly different disclosure from that currently required by Form PS.

As is discussed below, it is proposed also to amend Item 7 of Form PS in various respects to reflect Regulation S-K disclosure in a manner that is designed to apply specifically to converting savings and loan institutions.

4. *Item 7 of Form PS.*

Item 7 of Form PS govern the disclosure of a converting institutions's business in conversion proxy statements and offering circulars. In addition, the Office of General Counsel has interpreted the description of business required in 1934 Act filings to include the financial and other disclosures contemplated by Item 7 of Form PS. This interpretation is proposed to be adopted by the Board in § 563d.802. Accordingly, Item 7 of Form PS would replace Exchange Act Industry Guide 3, 17 CFR §§ 229.802(c) and Part 241, relating to statistical disclosure by bank holding companies, promulgated by the staff of the SEC, as the guide for description of business in 1934 Act reports filed with the Board by savings and loan institutions.

The following is a summary of proposed amendments to Item 7 of Form PS.

A. Narrative Description of Business

It is proposed to amend Item 7(a) to specify that what is called for is a description of the business done and intended to be done by the institution and its subsidiaries. This required disclosure would include information regarding the organization of the institution and the general development of the business of the institution, its subsidiaries and any predecessor(s) during the past five years, or any shorter period as the institution may have been engaged in business. This disclosure would explain the general policy of the institution in the conduct of the savings and loan business, particularly in light of any recent, expanded authority and the existing economic environment. Factors that might be discussed in appropriate detail are (1) the institution's historical practices, including the average term to maturity of the institution's existing portfolio of mortgage loans, and (2) its present intention regarding the making of loans, whether real estate or other, the nature of security for loans, the retention or resale of loans it originates, and the nature of those loans as to fixed or variable interest rates. Also, the disclosure should explain any significant impact to the institution as a result of any material acquisitions.

This substantive textual explanation regarding the nature of the business conducted by the institution provides a basis for deletion of certain of the detailed tabular data currently required by Item 7.

B. Selected Statement of Financial Data

Current Item 7(b) is proposed to be revised to conform substantially to Item 301 of Regulation S-K, Selected Financial Data, 17 CFR § 229.301.

Information would be required for the preceding five fiscal years and for any required interim period, on a comparative basis with the equivalent period of the past fiscal year. The proposed captions are modified from those contained in the Instructions to Item 301 of Regulation S–K to apply specifically to a savings and loan institution which historically has existed as a mutual organization. The new captions would include: (1) Total interest income; (2) Total interest expense; (3) income (loss) from continuing operations; (4) total loans; (5) total assets; (6) total savings accounts; (7) total borrowings; (8) total net worth; and (9) number of offices, indicating which offices are full service. The Item also would encourage institutions to include additional information which they believe would aid investors and other users. In addition, the Item would provide for inclusion of information regarding changing prices required by FASB Statement of Financial Accounting Standards No. 33, *Financial Reporting and Changing Prices* ("SFAS 33").

Since the proposed revised tabular presentation would include appropriate income statement information, Item 15(b) of Form PS would be revised to require Statements of Operations and Stockholders' Equity for each of the last three years, rather then for the five-year period now required.

In summary, it is intended that the revised Selected Financial Data table would present significant five-year trend data relating to an institution's financial condition and results of continuing operations. The Board believes that this treatment would present in a balanced manner all significant components of the institution's financial condition without unduly emphasizing one or more aspects of that condition, such as income or revenues.

C. Management's Discussion and Analysis of Financial Condition and Results of Operations

There is proposed to be included in Item 7, as new paragraph (c), a section entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations" ("Management's Discussion"). Item 7(c) would be substantially identical to Item 303 of Regulation S–K, 17 CFR 229.303, and would replace the Management's Discussion currently required by Note 3 to Item 15 of Form PS.

The major features of the proposed new Management's Discussion are as follows:

(1) The discussion would focus on the financial statements and not center only upon the Statement of Operations.

(2) The discussion would include the following financial aspects of the institution's business—liquidity, capital resources, and results of operations.

(3) Within each area of the discussion, there would be emphasis upon favorable or unfavorable trends and upon the identification of significant events or uncertainties.

(4) Information concerning the effects of inflation and changing prices would be presented to the extent required by SFAS 33.

(5) The percentage tests and line-by-line analysis encouraged by the current requirements of Note 3 to Item 15 of Form PS would be eliminated. However, the proposed Management's Discussion would indicate that the causes of material changes in the line items should be discussed.

(6) The proposed Item encourages the presentation of projections or other forward-looking information, on a voluntary basis. To facilitate this, the Board proposes to adopt a new § 563d.3b–6 of the Insurance Regulations to clarify the applicability of the Board's safe-harbor rule for projections, 17 CFR § 240.3b–6.

These changes are proposed as a result of the Board's concern that the disclosure elicited by the current requirements of Note 3 to Item 15 of Form PS is not fulfilling originally contemplated objectives. Existing percentage tests often are applied without regard to any concept of materiality to the institution's business. Accordingly, although some portions of the resulting discussion may be meaningful, the meaningful discussion is often obscured by the inclusion of material which is of little relevance. In addition, the Board is concerned that the focus of Note 3 may be too narrow. In today's environment there is a growing need to analyze an enterprise's liquidity and capital resources, in addition to its revenues and income. The narrow approach set forth in Note 3 does not ordinarily produce a discussion which focuses upon the financial condition of the enterprise as a whole. Finally, the proposed changes conform conversion disclosure requirements to 1934 Act requirements.

While the Board recognizes that the terms "liquidity" and "capital resources" lack some precision in definition, it is believed that additional specificity would decrease the flexibility needed by management for a meaningful discussion. In this light, the liquidity and capital resources discussions may be combined. It is not intended that liquidity merely mean "liquid assets" as defined by § 523.10 of the Regulations for the Federal Home Loan Bank System ("Bank System Regulations"), although discussion regarding compliance with the liquidity requirements imposed by § 523.11 of the Bank System Regulations may form a part of the discussion regarding liquidity. Rather, it is intended that the Management's Discussion provide a substantive explanation of the institution's liquidy and capital resources. Comments which merely state that liquidity is adequate or that committed resources are at a satisfactory level would not be acceptable. A narrative discussion of the risk elements included in the institution's loan, investment, and real estate portfolios would be appropriate.

D. Mergers and Acquisitions

It is proposed to delete current Item 7(c) of Form PS which requires a tabular presentation regarding recent mergers, bulk purchases of assets, and similar acquisitions. This deletion is proposed to be made because adequate disclosure regarding mergers and acquisitions should be included in response to the requirements for textual disclosure regarding developments in the business of the applicant, the management's discussion and analysis of the financial condition and results of operation, and the incorporation of the financial statement disclosure requirements of Rules 3–07 and 3–08 of Regulation S–X, 17 CFR §§ 210.3–07 and 3–08.

E. Lending and Savings Activities

The proposed amendments delete the requirements for a five-year tabular presentation of: (1) Loans by type, Item 7(d)(2); (2) loan activity, Item 7 (d)(3); (3) loan origination fees, Item 7(d)(7); (4) scheduled items, Item 7(d)(9); and (5) savings accounts, Item 7(e). In addition, Item 7(d)(8), which requires disclosure of the method of loan-origination fee and discount amortization, would be deleted. Certain information regarding the institution's mortgage market activity and the significance of its service fee income, required under current Item 7(d)(3), would be rearranged and included in the textual description contemplated by the current Item 7(d)(1).

These sections of current Item 7 were initially adopted because the Board was mindful of an investor's need to assess uncertainties and changes in the risk characteristics of loan portfolios. Accordingly, current Item 7 calls for extensive disclosure concerning loan portfolios and related items. The

information was intended to provide information to facilitate analysis and comparison of sources of income and exposure to risks.

It is anticipated, however, that the proposed revisions to the narrative description of business and Management's Discussion will make clear that appropriate disclosure regarding the significance of any material information currently presented in the deleted tables is required to be explained to investors. This narrative presentation should incorporate the required information in a format that is more readable and understandable to investors. Moreover, a significant portion of the tabular information, for a three-year period rather than for a five-year period, would be required to be included in the institution's financial statements or notes thereto pursuant to the requirements of proposed revised Part 563c of the Insurance Regulations (12 CFR 563c.102). For example, disclosure would be required of the amounts of loans in each of the following categories: (1) Real estate-mortgage, (2) Real estate-construction, (3) Installment, and (4) Commercial, financial, and agricultural.

The proposed deletions would relieve institutions from the five-year presentation now required and from disclosure of certain specific detail that does not significantly aid investors. In addition, the deletions would avoid the duplication of disclosure required in the financial statements. It is anticipated that these changes would provide a more meaningful presentation to investors and avoid the tendency merely to include detailed tabular data without appropriate commentary.

Also, under the proposal the tabular presentation regarding the interest-rate differential between the interest earned on assets and the cost of funds would be revised and expanded; and disclosure concerning federal regulation of the institution, including the institution's compliance with the Board's net worth requirements, would be clarified. Finally, proposed new Item 7(e)(5) would require a table presenting return on assets, return on equity, and the ratio of equity to assets.

5. *Item 15 of Form PS.*

It is proposed to replace the Management's Discussion required under current Note 3 with the new Management's Discussion discussed under Item 7. In addition, in light of the revised Selected Financial Data table proposed to be included under Item 7, it is proposed to require income statements for each of the past three years, and requisite interim period, and balance sheets for each of the past two years, and requisite interim period. The provision regarding the timeliness of the financial statements is proposed to be revised to require unaudited interim financial statements if the audited financial statements are not within 135 days of Board approval of the conversion application. Also, it is proposed that the disclosure required in connection with a business acquired or to be acquired, Item 15(f), be revised to conform to that required by Rules 3–07 and 3–08 of Regulation S–X of the SEC.

6. *Other Items of Form PS.*

It is proposed to revise Form PS as follows: (1) Paragraph (f) of Item 8, Description of Plan of Conversion, to remove an instruction that has caused confusion regarding appropriate disclosure; (2) Item 10, Capitalization Table, to clarify appropriate presentation; (3) and Item 13, New charter, bylaws or other documents, to delete reference to possible optional charter provisions.

7. *Form OC, Offering Circular.*

It is proposed that the subscription offering circular be required to include any financial statements which, of necessity, would be required in a subsequent public offering circular. This would coordinate the disclosure required in the subscription and public offerings.

8. *Part 563c—Accounting Requirements.*

It is proposed that § 563c.1 of the Insurance Regulations, which concerns the form and content of financial statements required in various filings with the Board, be revised as follows.

(1) It would be specifically provided that financial statements governed by Subpart A of Part 563c shall be prepared and presented in accordance with generally accepted accounting principles ("GAAP"), except as otherwise provided by rule, regulation or order of the Board.

(2) It would be provided that the form and content of the financial statements shall conform to a new Subpart C, Financial Statement Presentation, except as otherwise provided by rule, regulation or order of the Board. Proposed Subpart C would prescribe, pursuant to the proposed revisions of § 563c.1, the form and content of financial statements included in filings with the Board under the Conversion Regulations, the 1934 Act, and §§ 563.7–4, 563.8 and 563.8–1 of the Insurance Regulations relating to certain offerings of mutual capital certificates and debt securities.

(3) Subpart A of Part 563c would be extended to filings with the Board under the 1934 Act, as provided in proposed § 563d.210.

(4) Articles 1 through 4 of Regulation S–X would be incorporated by reference, and the present incorporation of parts of Articles 5 and 9 of Regulation S–X would be deleted.

In addition, it is proposed to delete § 563c.4, General Notes to Financial Statements; § 563c.6, Balance Sheets; § 563c.7, Income Statements; § 563c.8, Statement of Changes in Financial Position; and § 563c.9, What Schedules are to be Filed. Except as outlined below, the disclosure required by these sections will be required by GAAP, Articles 1 through 4 of Regulation S–X, or the proposed Subpart C. the results of the proposed amendments follow.

(i) *Section 563c.6(d) Accrued Interest Receivable on Loans.*

GAAP requires the amount to be separately disclosed only if it is material. The note disclosure of "60 days plus" delinquent interest is dropped since collectibility problems are addressed by the determination of the loan loss reserve.

(ii) *Section 563c.6(i) Investment in stock of a Federal Home Loan Bank.*

Rather than a separate line item, this amount would be included as "other investment security" and would be separately disclosed in the notes.

(iii) *Section 563c.6(k) Savings accounts.*

Proposed Subpart C would expand the disclosure in the notes to show maturity by interest-rate group as of the most current balance sheet. This disclosure would consist of a table showing balances of certificates by interest-rate groups (no more than 200 basis-point range per group), with each group's maturity shown for the following periods: less than 1 year, 1 to 2 years, 2 to 3 years, and greater than 3 years.

(iv) *Section 563c.6(l) Loans in Process.*

Proposed Subpart C would require this amount to be shown as a deduction from gross loans to arrive at net loans outstanding. This would reduce the asset "loans" to the amount which is outstanding as of the balance-sheet date and is actually earning interest. The loans-in-process amount will continue to be disclosed in the loan note as undisbursed but approved loans.

(v) *Section 563c.8—Statement of Changes in Financial Position.*

General instructions would replace the details specified in the current regulation.

(vi) *Section 563c.9—What Schedules are to be Filed.*

Schedule I—Securities and Related Maturities: This schedule would be eliminated. The required disclosure in the financial statements of market value of the investment securities enables

investors to assess the liquidity of the portfolio. Scheduled maturity has become less meaningful because of the development of active secondary markets.

Schedule II—Amounts Receivable from Related Parties, and Underwriters, Promoters, and Employees other than Related Parties: No basic change would be made in this schedule. It would be designated as Schedule I and its title changed to "Amounts Receivable from Certain Persons."

Schedule III—Investments in, Equity In, Earnings of, and Dividends Received from Affiliates and Other Persons: This schedule would remain unchanged. It would be redesignated as Schedule IV.

Schedule IV—Slow Loans: This schedule would be eliminated since the required loan loss reserve disclosure would cover estimated losses due to uncollectible accounts.

Schedule V—Bonds, Mortgages, and Similar Debt: This schedule would be eliminated since the same information is required to be disclosed in the financial statement notes.

Schedule VI—Guarantees of Securities of Other Issuers; Schedule VII—Valuation and Qualifying Accounts and Reserves: These schedules would remain unchanged. They would be redesignated as Schedules III and II, respectively.

Schedule VIII—Capital Shares; Schedule IX—Warrants or Rights; Schedule X—Other Securities; and Schedule XI—Intangible Assets Schedule: These schedules would be eliminated since comparable disclosure is required in the financial statements.

9. *Part 563d—Securities of Insured Institutions*

Two new sections are proposed to be added to Part 563d. The first, § 563d.210, would incorporate by reference § 563c.1 as governing the form and content of financial statements in 1934 Act filings. The second, § 563d.3b–6, would clarify the Board's safe-harbor rule for projections, 17 CFR § 240.3b–6, in order to encourage projections in conversion proxy statements and offering circulars.

III. OGC Interpretation Regarding Description of Business

The Board proposes to adopt and codify as § 563d.802 an interpretation of its Office of General Counsel that would instruct 1934 Act registrants to conform the description of business required in Form 10K annual reports and other filings to Item 7 of Form PS as a substitute for SEC staff guidelines for Bank Holding Companies, Exchange Act Industry Guide 3, 17 CFR §§ 229.802(c) and 241.

List of Subjects in 12 CFR Parts 563b, 563c and 563d

Accounting, Savings and loan associations, Securities.

Initial Regulatory Analysis

The elements of regulatory analysis for major proposed regulations required by Board Resolution No. 80–584 (September 11, 1980) have been incorporated into the supplementary information regarding the proposals. Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164 (September 19, 1980), the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objective, and legal basis underlying the proposed rules.* These elements have been incorporated elsewhere in the supplementary information regarding the proposals.

2. *Small entities to which the proposed rules will apply.* The proposed rules will apply only to institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation and which (i) are converting from a mutual institution to the stock form of organization, (ii) have a class of equity securities required to be registered under the 1934 Act, or (iii) are offering for sale mutual capital certificates or debt securities under certain circumstances. Affected institutions generally would not be considered small entities because of their asset size and diffuse ownership.

3. *Impact of the proposed rules on small institutions.* Since the proposed amendments are designed to simplify and clarify the existing disclosure obligations of certain insured savings and loan institutions, they would benefit insured savings and loan institutions which may be considered small entities.

4. *Overlapping or conflicting Federal rules.* There are no known Federal rules that may duplicate, overlap or conflict with the proposal.

5. *Alternatives to the proposed rules.* The proposals constitute amendments to existing rules, and, therefore, are themselves an alternative to the existing rules. The proposed rules clarify the requirements for disclosure to the public of information material to investment and ownership decisions. It is not possible to eliminate or significantly modify these requirements for smaller entities engaged in the activities governed by the applicable rules, since the disclosure is mandated by the nature of the activity engaged in by the affected institution rather than by the identity or the size of the affected institution.

Statutory Authority and Findings

The Board hereby proposes the amendments to Parts 563b and 563c of the Insurance Regulations pursuant to the authority set forth in Sections 402, 403 and 407 of the National Housing Act, 48 Stat. 1256, 1257 and 1260, as amended, 12 U.S.C. 1725, 1726 and 1730; in Section 5 of the Home Owners' Loan Act of 1933, 48 Stat. 132, as amended, 12 U.S.C. 1464; and in Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1071 (1943 48 Comp.). The Board hereby proposes the amendments to Part 563d of the Insurance Regulations pursuant to the authority set forth in Sections 3(d), 12, 13, 14 and 23 of the Securities Exchange Act of 1934 (the "1934 Act"), 48 Stat. 881, as amended, 15 U.S.C. 78a *et seq.*, and in Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR Part 1071 (1943–48 Comp.). Pursuant to the requirements of Section 12(i) of the 1934 Act, the Board finds that the proposed amendments to its 1934 Act rules, Part 563d of the Insurance Regulations, are substantially similar to regulations and rules issued by the SEC. Also, as required by Section 23(a) of the 1934 Act, the Board has specifically considered the impact that these actions taken pursuant to the 1934 Act would have on competition and has concluded that they would impose no significant burden on competition not necessary or appropriate in furtherance of the purposes of the 1934 Act.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Parts 563b, 563c and 563d of Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

Federal Home Loan Bank Board

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

§ 563b.9 [Amended]

1. Amend Forms AC, PS, and OC following § 563b.9, as follows:

(a) Amend Form AC by revising Item 7;

(b) Amend Form PS by:

(i) Revising Item 6 of the Index to Items;

(ii) Revising prefatory Note 2, items 5 and 6, paragraphs (a) through (f) and paragraph (n) of item 7;

(iii) Removing the instruction to paragraph (f) of item 8;

(iv) Revising paragraph (a) of item 9 and adding a new paragraph (d);

(v) Revising item 10 and the introductory text of item 13;

(vi) Revising paragraphs (a) through (c) and paragraphs (e) and (f) of item 15, and removing Note 3 therefrom; and

(c) Amend Form OC by revising paragraph (2) of item 2.

Form AC

[Facing Sheet]

Federal Home Loan Bank Board, Federal Savings and Loan Insurance Corporation, 1700 G Street NW., Washington, D.C. 20552

Application for Conversion

* * * * *

Item 7. Savings Account Balances of Personnel. For each director and officer of the applicant whose total account balances, including the balances of each associate of the foregoing persons, were more than $100,000 as of the eligibility record date and which balances had increased by more than 25 percent during the two year period prior to that date, set forth in tabular form his total account balances as of (a) the eligibility record date; (b) each of the eight earnings distribution dates of the applicant immediately preceding such date; and (c) the most recent earnings distribution date.

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Form PS

[Facing Sheet]

Federal Home Loan Bank Board, Federal Savings and Loan Insurance Corporation, 1700 G Street NW., Washington, D.C. 20552

Proxy Statement

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Proxy State Form

Index to Items

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Item 6. Management remuneration and transactions.

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Form PS—Information Required in Conversion Proxy Statement

Notes

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2. The proxy statement shall include such information which the General Counsel or the Director of the Division of Securities and Corporate Analysis of the Office of General Counsel by interpretative release or otherwise has deemed necessary to comply with items of this Form PS.

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Item 5. Director and executive officers.

(a) Furnish the information called for by Item 401 of Regulation S–K, 17 CFR 229.401, and Item 6, Directors and executive officers, of Regulation 14A, 17 CFR 240.14a–101, that would be required in a registration statement or a proxy statement filed under the Securities Exchange Act of 1934, 15 U.S.C. 78a *et seq.* Unless the context otherwise requires, the words "registrant" and "issuer" in Item 401 of Regulation S–K and Regulation 14A shall refer to the applicant and the word "Commission" in those regulations shall refer to the Federal Home Loan Bank Board.

(b) State whether control of the applicant has been exercised through the use of proxies and the nature of such control.

Item 6. Management remuneration and transactions.

(a) Furnish the information called for by Item 402 and instruction 4 to Item 103 of Regulation S–K, 17 CFR 229.402 and 229.103, that would be required in a registration statement or a proxy statement filed under the Securities Exchange Act of 1934, 15 U.S.C. 78a *et seq.* Unless the context otherwise requires, the words "registrant" and "Commission" in Items 402 and 103 of Regulation S–K shall refer to the applicant and to the Federal Home Loan Bank Board, respectively.

(b) For purposes of the disclosure required by this Item 6, Item 402(f) of Regulation S–K shall be deemed to require disclosure of transactions in which the identified persons had or will have a direct or indirect material interest to which any borrower from the applicant or any of its subsidiaries was or is to be a party. For purposes of this section, a person shall not be deemed a borrower on the basis of: (i) any loan, which is not delinquent by more than 30 days or in default, secured by a first lien on his personal residence where such loan was made in the ordinary course of business, on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons, and did not involve more than the normal risk of collectibility or present other unfavorable features; (ii) any loan secured by a savings account; or (iii) any loan, which aggregated with all other loans not covered by (i) or (ii) above to such person, does not exceed $10,000 and does not present other features which would otherwise require disclosure under Item 402(f) of Regulation S–K.

Item 7. Business of the applicant.

(a) *Narrative description of business.* Discuss briefly the organizational history of the applicant, including the year of organization, the identity of the chartering authority, and any material charter conversions. Describe the business done and intended to be done by the applicant and its subsidiaries. This should include a description of the general development of the business of the applicant and any predecessor(s) during the past five years, or such shorter period as the applicant may have been engaged in business. Information shall be disclosed for earlier periods if material to an understanding of the general development of the business. Any material changes in the mode of conducting the business should be discussed.

Consideration should be given to inclusion of a description of the applicant's historical practices, including the average remaining term to maturity of its portfolio of mortgage loans, and present intention regarding the making of loans, whether real estate or other, the nature of security received, the terms of loans, whether carrying fixed or variable interest rates, and the retention of loans or their resale in secondary mortgage markets. Historical description might require a general identification of the magnitude of various activities. Also, explain any significant impact to the institution as a result of any material acquisitions.

(b) *Selected financial data.* Furnish in comparative columnar form a summary of selected financial data for the applicant for:

(i) Each of the last five fiscal years of the applicant (or for the life of the applicant and its predecessors, if less); and

(ii) Any additional fiscal years necessary to keep the summary from being misleading.

Instructions. 1. The purpose of the summary of selected financial data shall be to supply in convenient and readable format selected data which highlight significant trends in the applicant's financial condition and results of operations.

2. Subject to appropriate variation to conform to the nature of the applicant's business, the following items, as a minimum, shall be included in the summary: total interest income; total interest expense; income (loss) from continuing operations; total loans; total assets; total savings; total borrowings; total net worth; and number of offices, indicating which offices are full service. Applicants may include additional items which they believe would enhance understanding and highlight trends in their financial condition and results of operations. Briefly describe, or cross-reference to a discussion of, factors such as accounting changes, business combinations or dispositions of business operations, that materially affect the comparability of the information reflected in selected financial data. Discussion of, or reference to, any material uncertainties should also be included where those matters might cause the data reflected not to be indicative of the applicant's future financial condition or results of operations.

3. Those applicants which are required to provide five-year summary information in accordance with the Financial Accounting Standards Board's Statement of Financial Accounting Standards No. 33 ("SFAS 33") may combine such information with the selected financial data appearing pursuant to this Item.

4. All references to the applicant in the Summary and in these instructions shall mean the applicant and its consolidated subsidiaries.

5. If interim period financial statements are included, or are required to be included by Item 15, applicants should consider whether any or all of the selected financial data should be updated for the interim period to reflect a material change in the trends indicated; where such updating information is necessary, applicants shall provide the information on a comparative basis unless not necessary to an understanding of the updating information.

(c) *Management's discussion and analysis of financial condition and results of operations.*

(1) Discuss applicant's financial condition, changes in financial condition and results of operations. The discussion shall provide information as specified in paragraphs (A), (B), and (C) of this subsection with respect to liquidity, capital resources, and results of operations, and should also provide all other information which the applicant believes to

be necessary to an understanding of its financial condition, changes in financial condition and results of operations. Discussions of liquidity and capital resources may be combined whenever the two topics are interrelated. Where in the applicant's judgment a discussion of subdivisions of the applicant's business would be appropriate to an understanding of the business, the discussion should focus on each relevant, reportable segment or other subdivision of the business and on the applicant as a whole.

(A) *Liquidity.* Identify any known trends or any known demands, commitments, events or uncertainties which will result in or which are reasonably likely to result in the applicant's liquidity increasing or decreasing in any material way. If a material deficiency is identified, indicate the course of action which the applicant has taken or proposes to take to remedy the deficiency. Identify and separately describe internal and external sources of liquidity, and briefly discuss any material unused sources of liquid assets. Comment on maturity imbalances between assets and liabilities and planned activities in the secondary mortgage market.

(B) *Committed Resources.* (i) Describe the applicant's material commitments for loan fundings or other expenditures as of the end of the latest fiscal period, and indicate the general purpose of the commitments and the anticipated source of funds needed to fulfill the commitments.

(ii) Describe any known material trends, favorable or unfavorable, in the applicant's committed resources. Indicate any expected material changes in the mix and the relative cost of the resources. This discussion should consider changes between savings, equity, debt and any off-balance sheet financing arrangements.

(C) *Results of operations.* (i) Describe any unusual or infrequent events or transactions or any significant economic changes which materially affected the amount of reported income from continuing operations and, in each case, indicate the extent to which income was affected. In addition, describe any other significant components of revenues or expense which, in the applicant's judgment, should be described in order to understand the applicant's results of operations.

(ii) Describe any known trends or uncertainties which have had or which the applicant reasonably expects will have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations. If the applicant knows of events which will cause a material change in the relationship between costs and revenues (such as known future increases in costs of money or interest rates) the change in the relationship should be disclosed.

(iii) To the extent that the financial statements disclose material increases in interest expense, provide a narrative discussion of the extent to which the increases are attributable to increases in rates or to increases in volume.

(iv) For the three most recent fiscal years of the applicant, or for those fiscal years beginning after December 25, 1979, or for those fiscal years in which the applicant has been engaged in business, whichever period is shorter, discuss the impact of inflation and changing prices on the applicant's revenues and on income from continuing operations.

(v) For the most recent financial statement presented, discuss any unusual risk characteristics in the assets of the applicant. This would include real estate development, significant amounts of commercial real estate as loan collateral, and any other significant risk factors inherent in the applicant's lending or investment portfolios, including significant increases in scheduled items.

Instructions. 1. The applicant's discussion and analysis shall be of the financial statements and of other statistical data which the applicant believes will enhance a reader's understanding of its financial condition, changes in financial condition, and results of operations. Generally, the discussion should cover the three year period covered by the financial statements and should utilize year-to-year comparisons or other formats which in the applicant's judgment enhance a reader's understanding. However, where trend information is relevant, reference to the five-year selected financial data appearing in Item 7(b) above may be necessary.

2. The purpose of the discussion and analysis should be to provide to investors and other users information relevant to an assessment of the financial condition and results of operations of the applicant as determined by evaluating the amounts and certainty of cash flows from operations and from outside sources. The information provided in this Item 7(c) need only include that which is available to the applicant without undue effort or expense and which does not clearly appear in the applicant's financial statements.

3. The discussion and analysis should specifically focus on material events and uncertainties known to managment which would cause reported financial information not to be necessarily indicative of future operating results or of future financial condition. This would include description and amounts of (a) matters which would have an impact on future operations and have not had an impact in the past, and (b) matters which have had an impact on reported operations and are not expected to have an impact upon future operations.

4. Where the consolidated financial statements reveal material changes from year to year in one or more line items, the causes for the changes should be described to the extent necessary to an understanding of the applicant's business as a whole; provided, however, if the causes for a change in one line item also relate to other line items, no repetition is required and a line-by-line analysis of the financial statements as a whole is not required or generally appropriate. Applicants need not recite the amounts of changes from year to year which are readily computable from the financial statements. The discussion should not merely repeat numerical data contained in the consolidated financial statements.

5. The term "liquidity" as used in paragraph (c)(1)(A) of this Item 7 refers to the ability of an enterprise to generate adequate amounts of cash to meet the enterprise's needs for cash. Except where it is otherwise clear from the discussion, the applicant should indicate those balance sheet conditions or income or cash flow items which the registrant believes may be indicators of its liquidity condition. Liquidity generally should be discussed on both a long-term and short-term basis. The issue of liquidity should be discussed in the context of the applicant's own business or businesses. Liquidity does not necessarily mean "liquid assets" as defined by § 523.10 of the Regulations for the Federal Home Loan Bank System.

6. Applicants are encouraged, but not required, to supply forward-looking information. This is to be distinguished from presently-known data which will impact upon future operating results, such as known future increases in rates or other costs. This latter data is required to be disclosed. Any forward-looking information supplied is hereby expressly covered by the safe harbor rule for projections, § 563d.3b–6 of the Insurance Regulations, under the circumstances specified in that section.

7. Applicants which are required to provide narrative explanations of supplementary information disclosed in accordance with paragraph 37 of SFAS 33 may combine the explanations with their discussion and analysis required pursuant to this provision or they may supply the information separately. If the statement is combined, the supplementary information required by SFAS 33 shall be located in reasonable proximity to the discussion and analysis. If the statement is not combined, the discussion of the impact of inflation otherwise required by this item may be omitted but an appropriate cross reference to the explanation required by paragraph 37 of SFAS 33 shall be made.

8. Applicants which are not required to provide explanations of supplementary information disclosed in accordance with SFAS 33 may discuss the effects of inflation and changes in prices in whatever manner appears appropriate under the circumstances. Although voluntary compliance with SFAS 33 is encouraged, all that is required is a brief textual presentation of management's views. No specific numerical financial data need be presented.

9. All references to the applicant in the discussion and in these instructions shall mean the applicant and its consolidated subsidiaries.

(2) If interim period financial statements are included or are required to be included by Item 15, a management's discussion and analysis of the financial condition and results of operations shall be provided so as to enable the reader to assess material changes in financial condition and results of operations between the periods specified in (A) and (B) below. The discussion and analysis shall include a discussion of material changes in those items specifically listed in paragraph (c)(1) of this Item 7, except that the impact of inflation and changing prices on operations for interim periods need not be addressed.

(A) *Material changes in financial condition.* Discuss any material changes in financial condition from the end of the preceding fiscal year to the date of the most recent interim balance sheet provided. If the

interim financial statements include an interim balance sheet as of the corresponding interim date of the preceding fiscal year, any material changes in financial condition from that date to the date of the most recent interim balance sheet provided shall also be discussed. If discussions of changes from both the end and the corresponding interim date of the preceding fiscal year are required the discussions may be combined at the discretion of the applicant.

(B) *Material changes in results of operations.* Discuss any material changes in the applicant's results of operations with respect to the most recent fiscal year-to-date period for which an income statement is provided and the corresponding year-to-date period of the preceding fiscal year. If the applicant is required to or has elected to provide an income statement for the most recent fiscal year quarter, the discussion also shall cover material changes with respect to that fiscal quarter and the corresponding fiscal quarter in the preceding fiscal year. In addition, if the applicant has elected to provide an income statement for the twelve month period ended as of the date of the most recent interim balance sheet provided, the discussion shall also cover material changes with respect to that twelve month period and the twelve month period ended as of the corresponding interim balance sheet date of the preceding fiscal year.

Instructions. 1. If interim financial statements are presented together with financial statements for full fiscal years, the discussion of the interim financial information shall be prepared pursuant to paragraph (c)(2) and the discussion of the full fiscal year information shall be prepared pursuant to paragraph (c)(1) of this Item 7. Such discussions may be combined.

2. The discussion and analysis required by this paragraph (c)(2) is required to focus only on material changes. Where the interim financial statements reveal material change from period to period in one or more significant line items, the causes for the changes should be described if they have not already been disclosed; provided, however, if the causes for a change in one line item also relate to other line items, no repetition is required. Applicants need not recite the amounts of changes from period to period which are readily computable from the financial statements. This discussion should not merely repeat numerical data contained in the financial statements. The information provided should include that which is available to the applicant without undue effort or expense and which does not clearly appear in the applicant's interim financial statements.

3. The applicant's discussion of material changes in results of operations should identify any significant elements of the applicant's income or loss from continuing operations which do not arise from or are not necessarily representative of the applicant's ongoing business.

4. Applicants are encouraged but are not required to discuss forward-looking information. Any forward-looking information supplied is expressly covered by the safe-harbor rule for projections, § 563d.3b–6 of the Insurance Regulations, under the circumstances specified in that section.

(d) *Lending Activities:* (1) Briefly describe the applicable Federal and State restrictions on the lending activities of the applicant, including applicable laws affecting mortgage loan interest rates. Also, briefly describe the applicant's general policy concerning loan-to-value ratios; customary methods of obtaining loan originations, such as the use of loan consultants; approval of properties as security for loans; the use of a loan committee, if any; and policies as to requiring title insurance and fire and casualty insurance on security properties. Indicate the applicant's general future intentions with respect to activities in secondary mortgage markets, including transactions with the Federal Home Loan Mortgage Corporation or mortgage bankers. If significant, indicate loan service fee income as a percentage of gross income for the year ended as of the latest statement of financial condition required by Item 15(a).

(2) As to the lending area of the applicant, describe briefly (i) the lending area restrictions, if any, applicable to the applicant, (ii) the areas in which the applicant normally lends, and (iii) any material loan concentration areas of the applicant. The descriptions may include maps illustrating one or more of these areas. Furnish an estimate of the housing vacancy rates in areas where the applicant's loan concentrations are located, if practicable.

(3) Describe briefly the general long-term nature of investment in mortgage loans and the consequent effect upon the earnings spread of savings and loan associations. State the normal maturity of loans made by the applicant on the security of single-family dwellings and furnish an estimate as to the average length of time the loans are outstanding.

(4) For each of the periods covered by the statements of operations required by Item 15(b)(1), and as of the date of the statement of financial condition as of the end of the latest fiscal year, set forth in tabular form, excluding fees which are not considered adjustments of yields, the following: (i) weighted-average yield on loans originated and purchased during each period; (ii) weighted-average yield on all interest-earning assets during each period; (ii) weighted-average effective rate paid on savings during each period; (iv) weighted-average effective rate paid on Federal Home Loan Bank advances and other borrowings during the period; (v) total weighted-average rate paid on all interest-bearing liabilities for the period; and (vi) the weighted-average gross margin, defined as the difference of (ii) minus (v).

(5) For each of the periods covered by the statements of operations required by Item 15(b)(1), and as of the date of the statement of financial condition as of the end of the latest fiscal year, and as of the date of any subsequent interim statement of financial condition, present the following:

(A) Return on assets (net income divided by average total assets).

(B) Return on equity (net income divided by average equity).

(C) Equity-to-assets ratio (average equity divided by average total assets).

Instructions. (1) Applicants should supply any other ratios which they deem necessary to explain their operations.

(e) *Savings activities.* Describe the applicant's methods of computing and paying interest for both passbook savings accounts and certificates of depost. State whether the maximum rate of interest which the applicant may pay is established by regulatory authorities. State that in the event of liquidation of the applicant after conversion, savings account holders will be entitled to full payment of their accounts prior to payment to shareholders. Also, indicate the percentage of total savings accounts which are from out-of-state sources, if such total is significant.

(f) *Federal regulation.* Describe briefly, to the extent not otherwise covered by other items, Federal regulation of the applicant and the conduct of its operations. In particular, describe briefly the insurance of accounts and the general regulatory authority of the Corporation, and Federal net worth and reserve requirements, the results of failure to meet those requirements, and the applicant's net worth and reserve position in relation to those requirements. Also describe the annual insurance premium payment and prepayment requirements.

* * * * *

(n) *Legal proceedings.* Furnish the information called for by Item 103 of Regulation S–K, 17 CFR 229.103. Unless the context otherwise requires, the word "registrant" in Item 103 of Regulation S–K shall refer to the applicant.

* * * * *

Item 9. Description of capital stock.

(a) Furnish the information called for by Item 202 of Regulation S–K, 17 CFR 229.202. Unless the context otherwise requires, the term "registrant" in Item 202 of Regulation S–K shall refer to the applicant.

* * * * *

(d) If the rights evidenced by the capital stock will be materially limited or qualified by the rights of savings account holders or borrowers, include the information regarding the limitations or qualifications necessary to enable investors to understand the rights evidenced by the capital stock.

Item 10. Capitalization.

Set forth in substantially the tabular form indicated below the dollar amounts of the capitalization of the applicant:

(A)	(B)	(C)
Capitalization as of most recent available date	Adjustments as a result of conversion	Pro forma capitalization after giving effect to the conversion
Savings Accounts		
FHL Bank Advances		
Subordinated Debt Securities		
Other Borrowings		
Total		
Capital Stock		
Paid-in Capital		
Undivided Profits		
Reserves (amount restricted)		
Total		

Instructions. 1. With respect to capital stock, indicate in the table or in a footnote the total number of shares to be authorized, the par or stated value of such shares, and the number of shares to be sold as part of the conversion.

2. With respect to the funds to be received by the applicant from the sale of its capital stock, indicate in the table the estimated total amount of funds to be obtained and in a footnote state the price per share used in making the estimate. The total amount and price per share shall be clearly identified as being estimates.

* * * * *

Item 13. New charter, bylaws or other documents. Describe briefly any material differences between the provisions of the existing charter, bylaws and any similar documents of the applicant and those which will take effect after conversion.

Instruction. * * *

* * * * *

Item 15. Financial statements.

* * * * *

(a) *Statement of financial condition of the applicant.* (1) Furnish audited statements of financial condition as of the close of the applicant's latest fiscal year and as of the close of the preceding fiscal year. (2) If the latest statement furnished under (1) is in excess of 135 days prior to the date of Board approval of the conversion furnish an additional statement of financial condition as of a date within 135 days of such approval. This additional statement need not be audited.

(b) *Statements of operations and statement of stockholders' equity.* Furnish in comparative columnar form statements of operations and stockholders' equity of the applicant (1) for each of the three fiscal years preceding the date of the statement of financial condition as of the close of the applicant's latest fiscal year filed under paragraph (a), and (2) for the period, if any, between the close of the latest of such fiscal years and the date of the latest statement of financial condition filed under paragraph (a). In addition, furnish a statement of operations for the period of the immediately preceding fiscal year comparable to that covered by the statement of operations prescribed by paragraph (b)(2). Statements for the three latest fiscal years prescribed by paragraph (b)(1) shall be audited.

Instructions. * * *

(c) *Statement of changes in financial position.* Furnish audited statement of changes in financial position (1) for each of the three fiscal years preceding the date of the latest statement of financial condition filed under paragraph (a), and (2) furnish a statement for the period, if any, between the close of the latest fiscal year and the date of the latest statement of financial condition filed under paragraph (a). This additional statement need not be audited.

* * * * *

(e)(1) *Consolidated statements.* Furnish consolidated statements for the same periods and as of the same dates as would be required for the applicant. These statements shall be audited as would be required for the applicant's statements.

2. * * *

3. * * *

4. * * *

(f) *Past and future successions to other business.* Applicant shall include the information required by 17 CFR §§ 210. 3–07 and 210.3–08 regarding business acquired or to be acquired.

* * * * *

Form OC

[Facing Sheet]

Federal Home Loan Bank Board, Federal Savings and Loan Insurance Corporation, 1700 G Street NW., Washington, D.C. 20552

Offering Circular

* * * * *

Item 2. Additional current information required.

* * * * *

(e) Any other information necessary to make such offering circular current, including full financial statements of the applicant within six months prior to the date of issuance of such offering circular. In addition, a subscription offering circular shall contain any more recent financial statements which, at the time of commencement of the subscription offering, it can be determined will be required to be included in an offering circular to be used in the Direct Community Offering or Public Offering pursuant to this paragraph (e).

* * * * *

PART 563c—ACCOUNTING REQUIREMENTS

1. In the Table of Contents, revise the heading for Subpart A, remove §§ 563c.4, 563c.6, 563c.7, 563c.8 and 563c.9; redesignate § 563c.5 as § 563c.4; and add new Subpart C consisting of § 563c.101 and § 563.102 to read as follows:

Subpart A—Form and Content of Financial Statements

Sec.

563c.1 Form and content of financial statements
563c.2 Definitions
563c.3 Qualifications of public accountant
563c.4 Consolidation of financial statements of a registrant and its subsidiaries engaged in diverse financial activities

* * * * *

Subpart C—Financial Statement Presentation

Sec.

563c.101 Application of this subpart.
563c.102 Financial statement presentation.

Authority: Secs. 402, 403, 407 of the National Housing Act, 48 Stat. 1256, 1257, 1260; as amended (17 U.S.C. 1725, 1726 and 1730); Sec. 5 of the Home Owners' Loan Act of 1933, 48 Stat. 132, as amended (12 U.S.C. 1464); Secs. 3(b), 12, 13, 14 and 23 of the Securities Exchange Act of 1934, 48 Stat. 882, 892, 894, 895 and 901, as amended (15 U.S.C. 78c(b), l, m, n and w); and Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.

Subpart A—Form and Content of Financial Statements

2. Section 563c.1 is amended by revising paragraphs (a)(2), (b) and (c) and by adding new paragraph (a)(3) to read as follows:

§ 563c.1 Form and content of financial statements.

(a) * * *

(2) Any offering circular required to be used in connection with the issuance of mutual capital certificates under § 563.7–4 of this subchapter and the issuance of debt securities under §§ 563.8 and 563.8–1 of this subchapter.

(3) Any filing under the Securities Exhange Act of 1934, 15 U.S.C. 78a *et seq.*, made pursuant to the requirements of Part 563d of this subchapter.

(b) Except as otherwise provided by the Federal Home Loan Bank Board by rule, regulation, or order, financial statements shall:

(1) Be prepared and presented in accordance with generally accepted accounting principles;

(2) Comply with Subpart C of this Part;

(3) Consistent with the provisions of this Subpart, comply with Articles 1 through 4 of Regulation S–X adopted by the Securities and Exchange Commission (17 CFR 210.1, 210.2, 210.3 and 210.4).

(c) The term "financial statements" includes all notes to the statements and related schedules.

* * * * *

3. New Subpart C, consisting of §§ 563c.101 and 563c.102 is added to read as follows:

Subpart C—Financial Statement Presentation

§ 563.101 Application of this Subpart.

This Subpart contains rules pertaining to the form and content of financial statements to be included in filings with the Federal Home Loan Bank Board.

§ 563.102 Financial statement presentation.

Compliance with the form and content of financial statements as prescribed by this regulation is required by the Federal Home Loan Bank Board as part of (a) a conversion application under Part 563b, including financial statements in proxy statements and offering circulars, (b) a filing under the Securities Exchange Act of 1934, 15 U.S.C. 78a *et seq.*, and (c) any offering circular required to be used in connection with the issuance of mutual capital certificates under § 563.7–4 and the issuance of debt securities under §§ 563.8 and 563.8–1 of this Subchapter. This section specifies the various line items which should appear on the face of the financial statements and additional disclosures which should be included with the financial statements in related notes.

I. Balance Sheet

Balance sheets should comply with the following provisions:

A. Assets and Other Debits

1. *Cash and amounts due from depository institutions.* (a) State separately (i) interest bearing deposits and (ii) noninterest bearing deposits and cash.

(b) State in a note the amount and terms of any deposits in depository insitutions held as compensating balances against long- or short-term borrowing arrangements. This disclosure should include the provisions of any restrictions as to withdrawal or usage. Restrictions may include legally restricted deposits held as compensating balances against short-term borrowing arrangements, contracts entered into with others, or company statements of intention with regard to particular deposits; however, time deposits and short-term certificates of deposits are not generally included in legally restricted deposits.

In cases where compensating balance arrangements exist but are not agreements which legally restrict the use of cash amounts shown on the balance sheet, describe in the notes to the financial statements these arrangements and the amount involved, if determinable, for the most recent audited balance sheet required and for any subsequent unaudited balance sheet required in the notes to the financial statements. Compensating balances that are maintained under an agreement to ensure future credit availability shall be disclosed in the notes to the financial statements along with the amount and terms of the agreement.

2. *Investment securities.* (a) State the aggregate book value of investment securities and show, parenthetically or otherwise on the balance sheet, the aggregate amount of those investment securities on the basis of market quotations or fair value.

(b) State in a note the book value and the value on the basis of market quotations or fair value of securities of (i) the U.S. Treasury and other U.S. Government agencies and corporations; (ii) states of the U.S. and political subdivisions thereof; and (iii) other securities including bonds, notes, debentures and stock of business corporations, foreign governments, intergovernmental agencies, and Federal Home Loan Banks.

(c) State in a note the basis by which book value is determined. A premium on a bond shall be amortized and a discount shall be accreted over the life of the bond.

(d) Include securities pledged, loaned, or sold under repurchased agreements and similar arrangements. Exclude borrowed securities and securities purchased under resale agreements or similar arrangements.

3. *Trading account securities.* State in a note whether securities in dealer trading accounts are valued at (a) cost, (b) lower of cost or market, or (c) market. If market is not used, state parenthetically or otherwise on the balance sheet the aggregate amount of those securities on the basis of market quotations or fair value at the balance sheet date.

4. *Other short-term investments.* (a) State the aggregate value of Federal funds sold and securities purchased under resale agreements or similar arrangements. All securities purchased under transactions of this type shall be included regardless of (i) whether they are called simultaneous purchases and sales, buy-backs, turnarounds, overnight transactions, delayed deliveries, or other terms signifying the same substantive transaction, and (ii) whether the transactions are with the same or different institutions if the purpose of the transaction is to resell identical or similar securities.

(b) Federal funds sold and purchases of securities under resale agreements shall be reported gross and not netted against purchases of Federal funds and sales of securities under repurchase agreements.

5. *Loans.* (a) State separately on the balance sheet or in a note (i) total loans (including financing type leases), (ii) allowance for loan losses, (iii) unearned income on installment loans, (iv) discount on loans purchased, and (v) loans in process.

(b) State on the balance sheet or in a note the amount of loans in each of the following categories:

(i) Real estate—mortgage.

(ii) Real estate—construction.

(iii) Installment.

(iv) Commercial, financial, and agricultural.

(c)(i) Include under the real estate-mortgage category loans payable in monthly, quarterly or other periodic installments and secured by developed income property and personal residences.

(ii) Include under the real estate-construction category loans secured by real estate which are made for the purpose of financing construction of real estate and land development projects.

(iii) Include under the installment category loans to individuals generally repayable in monthly installments. This category shall include but not be limited to credit card and related activities, individual automobile loans, other installment loans, mobile home loans, and residential repair and modernization loans.

(iv) Include under the commercial, financial, and agricultural category all loans not included in another category. This category shall include but not be limited to loans to real estate investment trusts, mortgage companies, banks, and other financial institutions; loans for carrying securities; and loans for agricultural purposes. Do not include loans secured primarily by developed real estate.

(d) State separately any other loan category regardless of relative size if necessary to reflect any unusual risk concentration.

(e) Unearned income on installment loans shall be deducted separately from total loans.

(f) Unamortized discounts on purchased loans shall be deducted separately from total loans.

(g) Loans in process shall be deducted separately from total loans.

(h) A series of categories other than those specified in (b) above may be used to present details of loans if considered a more appropriate presentation.

(i) The notes should disclose, as the date of the most recent balance sheet, the amounts of contractual principal cash repayments by the following categories (based on remaining) contractual maturities): less than one year; one year to five years; and greater than five years. If the amount of loans with variable interest rates is significant, those loans should be shown separately with a description of the variability feature(s).

(j) For each period for which an income statement is filed, disclose in a note the total dollar amount of loans being serviced by the association for the benefit of others.

(k) For each period for which an income statement is filed, furnish in a note a statement of changes in the allowance for loan losses, showing balances at beginning and end of the period, provision charged to income, recoveries of amounts previously charged off, and losses charged to the allowance.

6. *Premises and equipment.* State the net amount of premises, equipment, and leasehold improvements.

7. *Real estate owned.* State, parenthetically or otherwise:

(a) The amount of real estate owned and the bases for determining that amount; and

(b) A description of each class of real estate owned (i) acquired by foreclosure or by deed in lieu of foreclosure, (ii) in judgment and subject to redemption, or (iii) acquired for development or resale. Show separately any accumulated depreciation or valuation allowances. Disclose the policies regarding and amounts of capitalized costs, including interest.

8. *Investment in real estate ventures.* In a note, present summarized financial statements for each investment which is 20% or more owned by the registrant or any of its subsidiaries or for which liabilities (including contingent liabilities) to the parent exceed 10% of the parent's net worth. If an allowance for real estate losses subsequent to acquisition is maintained, the amount shall be disclosed, deducted from the other real estate owned, and a statement of changes in the allowance showing balances at beginning and end of period should be included. Provision charged to income and losses charged to the allowance shall be furnished

for each period for which an income statement is filed.

9. *Other assets.* (a) State separately any of the following assets which exceed 1% of assets, or any other asset which exceeds 1% of assets.

(i) Accrued interest receivable.

(ii) Excess of cost over assets acquired (net of amortization).

(iii) Prepayment to FSLIC Secondary Reserve.

The remaining assets may be shown in one amount.

(b) State in a note (i) amounts representing investments in affiliates and investments in other persons which are accounted for by the equity method, and (ii) indebtedness of affiliates and indebtedness of other persons, the investments in which are accounted for by the equity method. State the basis of determinating the amounts reported under (i). (See 17 CFR § 210.4–08(k)).

10. *Total assets and other debits.*

B. Liabilities, Other Credits and Equity

11. *Deposits.* (a) State separately on the balance sheets or in a note the amounts in the following deposit categories:

(i) NOW account deposits.

(ii) Savings deposits.

(iii) Time deposits.

(b) Include under the savings deposits category interest-bearing deposits without specified maturity or contractual provisions requiring advance notice of intention to withdraw funds. Include deposits for which an institution, optionally, may require written notice of intended withdrawal not less than 14 days in advance.

(c) Include under the time deposits category deposits subject to provisions specifying maturity or other withdrawal conditions such as time certificates of deposits, open account time deposits, and deposits accumulated for the payment of personal loans.

(d) Include accrued interest or dividends, if appropriate. In a note, set forth in tabular form the amounts of deposit accounts by categories of interest rate as of the dates of each balance sheet filed. Each interest-rate category should not be more than 200 basis points. As of the date of the latest balance sheet, for each interest-rate category set forth in tabular form the amounts of savings maturing during each of the three years following the balance sheet date and the total maturing thereafter.

12. *Short-term borrowings.* (a) State separately here or in a note amounts payable for (i) Federal funds purchased and securities sold under agreements to repurchase, (ii) commercial paper, and (iii) other short-term borrowings.

(b) Federal funds purchased and sales of securities under repurchase agreements shall be reported gross and not netted against sales of Federal funds and purchase of securities under resales agreements.

(c) Include as securities sold under agreements to repurchase all transactions of this type regardless of (i) whether they are called simultaneous purchases and sales, buy-backs, turnarounds, overnight transactions, delayed deliveries or other terms signifying the same substantive transaction, and (ii) whether the transactions are with the same or different institutions if the purpose of the transactions is to repurchase identical or similar securities.

(d) The weighted-average interest rate and general terms (as well as formal provisions for the extension of the maturity) of each category of short-term borrowings shall be disclosed along with the maximum amount of borrowings in each category outstanding at any month-end during each period for which an end-of-period balance sheet is required. In addition, the approximate average short-term borrowings outstanding during the period and the approximate weighted-average interest rate (and a brief description of the means used to compute such average) for such aggregate short-term borrowings shall be disclosed in the notes to the financial statements.

This information is not required to be given for any category of short-term borrowings for which the approximate average balance outstanding during the period was less than 1% of assets.

(e) The amount and terms (including commitment fees and the conditions under which lines may be withdrawn) of unused lines of credit for short-term financing shall be disclosed, if significant, in the notes to the financial statements. The amount of these lines of credit which support a commercial paper borrowing arrangement or similar arrangements shall be separately identified.

13. *Advance payments by borrowers for taxes and insurance.*

14. *Accounts payable and accrued liabilities.* (a) State separately any of the following liabilities which exceed 1% of assets or any other liability which exceeds 1% of assets.

(i) Income taxes payable.

(ii) Deferred income taxes.

(iii) Indebtedness to affiliates and other persons. (See 17 CFR 210.4–08(k)).

(iv) Indebtedness to directors, executive officers, and principal holders (other than affiliates) of equity securities.

The remaining accounts payable and accrued liabilities may be shown in one amount.

(b) In a note, state indebtedness to affiliates and indebtedness to other persons the investments in which are accounted for by the equity method. (See 17 CFR 210.4–08(k)).

15. *Bonds, mortgages and similar debt.* (a) Include bonds, Federal Home Loan Bank advances, capital notes, debentures, mortgages, and similar debt.

(b) For each issue or type of obligations state in a note:

(i) The general character of each type of debt, including: (A) the rate of interest; (B) the date of maturity, or, if maturing serially, a brief indication of the serial maturities, such as "maturing serially from 1980 to 1990", (C) if the payment of principal or interest is contingent, an appropriate indication of such contingency; (D) a brief indication of priority; and (E) if convertible, the basis. For amounts owed to related parties see 17 CFR 210.4–08(k).

(ii) The amount and terms (including commitment fees and the conditions under which commitments may be withdrawn) of unused commitments for long-term financing arrangements that would be disclosed under this rule if used shall be disclosed in the notes to the financial statements if significant.

(c) State in notes with appropriate explanations (i) the title and amount of each issue of debt of a subsidiary included in (a) above which has not been assumed or guaranteed by the registrant, and (ii) any liens on premises of a subsidiary or its consolidated subsidiaries which have not been assumed by the subsidiary or its consolidated subsidiaries.

16. *Total liabilities.*

17. *Deferred credits.*

18. *Commitments and contingent liabilities.*

19. *Minority interest in consolidated subsidiaries.* State separately in a note the amounts represented by preferred stock and the applicable dividend requirements if the preferred stock is material in relation to the consolidated stockholders' equity.

20. *Preferred stock subject to mandatory redemption requirements or the redemption of which is outside the control of the issuer.* (a) Include under this caption amounts applicable to any class of stock which has any of the following characteristics: (i) It is redeemable at a fixed or determinable price on a fixed or determinable date or dates, whether by operation of a sinking fund or otherwise; (ii) it is redeemable at the option of the holder; or (iii) it has conditions for redemption which are not solely within the control of the issuer, such as stock which must be redeemed out of future earnings. Amounts attributable to preferred stock which is not redeemable or is redeemable solely at the option of the issuer shall be included under caption 21 unless it meets one or more of the above criteria.

(b) State on the face of the balance sheet the title of each issue, the carrying amount, and redemption amount. (If there is more than one issue, these amounts may be aggregated on the face of the balance sheet and details concerning each issue may be presented in the note required by paragraph (c) below.) Show also the dollar amount of any shares subscribed for but unissued, and show the deduction of subscriptions receivable. If the carrying value is different from the redemption amount, describe the accounting treatment for such difference in the note required by paragraph (c) below. Also state in this note or on the face of the balance sheet, for each issue, the number of shares authorized and the number of shares issued or outstanding, as appropriate. (See 17 CFR 210.4–07).

(c) State in a separate note captioned "Redeemable Preferred Stocks" (i) a general description of each issue, including its redemption features (e.g. sinking fund, at option of holders, out of future earnings) and the rights, if any, of holders in the event of default, including the effect, if any, on junior securities in the event a required dividend, sinking fund, or other redemption payment(s) is not made, (ii) the combined aggregate amount of redemption requirements for all issues each year for the five years following the date of the latest balance sheet, and (iii) the changes in each issue for each period for

which an income statement is required to be filed. (See also 17 CFR 210.4–08(d)).

(d) Securities reported under this caption are not to be included under a general heading "stockholders' equity" or combined in a total with items described in captions 21, 22 or 23 which follow.

21. *Preferred stock which is not redeemable or is redeemed solely at the option of the issuer.* State on the face of the balance sheet, or if more than one issue is outstanding state in a note, the title of each issue and the dollar amount thereof. Show also the dollar amount of any shares subscribed for but unissued, and show the deduction of subscriptions receivable. State on the face of the balance sheet or in a note, of each issue, the number of shares authorized and the number of shares issued or outstanding, as appropriate. (See 17 CFR 210.4–07). Show in a note or separate statement the changes in each class of preferred shares reported under this caption for each period for which an income statement is required to be filed. (See also 17 CFR 210.4–08(d)).

22. *Common Stock.* For each class of common shares state, on the face of the balance sheet, the number of shares issued or outstanding, as appropriate (see 17 CFR 210.4–07), and the dollar amount thereof. If convertible, this fact should be indicated on the face of the balance sheet. For each class of common stock state, on the face of the balance sheet or in a note, the title of the issue, the number of shares authorized, and, if convertible, the basis for conversion (see also 17 CFR 210.4–08(d)). Show also the dollar amount of any common stock subscribed for but unissued, and show the deduction of subscriptions receivable. Show in a note or statement the changes in each class of common stock for each period for which an income statement is required to be filed.

23. *Other stockholders' equity.* (a) Separate captions shall be shown for (i) additional paid-in capital, (ii) other additional capital, and (iii) retained earning, both (A) appropriated and (B) unappropriated. (See 17 CFR 210.4–08(e)). Additional paid-in capital and other additional capital may be combined with the stock caption to which it applies, if appropriate.

(b) For a period of at least 10 years subsequent to the effective date of a quasi-reorganization, any descriptions of retained earnings shall indicate the point in time from which the new retained earnings dates and for a period of at least three years shall indicate, on the face of the balance sheet, the total amount of the deficit eliminated.

(c) A summary of each account under this caption setting forth the information prescribed in Rule 11–02 of Regulation S–X (17 CFR 210.11–02) shall be given in a note or separate statement, for each period for which an income statement is required to be filed.

24. *Total liabilities, other credits, and stockholders' equity.*

II. Income Statement

Income statements should comply with the following provisions:

1. *Interest and fees and loans.* (a) Include interest, service charges, and fees which are related to or are an adjustment of the loan interest yield.

(b) Current amortization of premiums on mortgages or other loans shall be deducted from interest on loans and current accretion of discount on such items shall be added to interest on loans.

2. *Interest and dividends on investment securities.* Include accretion of discount on securities and deduct amortization of premiums on securities.

3. *Trading account interest.* Include interest from securities carried in a dealer trading account or accounts that are held principally for resale to customers.

4. *Other interest income.* Include interest on short-term investments (Federal funds sold and securities purchased under agreements to resell) and interest on bank deposits.

5. *Total interest income.*

6. *Interest on deposits.* Include interest on all deposits. State separately on the income statement or in a note interest on deposits detailed in the same categories as those specified for deposits at balance sheet caption 11(a).

7. *Interest on short-term borrowings.* Include interest on borrowed funds, including Federal funds purchased, securities sold under agreements to repurchase, commercial paper, and other short-term borrowings.

8. *Interest on long-term borrowings.* Include interest on bonds, capital notes, debentures, mortgages on association premises, capitalized leases, and similar debt.

9. *Total interest expense.*

10. *Net interest income.*

11. *Other income.* State separately any of the following items of income which exceeds one percent of revenue or any other item of income which exceeds one percent of revenue.

(a) Commissions and fees from fiduciary activities.

(b) Fees for other services to customers.

(c) Commissions, fees, and markups on securities under-writing and other securities activities.

(d) Profit or loss on transactions in investment securities.

(e) Equity in earnings of unconsolidated subsidiaries and 50 percent or less-owned persons.

(f) Gains or losses on disposition of investments in securities of subsidiaries and 50 percent or less owned persons.

(g) Profit or loss from real estate operations.

(h) Other fees related to loan originations or commitments not included in Income Statement Caption 1.

The remaining other income may be shown in one amount.

12. *Other expensess.* (a) State separately and of the following expenses which exceed one percent of revenue.

(i) Salaries and employee benefits.

(ii) Net occupancy expense of premises.

(iii) Net cost of operations of other real estate.

(iv) Minority interest in income of consolidated subsidiaries.

(v) Provision for loan losses.

The remaining expenses may be shown in one amount.

(b) Report in one amount the net expense of occupancy of premises used in the ordinary course of business reduced by income from premises leased to others.

(c) Report in one amount the net expense of operations of other real estate reduced by rental or other related income. Include provisions for real estate losses resulting from revaluations of assets subsequent to acquisition, if any, and gains or losses on disposition of assets.

13. *Operation income.*

14. *Other income and expenses.* State separately material events or transactions that are unusual in nature or occur infrequently, but not both, and therefore do not meet both criteria for classification as an extraordinary item. Examples of items which would be reported separately are gain or loss from the sale of premises and equipment, provision for loss on real estate owned, or provision for gain or loss on the sale of loans.

15. *Income or losses before income tax expense (and appropriate items below).*

16. *Income tax expenses.* (See 17 CFR 210.4–08(g)).

17. *Income or loss before extraordinary items.*

18. *Extraordinary items, less applicable tax.* State separately (a) extraordinary items of the association, and (b) equity in extraordinary items of (i) unconsolidated subsidiaries and (ii) 50 percent or less-owned persons for which the equity in earnings was reported under balance sheet caption 14(b). Indicate the nature of any material items and disclose parenthetically or otherwise the tax applicable to each.

19. *Cumulative effects of changes in accounting principles.*. State separately (a) changes of the association and (b) equity in changes of (i) consolidated subsidiaries and (ii) 50 percent or less owned persons for which the equity in earnings was reported under balance sheet caption 14(b). Indicate the nature of any material items and disclosure parenthetically or otherwise the tax applicable to each.

20. *Net income or loss.* (See balance sheet caption 20).

21. *Earnings per share data.* Refer to the pertinent requirements in the appropriate filing form.

22. *Conversion footnote.* If the association is an applicant for conversion from a mutual to a capital stock company or has converted within the last three years, describe generally in a note the terms of the conversion and any restrictions on the operations of the registrant imposed by the conversion.

23. *Mergers and acquisitions.* For the period in which a business combination occurs and is accounted for by the purchase method of accounting, in addition to those disclosures required by Accounting Principles Board Opinion No. 16, the association shall make those disclosures as noted below for all combinations involving significant acquisitions. (A significant acquisition is defined for this purpose to be one in which the assets of the acquired association, or group of associations, exceed 10% of the assets of the consolidated associated at the end of the most recent period being reported upon):

(a) Amounts and descriptions of discounts and premiums related to recording the assets

and liabilities at their fair market value. The disclosure should also include the methods of amortization or accretion and the estimated remaining lives.

(b) The net effect on net income before taxes of the amortization and accretion of discounts, premiums and intangible assets related to the purchase accounting transaction(s). For subsequent periods, the association shall disclose the remaining total unamortized or unaccreted amounted of discounts, premiums, and intangible assets as of the date of the most recent balance sheet presented. In addition, the association shall disclose the net effect on net income before taxes of the amortization and accretion of discounts, premiums and intangible assets related to prior business combinations accounted for by the purchase method of accounting. Such disclosures need not be made if the total amounts of discounts, or premiums, or intangible assets do not exceed 1% of total assets as of the date of the most recent balance sheet presented.

III. Statement of Changes in Financial Position

The amounts shown in this statement should be those items which materially enhance the reader's understanding of the association's business. As examples: interest credited to savings accounts should be shown as a non-fund expense separate from increase or decrease in savings; purchase and/or sales of loans should be shown separately from loan originations and loan collections; amortization of loan fees should be shown separately from loan fees collected; significant additions to real estate owned should be shown separately from sales of real estate owned. Additional guidance may be found in the AICPA's *Savings and Loan Associations Audit and Accounting Guide.*

IV. What Schedules Are To Be Filed

(1) Except as expressly provided otherwise in the applicable form:

(a) Schedule III, specified below, shall be filed as of the dates of the most recent audited balance sheet for each person or group.

(b) The other schedules specified below as Schedules I and II shall be filed for each period for which an income statement is required to be filed for each person or group.

(2) If the information required by any schedule (including the notes thereto) may be shown in the related financial statement or in a note thereto without making such statement unclear or confusing, that procedure may be followed and the schedule omitted.

(3) The schedules shall be examined by the independent accountant if the related financial statements are so examined.

(4) The schedules prescribed by 17 CFR 210.12–04 and 210.12–05 shall be filed in support of balance sheet captions 9(b) and 14(b) of each balance sheet and shall be designated Schedules IV and V, respectively. These schedules shall be filed for each period for which an income statement is required to be filed. These schedules may be omitted if (a) neither the amount required to be reported in a note under balance sheet caption 9(c) in the related balance sheet nor the amount require to be reported in a note under balance sheet caption 14(b) in such balance sheet exceeds 5 percent of stockholders' equity as shown by the related balance sheet at either the beginning or end of the period, or (b) there have been no material changes in the information required to be filed from that last previously reported.

Schedule I—Amounts receivable from certain persons. The schedule prescribed by 17 CFR 210.12–03 shall be filed with respect to indebtedness of more than $500,000 or 2.5 percent of stockholders' equity, whichever is less, which is owed, or at any time during the period for which related income statements are required to be filed, was owed by each person (including those referred to below) related to the reporting person or any of its principal subsidiaries as director, executive officer, or principal holder of equity securities. Indebtedness to be reported for a director, officer or principal holder of equity securities shall include the aggregate of indebtedness owed by such person and indebtedness owed by any of the following which are related to such person: (1) Any corporation, venture or organization of which any of the foregoing persons is a general partner or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities; (2) any trust or other estate in which any of the foregoing persons has a substantial beneficial interest or as to which such person serves as trustee or in a similar fiduciary capacity; and (3) any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person. Indebtedness to be reported shall include amounts owed to the parent company or any consolidated subsidiary. Notwithstanding the foregoing and the requirement of Column A of the 17 CFR 210.12–03 schedule, indebtedness incurred in the ordinary course of business by directors (and related persons specified above) who are neither executive officers nor principal holders of equity securities may be stated in the aggregate in Columns B, C, D, and E of the 17 CFR 210.12–03 schedule and need not be reported on an individual basis. The number of directors whose indebtedness is included in the aggregate amount shall be stated in Column A. It shall not be necessary to include in the individual or aggregate indebtedness reported those amounts related to installment loans as defined in balance sheet caption 5(c)(iii) made in the ordinary course of business. For the purpose of this schedule, loans or indebtedness made or incurred in the ordinary course of business shall be those which (i) were made on substantially the same terms, including interest rates and collateral, as those prevailing at the same time for comparable transactions with other persons, and (ii) did not involve more than normal risk of collectibility or present other unfavorable features.

Schedule II—Valuation and qualifying accounts. The schedule prescribed by 17 CFR 210.12–09 shall be filed in support of valuation and qualifying accounts included in each balance sheet, excluding the allowances for loan losses and real estate losses.

Schedule III—Guarantees of securities of other issuers. The schedule prescribed by 17 CFR 210.12–08 shall be filed with respect to any guarantees of securities of other issuers by the person for which the statement is being filed.

PART 563d—SECURITIES OF INSURED INSTITUTIONS

1. Redesignate existing part 563d as Subpart A—Regulations, and add new §§ 563d.3b–6, 563d.200.30 and 563d.210 and add a new Subpart B—Interpretations, consisting of §§ 563d.801 and 563d.802 to read as follows:

Subpart A—Regulations

563d.1 Requirements under certain sections of the Securities Exchange Act of 1934.
563d.3b–6 Liability for certain statements by registrants.
563d.200.30 Delegation of authority to General Counsel.
563d.210 Form and content of financial statements.

Subpart B—Interpretations

Sec.
563d.801 Application of this Subpart.
563d.802 Preparation and filing of reports under the Securities Exchange Act of 1934.

Authority: Secs. 3(b), 12, 13, 14 and 23 of the Securities Exchange Act of 1934, 48 Stat. 882, 892, 894, 895 and 901, as amended [15 U.S.C. 78c(b), l, m, n and w]; 15 U.S.C 78d–1; and Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp. p. 1071.

Subpart A—Regulations

§ 563d.1 Requirements under certain sections of the Securities Exchange Act of 1934.

* * * * *

§ 563d.3b–6 Liability for certain statements by registrants.

This section replaces 17 CFR 240.3b–6 and applies as follows:

(a) A statement within the coverage of paragraph (b) of this section which is made by or on behalf of an issuer or by an outside reviewer retained by the issuer shall be deemed not to be a fraudulent statement (as defined in paragraph (d) of this section), unless it is shown that such statement was made or reaffirmed without a reasonable basis or was disclosed other than in good faith.

(b) This section applies to the following statements:

(1) A forward-looking statement (as defined in paragraph (c) of this section) made in a proxy statement or offering circular filed with the Board under Part 563b of this Subchapter; in a registration statement filed with the Board under the Securities Exchange Act of 1934 on Form 10 (17 CFR 249.210); in Part I of a quarterly report filed with the Board on Form 10–Q (17 CFR 241.308a); in an annual report to shareholders meeting the requirements of § 563d.1,

particularly 17 CFR 240.14a–3 (b) and (c) or 17 CFR 240.14c–3 (a) and (b) under the Securities Exchange Act of 1934; in a statement reaffirming such forward-looking statement subsequent to the date the document was filed or the annual report was made publicly available; or a forward-looking statement made prior to the date the document was filed or the date the annual report was made publicly available if such statement is reaffirmed in a filed document or annual report made publicly available within a reasonable time after the making of such forward-looking statement: *Provided,* that

(i) At the time such statements are made or reaffirmed, either (A) The issuer is subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 and has complied with the requirements of 17 CFR 240.13a–1 or 240.15d–1 thereunder, if applicable, to file its most recent annual report on Form 10–K; or (B) if the issuer is not subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, the statements are made either in a registration filed under the Securities Act of 1933 or pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934, or in a proxy statement or offering circular filed with the Board under Part 563b of this subchapter if such statements are reaffirmed in a registration statement under the Securities Exchange Act of 1934 on Form 10, filed with the Board within 180 days of the institution's conversion, and

(ii) The statements are not made by or on behalf of an issuer that is an investment company registered under the Investment Company Act of 1940;

(2) Information relating to the effects of changing prices on the business enterprise presented voluntarily or pursuant to Item 303 of Regulation S–K (17 CFR 229.303), management's discussion and analysis of financial condition and results of operations, or Item 302 of Regulation S–K (17 CFR 229.302), supplementary financial information, and disclosed in a document filed with the Board or in an annual report to shareholders meeting the requirements of 17 CFR 240.14a–3(b) and (c) or 17 CFR 240.14c–3(a) and (b) under the Securities Exchange Act of 1934: *Provided,* that such information included in a proxy statement or offering cricular filed pursuant to Part 563b of this Subchapter shall be reaffirmed in a registration statement under the Securities Exchange Act of 1934 on Form 10 filed with the Board within 180 days of the institution's conversion.

(c) For purposes of this section, the term "forward-looking statement" shall mean and shall be limited to:

(1) A statement containing a projection of revenues, income (loss), earnings (loss) per share, capital expenditures, dividends, capital structure or other financial items;

(2) A statement of management's plans and objectives for future operations;

(3) A statement of future economic performance contained in management's discussion and analysis of financial condition and results of operations pursuant to Item 303 of Regulation S–K; or

(4) Disclosed statements of the assumptions underlying or relating to any of the statements described in (1), (2), or (3) above.

(d) For purposes of this section, the item "fraudulent statement" shall mean a statement which is an untrue statement of a material fact, a statement false or misleading with respect to any material fact, an omission to state a material fact necessary to make a statement not misleading, or which constitutes the employment of a manipulative, deceptive, or fraudulent device, contrivance, scheme, transaction, act, practice, course of business, or an artifice to defraud, as those terms are used in the Securities Act of 1933 or the rules or regulations promulgated thereunder.

§ 563d.200–30 Delegation of authority to General Counsel.

* * * * *

§ 563d.210 Form and content of financial statements.

Financial statements contained in filings with the Federal Home Loan Bank Board under the Securities Exchange Act of 1934 shall conform as to form and content to the requirements of § 563c.1 of this Subchapter.

Subpart B—Interpretations

§ 563d.801 Application of this Subpart.

This Subpart contains interpretations pertaining to the requirements of the Securities Exchange Act of 1934 and the rules and regulations thereunder as applied to insured institutions by the Corporation.

§ 563d.802 Description of Business.

(a) This section applies to the description of business portion of (1) registration statements filed on Form 10 (Item 1) (17 CFR 249.210), (2) proxy and information statements relating to mergers, consolidations, acquistions and similar matters (Item 14 of Schedule 14A and Item 1 of Schedule 14c) (17 CFR 240.14a–101 and 240.14c–101), and (3) annual reports filed on Form 10–K (Item 7) (17 CFR 249.310).

(b) The description of business should conform to the description of business required by Item 7 of Form PS under Part 563b of this Subchapter.

(c) No repeat disclosure is required by virtue of similar requirements in Item 7 of Form PS and Items 301 and 303 of Regulation S–K (17 CFR 229.301 and 229.303). However, there should be included appropriate disclosure which arises by virtue of the registrant being a stock institution. For example, the table regarding return on equity and assets, Item 7(e)(5), should include a line item for "dividend payout ratio (dividends declared per share divided by net income per share)".

(Secs. 402, 403 and 407 of the National Housing Act, 48 Stat. 1256, 1257 and 1260, as amended, 12 U.S.C. 1725, 1726 and 1730; Sec. 5 of the Home Owners' Loan Act of 1933, 48 Stat. 132, as amended, 12 U.S.C. 1464; Secs. 3(b), 12, 13, 14 and 23 of the Securities Exchange Act of 1934, 48 Stat. 882, 892, 894, 895 and 901, as amended, 15 U.S.C. 78c, *l,* m, n and w; and Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1071 (1943–48 Comp.))

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–12824 Filed 5–14–82; 8:45 am]

BILLING CODE 6720–01–M

CIVIL AERONAUTICS BOARD

14 CFR Ch. II

Agenda of Significant Regulations

AGENCY: Civil Aeronautics Board.

ACTION: Publication of agenda of significant rules under development or review.

SUMMARY: As part of its implementation of the Regulatory Flexibility Act, Pub. L. 96–354, and in accordance with the policy announced in Executive Order 12291, *Federal Regulation,* the CAB publishes its semiannual Agenda of Significant Rules under Development or Review.

DATE: Adopted: April 15, 1982.

ADDRESSES: Copies of the rulemaking documents listed in this agenda can be obtained from the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428; (202) 673–5432. Each document should be identified by the designation appearing in parentheses after the **Federal Register** citation.

Persons wishing to be placed on a mailing list for future editions of this agenda should send a postcard request to the Distribution Section at the above address.

FOR FURTHER INFORMATION CONTACT: About a specific rulemaking action listed in this agenda—the contact person listed below. About this agenda—Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION:

The Board is publishing this Agenda of Significant Rules under Development or Review in accordance with the Regulatory Flexibility Act, Pub. L. 96-345, and the policy announced in Executive Order 12291, *Federal Regulation*, issued on February 17, 1981. The next agenda will be published in October 1982, as provided in the Regulatory Flexibility Act. The Board's previous agenda appears at 46 FR 53436, October 28, 1981.

This agenda is divided into two main categories, *Rules Under Development* and *Existing Rules Under Review*, and an Appendix. An action to amend an existing part of the Code of Federal Regulations is not necessarily listed as an existing rule under review. If it does not involve a reexamination of the basic policy and purpose of that part, it is listed as a rule under development. Entries in *Rules Under Development* are listed with a letter prefix indicating the subject areas: A—Small Community Air Service Program; B—Fares, Rates, and Tariffs; C—Charters; and D—Miscellaneous. Each rulemaking included in *Existing Rules Under Review* is listed according to the CFR part it would primarily affect, with a numerical suffix to distinguish it from other rulemakings that are listed under the same part. The Appendix lists any rulemaking that appeared in the previous agenda and has since been completed or terminated.

For each rulemaking action listed in this agenda, the following information is set out: title; the name, office abbreviation, and telephone number of a knowledgeable Board official to contact for further information; action schedule; and description. For each proceeding in which a notice of proposed rulemaking has been issued, a scheduled completion date is listed. Addresses for all contact persons are Civil Aeronautics Board, Washington, D.C. 20428. Unless otherwise noted, the legal authority for a rulemaking action is the Federal Aviation Act of 1958, as amended by the Airline Deregulation Act of 1978 and the International Air Transportation Competition Act.

The only rules that the Regulatory Flexibility Act requires agencies to include in their agendas are those that are "likely to have a significant economic impact on a substantial number of small entities." This agenda is more inclusive, listing all significant Board rulemaking activity. The following items appear to meet the statutory criterion: A2, A4, A5, A6, B1, B2, B4, B5, C10, D4, D11, D19, D26, D28, D32, 221-1, 211-2, 241-1, 293-1, 313-1 and 389-1. We have not made this determination in cases where a notice of proposed rulemaking was issued before January 1, 1981, because the regulatory flexibility analysis requirements do not apply to those proceedings.

None of the rulemaking included in this agenda is "major" within the meaning of E.O. 12291, and the Board does not plan to perform any formal Regulatory Impact Analyses. Each rulemaking, however, undergoes an analysis of benefits, costs, and alternatives, in a degree of detail and formality that is commensurate with the importance of the rule. The Board also retains the discretion to prepare a formal Regulatory Impact Analysis on any rulemaking.

Statements in the action schedule column that a notice or advance notice of proposed rulemaking is in preparation indicate that the staff is preparing a draft for Board action. They do not imply that the proposal will necessarily be issued, that the Board has endorsed the substance of the proposal, or that the petition (if any) prompting the rulemaking activity will necessarily be granted. Scheduled completion dates are estimates only, and so do not bind the Board or indicate that a final rule will necessarily be adopted.

Although this agenda is intended to list all significant Board regulations that are under development or review, it is not a complete guide to all significant rulemaking activity for the 6 months until publication of the next agenda. First, new rulemaking actions may arise and be completed between now and then. Second, we may have inadvertently omitted one or more items. Any such omission shall not preclude the Board from taking action on the item, and shall not be a ground for judicial review of the rule.

Abbreviations Used in This Agenda

"Act" means the Federal Aviation Act of 1958, as amended, 49 U.S.C. 1301 *et seq.*, including amendments made by the Deregulation Act and the International Air Transportation Competition Act, Pub. L. 96-192, 94 Stat. 35.

"Deregulation Act" means the Airline Deregulation Act of 1978, Pub. L. 95-504, 92 Stat. 1705.

"CFR" means Code of Federal Regulations.

"FR" means **Federal Register**.

"ANPRM" means advance notice of proposed rulemaking.

"NPRM" means notice of proposed rulemaking.

Office abbreviations:

BCAA—Bureau of Carrier Accounts and Audits
OCCCA—Office of Congressional, Community and Consumer Affairs
BDA—Bureau of Domestic Aviation
BIA—Bureau of International Aviation
OC Office of Comptroller
OEA—Office of Economic Analysis
OGC—Office of the General Counsel

ER-, EDR-, SPR-, SPDR-, and similar designations appearing in parentheses after a **Federal Register** citation are the Board's internal designations for final rules and proposed rules. Using these designations, interested persons can obtain copies of documents from the Distribution Section at the address listed above. The Distribution Section will also establish and maintain a list of persons wishing to receive copies of future agendas.

Accordingly, the Civil Aeronautics Board publishes the attached Agenda of Significant Regulations under Development or Review.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

RULES UNDER DEVELOPMENT

Contact person	Action schedule	Description
A. Small Community Air Service Program		
A1. ESSENTIAL AIR SERVICE SUBSIDY GUIDELINES (PROPOSED 14 CFR PART 271)		
John R. Hokanson, BDA, 202-673-5368, or David Schaffer, OGC, 202-673-5442.	NPRM, 45 FR 83254, December 18, 1980 (EDR-415, Docket 39041). Comment period closed February 17, 1981. Scheduled for completion: August 1982..	The Board provides subsidy to airlines to ensure that small communities receive essential air service at a level determined in accordance with 14 CFR Part 398. This rule would implement section 419(d) of the Act, which directs the Board to establish guidelines for computing the fair and reasonable amount of compensation necessary to guarantee that level of service.
A2. ESSENTIAL AIR SERVICE SUBSIDY PROCEDURES (PROPOSED 14 CFR PART 326)		
David Schaffer, OGC, 202-673-5442.	NPRM in preparation.	The Board pays a subsidy to airlines for providing essential air service to small communities. This rule would establish when the rate conference with the airline is held, what happens at the end of the airline's rate term, and other procedural matters involved in setting subsidy rates.
A3. OBLIGATION OF CARRIERS TO PROVIDE ADEQUATE SERVICE AT ELIGIBLE POINTS (14 CFR PART 398)		
David Schaffer, OGC, 202-673-5442.	NPRM, 45 FR 67357, October 10, 1980 (PSDR-68, Docket 38807). Comment period closed December 9, 1980. Scheduled for completion: November 1982.	The Board has set essential air service levels under section 419 of the Act for eligible points (small communities). Some of these points are being served by air carriers that are not providing the required level of service. This rule would establish a new policy under which the Board would rely on the "adequate service" provision of section 404(a) of the Act as authority to order these carriers to provide adequate (*i.e.*, essential) service at points they now serve.
A4. BUMPING OF SUBSIDIZED CARRIERS AT SMALL COMMUNITIES (14 CFR PART 325)		
David Schaffer, OGC, 202-673-5442.	NPRM in preparation.	Section 419 of the Act permits any carrier, after January 1, 1983, to file an application with the Board seeking to have the subsidy that is paid to another carrier paid to it instead. This rule would establish procedures to be followed by the applicant, the incumbent carrier, and the Board.
A5. POLICY ON OVERFLIGHTS AT ESSENTIAL AIR SERVICE POINTS (14 CFR PART 398)		
David Schaffer, OGC, 202-673-5442	NPRM, 47 FR , May , 1982 (PSDR- , Docket 40260). Comment period closes July , 1982. Scheduled for completion: October 1982.	This rule would prohibit an air carrier from refusing to land at an eligible point for which the Board has issued an essential air service determination, except in specified circumstances.
A6. TERMINATION NOTICES FOR CERTIFICATED CARRIERS (14 CFR PART 323)		
David Schaffer, OGC, 202-673-5442, OR Peter Bloch, BDA, 202-673-5345.	NPRM in preparation.	By PR-244, the Board changed its notice requirements for certificated carriers that wanted to terminate service to eligible points. The Board eliminated some notices but continued to require notice before a certificated carrier terminated or reduced service so as to leave an eligible point (1) without essential service, (2) without any other certificated carrier, (3) with only one certificated carrier, or (4) with a 33 percent reduction in available capacity. A recent decision by the U.S. Court of Appeals for the District of Columbia has cast doubt on the Board's authority to require some of these notices, particularly the fourth one. This rulemaking proceeding would examine whether any of these notices should be eliminated and whether any other requirements should take their place.
B. Fares, Rates, and Tariffs		
B1. CONDITIONS OF CARRIAGE (14 CFR 221, 250, 296; PROPOSED 14 CFR PART 255)		
Joanne Petrie, OGC, 202-673-5442, or Desta McDowell, OCCCA, 202-673-5191.	NPRM, 45 FR 25817, April 16, 1980 (EDR-396, Docket 38021). Comment period closed August 15, 1980. Reply comment period closed September 3, 1980. NPRM, 45 FR 42629, June 25, 1980 (EDR-404, Docket 38348). Comment period closed September 3, 1980. Reply comment period closed September 23, 1980. Supplemental NPRM, 46 FR 35936, July 13, 1981 (EDR-404B, Docket 38348). Comment period closed September 9, 1981. Reply comment period closed September 28, 1981. Supplemental NPRM, 46 FR 43057 (EDR-404E, Docket 38348). Comment period closed September 28, 1981. Scheduled for completion: June 1982..	Contracts between airlines and their passengers are governed by tariffs, which are filed with the Board and available for inspection at airline ticket offices. Although tariffs are complicated and relatively inaccessible documents, passengers are presumed to have read them and consented to their terms and conditions. The proposed rule, which consolidates a number of different rulemakings, presents two alternatives. The first would prohibit airlines from enforcing tariff provisions against passengers unless the airlines make available to passengers a "plain English" notice of the terms and conditions of the contract. In addition it would simplify the requirements that airlines disclose certain information to consumers on passengers' tickets and counter signs. The second option would eliminate domestic rules tariffs as well as most Board-prescribed notices. Without the protection of tariffs, carriers would have to give passengers actual notice of the conditions of carriage. In order to give maximum flexibility, and because the conditions of carriage will vary among carriers, the Board under this option would eliminate the requirement that carriers post most Board-prescribed notices.
B2. ELIMINATION OF MANDATORY JOINT FARES (14 CFR PART 399)		
Joanne Petrie, OGC 202-673-5442, or Julien Schrenk, BDA, 202-673-5298.	NPRM, 46 FR 29719, June 3, 1981 (PSDR-70, Docket 38385). Comment period closed July 31, 1981. Reply comment period closed September 3, 1981. Scheduled for completion: July 1982.	The mandatory joint fare requirements established in the *Domestic Passenger Fare Investigation* will end by January 1, 1983, with the end of the Board's jurisdiction over domestic passenger fares. The Board issued a proposal on its own initiative and in response to a petition filed by American Airlines to change the joint fare requirements in 1 of 3 ways. The Board is considering eliminating the system in some or all market, or making interlining mandatory upon request.
B4. EXTENSION OF FARE FLEXIBILITY OF MICRONESIA (14 CFR PART 399)		
Joanne Petrie, OGC, 202-673-5442.	NPRM, 46 FR 29727 (PSDR-71, Docket 38975). Comment period closed July 30, 1981. Scheduled for completion: December 1982.	In response to a petition filed by Air Micronesia and Continental Air Lines, the Board proposed to extend upward flexibility of 30 percent above the standard industry fare level (SIFL), and unlimited downward flexibility for passenger fares in and to Micronesia and American Samoa.

RULES UNDER DEVELOPMENT—Continued

Contact person	Action schedule	Description
	B5. INTERNATIONAL CARGO RATE FLEXIBILITY (14 CFR PART 399)	
Mark Schwimmer, OGC, 202-673-5442.	NPRM, 45 FR 3595, January 19, 1980 (PSDR-65, Docket 37444). Comment period closed April 9, 1980. Oral argument held July 15, 1980. Comment period reopened, 46 FR 34347, July 1, 1981 (PSDR-65C). Comment period closed July 23, 1981. Scheduled for completion: May 1982.	This rule would establish a policy of not reviewing international cargo rate changes for economic justification if the changes were below a prescribed ceiling, except in extraordinary circumstances. The ceiling would be set initially at the October 1, 1979, rate levels for general commodity rates, and would be periodically adjusted for operating cost increases.
	B6. INTERNATIONAL CARGO RATE POLICY—FURTHER CHANGES (14 CFR PART 399)	
Joanne Petrie, OGC, 202-673-5442.	ANPRM in preparation	This notice would invite comments on the broad question of what the Board's cargo rate policy should be, to advise the Board on future rulemaking or legislative proposals.
	B7. STANDARD FOREIGN FARE LEVEL METHODOLOGY (14 CFR PART 399)	
Julien Schrenk, BDA, 202-673-5298.	ANPRM, 46 FR 29285, June 1, 1981 (PSDR-72, Docket 39635). Comment period closed July 10, 1981. Reply comment period closed July 30, 1981. Scheduled for completion: June 1982.	This notice solicited comments on the Board's current methodology employed in adjusting the standard foreign fare level (SFFL) for airlines' cost changes, and, additionally, which SFFL adjustments should be utilized for transborder operations.
	B8. REGULATION OF DISCOUNT FARES (14 CFR PARTS 221, 399)	
David Schaffer, OGC, 202-673-5442.	Petition filed in Docket 40513. Denial of petition in preparation per Board instruction April 15, 1982.	World Airways petitioned the Board to amend the rules governing discount fares. It asked the Board of exercise greater oversight over such fares and to require airlines to justify any fare that is more than 50 percent below the standard industry fare level for the market involved.
	B9. CHANGES TO DOMESTIC TARIFF RULES AFTER JANUARY 1,1983 (14 CFR 221)	
Joanne Petrie, OGC, 202-673-5442.	NPRM in preparation	Airlines may not file tariffs concerning interstate and overseas air transportation to be provided on or after January 1, 1983. The Board is examining its rules to determine what conforming changes need to be made.
	B10. HAWAIIAN JOINT FARES (14 CFR PART 399)	
Joanne Petrie, OGC, 202-673-5442, or Lawrence Myers, OGC, 202-673-5205.	Supplemental NPRM, 47 FR——, April 20, 1982 (PSDAR-75, Docket 38565). Comment period closes: June 4, 1982.	The Board is proposing to require certain airlines to provide interline service in Hawaii until the end of 1982, to aid in the transition to domestic fare deregulation. This notice supplements issues addressed in item B2 of this agenda.
	B11. INCORPORATION BY REFERENCE IN CONTRACTS OF CARRIAGE AFTER THE SUNSET OF DOMESTIC TARIFFS	
Joseph Brooks, OGC, 202-673-5442.	NPRM in preparation	The Board is considering a rulemaking to establish uniform procedures for notice about terms that are incorporated by reference in air passenger contracts of carriage. Many terms and conditions are now incorporated in the contract of carriage by means of tariff filings with the Board, but tariffs will not be filed for domestic air transportation provided on or after January 1, 1983.
	B12. PAYMENTS TO INDIRECT CARGO CARRIERS (14 CFR 296, 297)	
Barry L. Molar, OGC, 202-673-5205.	NPRM, 47 FR 633, January 6, 1982 (EDR-437, Docket 40320). Comment period closed March 8, 1982. Scheduled for completion July, 1982.	This rule would modify the Board's rules on indirect cargo air carriers, foreign air freight forwarders, and foreign cooperative shippers associations, to allow direct air carriers to pay fees to the indirect carriers on shipments by the latter. The proposal would eliminate the express prohibition on payment of commissions to the indirect cargo carriers and would exempt them from the prohibition on soliciting rebates in section 403(b) of the Act. The rule was proposed in response to a request by a direct carrier in order to reduce regulatory intervention in the relationship between direct and indirect air carriers.
	C. Charters	
	C7. DIRECT CARRIER RESPONSIBILITY FOR RETURNING STRANDED CHARTER PASSENGERS (14 CFR PARTS 207, 208)	
David Schaffer, OGC, 202-673-5442.	NPRM, 45 FR 46812, July 11, 1980 (EDR-405, Docket 37169). Comment period closed September 25, 1980. Reply comment period closed October 10, 1980. Scheduled for completion: July 1982.	This rule would make direct air carriers responsible for returning charter passengers stranded by strikes or other interruptions of their services by eliminating the *force majeure* clause from charter contracts. More recently, however, the Board has issued a comprehensive proposal (item C10 in this agenda) to revise and simplify the charter rules. Prohibition of *force majeure* clauses would be inconsistent with some provisions of the newly proposed scheme. The Board's final action in this proceeding will be consistent with that in Item C10.
	C10. LIBERALIZATION OF CHARTER RULES (14 CFR PARTS 207, 208, 212, 298, 380)	
Patricia T. Szrom, BDA 202-673-5086.	NPRM, 47 FR 7443, February 19, 1982 (EDR-439/SPDR-86, Docket 40336). Comment period closed April 20, 1982. Reply comment period closes May 10, 1982. Scheduled for completion: July 1982.	The Board has proposed substantial liberalizations of its charter rules, with a view toward the agency's sunset. The proposal seeks comments on replacing the current rules governing public charters with a new registration and bonding requirement for indirect air carriers or, alternatively, keeping some combination of a bonding and escrow requirement and some or all of the requirements designed to protect participants' expectations while eliminating all filing requirements on indirect air carriers. The proposal would also eliminate restrictions on eligible groups and dealings between charter operators and air carriers. The Board seeks to reduce the rules concerning charters to the minimum necessary for public protection. This proposal supersedes several other charter rulemaking proceedings.
	C11. OVERSEAS MILITARY PERSONNEL CHARTERS (14 CFR PART 372)	
David Schaffer, OGC, 202-673-5442.	Petition filed in Docket 40213	The Davis Agency petitioned the Board for rulemaking to amend its rules governing Overseas Military Personnel Charters (OMPC's) to permit official travel by OMPC-eligible persons and to enlarge the group of OMPC-eligible persons to include all Federal employees.

RULES UNDER DEVELOPMENT—Continued

Contact person	Action schedule	Description
	D. Miscellaneous	
	D1. NONDISCRIMINATION ON THE BASIS OF HANDICAP (PROPOSED 14 CFR PART 382)	
David Schaffer, OGC, 202-673-5442.	NPRM, 44 FR 32401, June 6, 1979 (SPDR-70, Docket 34030). Comment period closed September 4, 1979. Reply comment period closed September 24, 1979. Revision of draft final rule in progress, in accordance with Department of Justice review. Scheduled for completion: May 1982.	This would prohibit unlawful discrimination against handicapped air travelers and implement section 504 of the Rehabilitation Act of 1973.
	D2. CONSUMER PROTECTIONS FOR MEMBERS OF SCHEDULED-SERVICE TOUR GROUPS	
Joanne Petrie, OGC, 202-673-5442.	ANPRM, 44 FR 43481, July 25, 1979 (SPDR-71, Docket 34997). Comment period closed October 23, 1979. Reply comment period closed November 22, 1979. NPRM in preparation.	The Board is considering whether consumer protection rules are needed for scheduled-service tours.
	D3. AIR CARRIER FITNESS (CONTINUING FITNESS) (14 CFR PART 204)	
Carolyn Kramp, BDA, 202-673-5328.	NPRM under consideration.	The Board is considering the development of a system to monitor the continuing fitness of air carriers as required by section 401(r) of the Act.
	D4 FITNESS DETERMINATIONS FOR DORMANT CARRIERS (14 CFR PART 204)	
Joseph Brooks, OGC, 202-673-5442, or Curtis B. Maloy, BDA, 202-673-5088.	NPRM, 45 FR 73085, November 4, 1980 (EDR-411, Docket 38904). Comment period closed December 15, 1980. Reply comment period closed December 30, 1980. Scheduled for completion: January 1983..	This rule would impose a 2-year limit for starting sevice or continuing service after a fitness determination. Carriers that did not begin service or operate within that time period would be required to resubmit fitness date and obtain reauthorization before beginning service.
	D5. ZONES FOR MAIL RATES (PROPOSED 14 CFR PART 233)	
Barry Molar, OGC, 202-673-5205, or Lawrence Myers, OGC, 202-673-5205.	NPRM, 44 FR 52246, September 7, 1979 (EDR-387/PDR-68, Docket 36497). Supplemental NPRM, 45 FR 83510, December 19, 1980 (EDR-387C/PDR-68C, Docket 36497). Comment period closed February 17, 1981. Scheduled for completion: September 1982..	This rule would end the Board's current practice of prescribing fixed rates for the transportation of mail by air, and in its place establish zones for each category of mail. Each zone would be defined by maximum and minimum rates prescribed by the Board, and airlines would be free to contract with the Postal Service for the carriage of mail at any price within the zone.
	D8. AGE DISCRIMINATION (PROPOSED 14 CFR PART 378).	
David Schaffer, OGC, 202-673-5442.	NPRM, 44 FR 55383, September 26, 1979 (SPDR-74, Docket 36639). Comment period closed November 26, 1979. A final rule was adopted by the Board on April 10, 1980, and was forwarded to the Secretary of HHS for approval, as required by the Age Discrimination Act. Scheduled for completion: November 1982..	This rule will prohibit discrimination against air travelers on the basis of age and implement the Age Discrimination Act of 1975.
	D9 POLICY STATEMENT ON PREEMPTION (14 CFR PART 399)	
Patricia Snyder, OGC, 202-673-5205.	Interim rule, 44 FR 9948, February 15, 1979 (PS-83). Request for comments on interim rule, 44 FR 9953, February 15, 1979 (PSDR-56, Docket 34684). Comment period closed April 16, 1979. Scheduled for completion: September 1982..	This rule will set out final Board policies for regulation of the rates, routes and services of airlines that have interstate authority. The Board has concluded that under section 105 of the Act it, not the State, is responsible for economic regulation (or deregulation, as the case may be) of all the routes, rates, or services of any airline holding either (i) a certificate of public convenience and necessity to provide interstate air transportation, or (ii) an exemption under section 416 of the Act from the requirement for such a certificate.
	D11. FOREIGN INDIRECT AIR CARRIER OPERATIONS IN DOMESTIC MARKETS (14 CFR PARTS 296, 380)	
Glenn Datnoff, BIA, 202-673-5514.	NPRM, 46 FR 35664, July 10, 1981 (EDR-427, SPDR-82, Docket 39744). Comment period closed September 8, 1981, Reply comment period closed September 23, 1981. Scheduled for completion: April 1982..	This rule would authorize foreign indirect air carriers to organize tours and forward freight in domestic markets.
	D16. UPDATE OF AGREEMENT-FILING RULES (14 CFR PARTS 261, 262, 263, 289, 302)	
Mark Schwimmer, OGC 202-673-5442.	NPRM in preparation.	This rule would update the agreement-filing rules to conform to statutory changes that make agreement filing voluntary, and would remove the now unnecessary Part 289 agreement-filing exemption.
	D18. SUSPENSION OF ABANDONED FOREIGN AIR CARRIER PERMITS (14 CFR PART 213)	
Allan F. Brown, BIA 202-673-5878.	NPRM in preparation.	This rule would provide for the automatic suspension of operating authority of a foreign air carrier permit holder if the carrier ceased all operations for an extended period of time.
	D19. AIR CARRIER REPORTING REQUIREMENTS (14 CFR PARTS 217, 231, 234, 241, 246, 248, 249, 250, 291, 298, 374a).	
Jack Calloway, OC 202-673-6042.	NPRM in preparation.	The Board is reviewing comments from Federal agencies, State commerce, aeronautical and transportation authorites, airport operators and other interested persone as part of a staff examination evaluating air carrier reporting requirements.
	D20. SIMPLIFIED NOTICE REQUIREMENTS FOR 401 CERTIFICATE PROCEEDINGS UNDER SUBPART Q (14 CFR PART 302)	
Rhonda Starck, BIA, 202-673-5035.	NPRM, 46 FR 29718, June 3, 1981 (PDR-75, Docket 39638). Comment period closed August 3, 1981. Scheduled for completion: June 1982.	This rule would provide that applicants for certificates of public convenience and necessity, or for modifications of such certificates, may serve a simplified notice of the application on specified persons, instead of the present requirement that applicants serve complete copies of their applications.

RULES UNDER DEVELOPMENT—Continued

Contact person	Action schedule	Description
	D21. SUBPART Q REFINEMENTS (14 CFR PART 302)	
Jeffrey Gaynes, BIA, 202-673-5035.	NPRM in preparation	This rule would correct omissions and inconsistencies in the existing procedures for granting certificates and foreign air carrier permits.
	D26. INSURANCE FOR ON-DEMAND AIR TAXI OPERATORS AND CANADIAN AIR TAXIS (14 CFR PART 205, 298)	
Patricia Szrom, BDA, 202-673-5088, or Joseph Brooks, OGC, 202-673-5442.	NPRM, 46 FR 52585, October 27, 1981 (EDR-395B, Docket 37531). Comment period closed: December 28, 1981. Reply comment period closed: January 18, 1982. Scheduled for completion: June 1982.	This rule would set the minimum per-person aircraft accident liability insurance limits for U.S. and Canadian on-demand air taxi operators at $150,000, instead of at $300,000 as it is for other air carriers. The NPRM further includes alternative proposals to set the per-person limit at $75,000 or to eliminate all minimum amounts, requiring a public notice instead. Other rules for insurance coverage for these carriers would be as in 14 CFR Part 205, including the prohibition on safety-related exclusions.
	D27. ADHERENCE TO MONTREAL AGREEMENT FOR PASSENGER LIABILITY (14 CFR PART 205)	
Peter Schwarzkopf, OGC, 202-673-5928, or Joseph Brooks, OGC, 202-673-5442.	NPRM in preparation	This rule would require all U.S. and foreign air carriers to sign a counterpart to the Montreal Agreement, which waives the $10,000 liability limit and certain carrier defenses under the Warsaw Convention. Participating carriers in the Agreement could not limit their liability to less than $75,000 for passenger injury for travel in foreign air transportation.
	D28. INSURANCE FOR ALL-CARGO AND FOREIGN SMALL AIRCRAFT OPERATORS (14 CFR PARTS 205, 291)	
Joseph Brooks, OGC, 202-673-5442.	NPRM in preparation	This rule would equalize the insurance requirements for certificated air carriers and air taxi operators that utilize small aircraft for cargo service. Certificated carriers would have to maintain the same insurance as on-demand air-taxi operators. The insurance requirements for U.S. and foreign on-demand small aircraft operators would be equalized.
	D30. REGULATORY FLEXIBILITY ACT; DEFINITION OF SMALL BUSINESS (14 CFR PART 399)	
Mark Schwimmer, OGC, 202-673-5442.	Request for public comments in preparation	The Regulatory Flexibility Act, Pub. L. 96-354, directs agencies to consider the effects of their rules on small businesses and other small entities. It allows an agency to establish its own definition of "small business" when that would be more appropriate to the agency's activities than the one already established in 13 CFR Part 121 by the Small Business Administration. This notice would request comment on a Civil Aeronautics Board definition of "small business" for airlines.
	D31. GROUP CONTRACTOR EXEMPTIONS	
Mark Schwimmer, OGC, 202-673-5442.	NPRM in preparation	This rule would codify the Board's treatment of group contractors. A group contractor, like a charter operator, is an indirect air carrier that purchases air transportation from a direct air carrier and sells it to passengers as a principal rather than as an agent. Unlike charter operators, however, a group contractor is backed up financially by the direct carrier so that a passenger may look to the direct carrier for transportation or refund if the group contractor defaults. Group contractors are currently governed by Board Order 81-7-109, July 21, 1981, as modified by Order 82-3-132, March 24, 1982. They are sometimes referred to as "contract bulk fare operators."
	D32. EXPANSION OF ANTITRUST EXEMPTIONS (14 CFR PARTS 251, 287, 291)	
Gwyenth Jones, OGC, 202-673-6011.	Petition filed in Docket 40543. NPRM in preparation	Sections 408 and 409 of the Act require prior Board approval of certain interlocking and control relationships among air carriers, other common carriers, persons substantially engaged in the business of aeronautics, and others. The Board's rules already contain some exemptions from these requirements. On its own initiative and in response to a petition from Delta Airlines, the Board is considering whether and how to broaden the exemptions.

RULES UNDER REVIEW

Contact person	Action schedule	Description
	211-1. REDUCTION OF EVIDENCE REQUIRMENTS FOR FOREIGN AIR CARRIER PERMIT RENEWALS (14 CFR PART 211)	
Regis P. Milan, Jr., BIA, 202-673-5878.	NPRM in preparation	Under this rule, foreign air carriers applying for routine renewals or amendments of their permits would, if previous unopposed licensing proceedings had met certain evidentiary standards, be excused from resubmitting certain evidence whose continuing validity could be attested to.
	217-1. REPORTING OF CIVIL AIRCRAFT CHARTERS (14 CFR PARTS 217, 241)	
Jack Calloway, OC, 202-673-6042.	NPRM, 47 Fr——, April —, 1982 (EDR-441, Docket ——).	This rule would significantly reduce the Board's charter data reporting requirements by eliminating the reporting of domestic charters and limiting the reporting of international charters to those performed with aircraft of more than 60 seats or 24,000 pounds of payload.
	221-2 LIABILITY FOR LOST, DELAYED, AND DAMAGED BAGGAGE (14 CFR PART 221; PROPOSED 14 CFR PART 254	
Joanne Petrie, OGC, 202-673-5442, or Desta McDowell, OCCCA, 202-673-5191.	NPRM, 47 FR 5232, February 4, 1982 (EDR-438, Docket 40336). Comment period closed April 5, 1982. Reply comment closes May 5, 1982. Scheduled for completion: July 1982.	The Board is proposing to change its baggage liability rules in one of three ways as part of its review of consumer protection regulations prior to sunset. The first option would remove all baggage regulation, the second would mandate minimum carrier liability, and the third would codify the most significant aspects of the Board's current rules.
	223-1. MODIFICATION OR WITHDRAWAL OF EXEMPTION TO FOREIGN AIR CARRIERS TO CARRY TRAVEL AGENTS OR OTHER TRAVEL PROMOTERS FREE OR AT REDUCED RATES (14 CFR PART 223)	
Jeffrey Gaynes, BIA, 202-673-5035.	NPRM, 46 FR 36714, July 15, 1981 (EDR-428, Docket 39794). Supplememental NPRM, 46 FR 40696, August 13, 1981 (EDR-428A). Comment period closed August 21, 1981. Scheduled for completion: September 1982.	This rule would allow the Board to modify or terminate exemptions granted to foreign air carriers to carry travel agents or other travel promoters free or at reduced rates at any time without hearing, as the public interest may require.

RULES UNDER REVIEW—Continued

Contact person	Action schedule	Description
223-2. FREE AND REDUCED-RATE TRANSPORTATION (14 CFR PART 223)		
Mark Schwimmer, OGC, 202-673-5442.	NPRM in preparation	This rule would update the provisions governing free and reduced-rate transportation, which for domestic transportation have been largely superseded by the tariff flexibility rules (item B3 in the appendix).
234-1. ON-TIME ARRIVAL STANDARDS (14 CFR PART 234)		
Joanne Petrie, OGC, 202-673-5442.	Petition filed in Docket 27891. NPRM in preparation	The Aviation Consumer Action Project has petitioned the Board to restate its on-time arrival standards in terms of actual-versus-scheduled *arrival* times, instead of actual-versus-scheduled *elapsed* times.
241-1. AIR CARRIER FINANCIAL AND STATISTICAL REPORTING (14 CFR PART 241		
Jack Calloway, OC, 202-673-6042.	NPRM, 45 FR 85064, December 24, 1980, 46 FR 11827, February 11, 1980, (EDR-417, EDR-417A, Docket 39077). Comment period closed March 25, 1981. Reply comment period closed April 9, 1981. Scheduled for completion: April 1982..	As part of a major review of its largest reporting system, the Board expects to eliminate, consolidate, and refine a substantial number of financial and statistical reporting schedules to reduce reporting burdens on all certified air carriers. Particular emphasis will be placed on reducing the burdens of small air carriers.
241-2. AMENDMENT OF FUEL COST AND CONSUMPTION REPORTING (14 CFR PART 241)		
Jack Calloway, OC, 202-673-6042.	NPRM, 46 FR 21185, April 9, 1981 (EDR-422, Docket 39498). Comment period closed June 8, 1981. Reply comment period closed June 29, 1981. Scheduled for completion: July 1982.	This rule would reduce the amount of fuel information reported by air carriers each month, and delay the release of carrier-specific information until after the end of each quarter.
241-3. ALIGNMENT OF UNIFORM SYSTEM OF ACCOUNTS AND REPORTS WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPALES (14 CFR PART 241)		
Richard G. Minick, BCAA, 202-673-6041.	NPRM in preparation.	As part of the continuing effort to align the Board's accounting rules with generally accepted accounting principles, certain sections of the Uniform System of Accounts and Reports need to be deleted or amended. These changes would provide relief from the present requirementt for most carriers.
241-4. REVISE DEFINITION OF REVENUE AND NONREVENUE PASSENGERS (14 CFR PART 241)		
David Schaffer, OGC, 202-673-5442.	NPRM in preparation	The present definition of revenue and nonrevenue passengers for reporting purposes is stated in terms of the exemptions for free and reduced/rate transportation in sections 403(b) of the Act. These definitions have become outmoded in the process of fare deregulation. The Board is considering several options for revising these definitions.
245-1. EXEMPTIONS FROM REPORTING STOCK OWNERSHIP (14 CFR PARTS 245)		
Joanne Petrie, OGC, 202-673-5442, or David Fuss, BDA, 202-673-5088.	NPRM in preparation.	The Board is considering whether to change its rules to exempt owners of more than five percent of any class of capital stock or capital of airline from the filing of reports required by section 407(c) of the Act. The filing of these reports has been waived under delegated authority pending the outcome of this rulemaking
246.1 ELIMINATION OF REPORT STOCK OWNERSHIP OF AFFILIATES OF AIR CARRIER (14 CFR PART 246)		
David Fuss, BDA, 202-673-5088.	NPRM in preparation	The Board is considering eliminating a reporting requirement that affiliates of an airline disclose information on their major stockholders.
250-1. DENIED BOARDING COMPENSATION—EXTRA SECTIONS (14 CFR PART 250)		
Joanne Petrie, OGC, 202-673-5442.	NPRM, 45 FR 30066, May 7, 1980 (EDR-400, Docket 36294). Comment period closed July 7, 1980. Scheduled for completion June 1982..	Airlines are required to pay denied boarding compensation to passengers who are bumped from their flights. This rule would clarify the applicability of that requirement to extra sections of flights. The rule would also eliminate a minor exemption to the requirement. The Board is considering related issues in its general review of oversales (item 250-4 in this agenda).
250-4. GENERAL REVIW OF DENIED BOARDING COMPENSATION (14 CFR PART 250)		
Joanne Petrie, OGC, 202-673-5442, or Desta McDowell, OCCCA, 202-673-5191.	NPRM, 46 FR 62285, December 31, 1981 (EDR-436, Docket 39932). Comment period closed: March 8, 1982. Reply comment period closed: March 23, 1982. Scheduled for completion: June 1982..	The Board is coneidering whether to eliminate the present denied boarding compensation rule or to amend it to remove some inequities. This proposal is part of the Board's general review of its consumer protection rules.
262-1. AGREEMENTS CONCERNING OPERATING RIGHTS IN FOREIGN COUNTRIES (14 CFR PART 262)		
Joanne Petrie, OGC, 202-673-5442, or Nancy Trowbridge. BIA, 202-673-5134.	NPRM in preparation.	The Board is considering whether to revoke 14 CFR Part 262, which requires every U.S. air carrier to file with the Baord evidence of each agreement relating to operating rights between that air carrier and any foreign country.
293-1. ALASKAN SUBCONTRACT AGREEMENTS (14 CFR PART 293)		
David Schaffer, OGC, 202-673-5442.	NPRM, 46 FR 46592, September 21, 1981 (EDR-431/PDR-76, Docket 39990). Comment period closed: November 20, 1981. Scheduled for completion: August 1982..	Part 293 applies to subcontract agreements involving the operation of scheduled air services by air taxi operators over Alaskan bush routes of a certificated air carrier. The Board is considering whether to revoke this rule and replace it with different filing requirements.
298-2. ELIMINATION OF COMMUTER SCHEDULE FILING (14 CFR PART 298)		
Mark Schwimmer, OGC, 202-673-5442.	NPRM in preparation.	This rule would eliminate for some, and perhaps all, routes the requirement that commuter airlines file their schedules with the Board. Such a schedule-filing requirement has already been eliminated for domestic service by certificated airlines, and commuter schedule information from the Official Airline Guide (OAG) appears to be adequate for the Board's purposes.

RULES UNDER REVIEW—Continued

Contact person	Action schedule	Description
302-1. REQUESTS FOR CONFIDENTIAL TREATMENT OF MATERIALS FILED WITH THE BOARD (14 CFR PART 302)		
Mark Schwimmer, OGC, 202-673-5442.	NPRM in preparation.	This rule would revise the procedures governing requests for confidential treatment of material filed with the Board, to clarify the relation between those procedures and the Freedom of Information Act.
313-1. FUEL INFORMATION IN CERTIFICATE APPLICATIONS (14 CFR PARTS 313, 201)		
William J. Wagner, BIA, 202-673-5415.	NPRM in preparation.	To implement the goals of the Energy Policy and Conservation Act, the Board requires appicants for new operating authority to submit fuel information. This rule would eliminate that requirement in instances where it is unnecessary because the United States and a foreign country have agreed that new service is required by the public interest.
323-1. SERVICE TERMIANTIONS IN FOREIGN MARKETS (14 CFR PART 323)		
David Schaffer, OGC, 202-673-5442.	NPRM in preparation.	The Board recently eliminated all advance notice requirements for termiantions of service in foreign air transportation (PR-244). This has created problems in some limited designation markets where the incumbent carrier has terminated service without informing the Board. The Board is considering whether to require carriers to report to the Board if they are terminating foreign air service so that the Board would have time to find a replacement, if necessary.
370-1. EMPLOYEE RESPONSIBILITIES AND CONDUCT (14 CFR PARTS 370, 300)		
Kenneth G. Caplan, OGC 202-673-5790.	NPRM in preparation.	The Board is preparing revisions of its ethics rules to reflect experience since the last revision and to conform to the Ethics in Government Act, Pub. L. 95-521.
375-1. NAVIGATION OF FOREIGN CIVIL AIRCRAFT (14 CFR PART 375)		
George Wellington, BIA, 202-673-5878.	NPRM in preparation.	The Board is reviewing its regulations governing the navigation of foreign civil aircraft within the United States. The review will focus on simplifying and clarifying the procedures to be followed in obtaining operating authority, and on ensuring that conditions imposed on such operations satisfactorily serve the public interest.
379-1. NONDISCRIMIANTION IN FEDERALLY-ASSISTED PROGRAMS OF THE BOARD (14 CFR PART 379)		
David Schaffer, OGC, 202-673-5442.	NPRM in preparation.	The Board is reviewing its rules that implement Title VI of the Civil Rights Act of 1964, in response to suggestions from the Department of Justice.
389-1. CHANGE IN LICENSE AND FILING FEE SCHEDULES (14 CFR PART 389)		
Joseph Brooks, OGC, 202-673-5442.	Order 77-4-42, dated April 8, 1977. NPRM, 47 FR 7846, February 23, 1982 (ODR-25, Docket 20586). Comment period closed: April 20, 1982. Reply comment period closes: May 10, 1982. Scheduled for completion: August 1982..	Because of decisions in the Supreme Court and the U.S. Court of Appeals, the Board suspended its license fees in 1977. Its filing fees have also become outdated in relation to costs. The Board has begun a rulemaking to change its method for calculating filing fees and to bring them into line with current costs. It is also considering deleting the suspended license fees.
399-2. DOMESTIC PASSENGER FARE STANDARDS (14 CFR PART 399)		
Julien Schrenk, BDA, 202-673-5298.	NPRM, 47 FR, April 20, 1982 (PSDR-74, Docket 40584). Comment period closes: May 20, 1982. Reply comment period closes: June 4, 1982. Scheduled for completion:.	The Board has asked for comment on three possible ways of changing its domestic passenger fare flexibility rules. The three options are: 1) granting an additional 20 percentage points of upward flexibility above the present ceiling, which in Mainland markets is the Standard Industry Fare Level plus $16 plus 30 percent, 2) granting a percentage upward flexibility without the current fixed dollar amount, and 3) removing all upward pricing constraints in interstate and overseas air transportation except within Alaska. The notice is the result of a review of domestic air fares and is intended to prepare for the end of the CAB's domestic pricing authority on January 1, 1983.

APPENDIX—RULEMAKING COMPLETED OR TERMINATED SINCE PREVIOUS AGENDA

[Numbers in brackets are entry numbers from previous agenda]

Contact person	Status	Description
[B3] MAXIMUM TARIFFS (14 CFR PARTS 221, 296, 297)		
George Baranko, OGC, 202-673-6011, or Barry Molar, OGC, 202-673-5205.	NPRM, 45 FR 64864, September 24, 1980 (EDR-408, Docket 38746). Rulemaking terminated with respect to domestic transportation, 45 FR 38656, July 28, 1981 (EDR-408D). Rulemaking terminated with respect to international transportation, 47 FR 15144, April 8, 1982 (EDR-408E, issued December 18, 1981). NPRM on domestic tariff flexibility, 46 FR 38642, July 28, 1981 (EDR-429, Docket 39636). Final rule on domestic tariff flexibility, 46 FR 46787, September 22, 1981 (ER-1246).	This rule would have allowed airlines to file tariffs that state prices as maximum amounts instead of exact amounts, so that any price up to the maximum could be charged. The rule would have also allowed the payment of commissions to air freight forwarders and foreign air freight forwarders. With respect to international transportation, the Board has terminated the rulemaking because it found that the proposal had impeded the United States' ability to successfully pursue competitive policies in international negotiations. Payments to forwarders are being addressed in a separate proceeding (item B12 on this agenda). With respect to domestic transportation, the Board has terminated the maximum tariffs proposal and has begun and completed a separate proceeding on tariff flexibility. The new rule requires airlines to file tariffs stating unrestricted coach fares and, where different, the fares to construct joint fares for interline service. With certain exceptions for joint fares, airlines and travel agents are free, as a regulatory matter, to charge less than the amounts filed in the tariffs. However, airlines may individually continue the existing fixed-price system by requiring their agents, by contract, to charge exactly the amounts filed in tariffs.
[C1] CHARTER FLIGHT DELAYS (14 CFR PARTS 207, 208, 212)		
Mark Schwimmer, OGC, 202-673-5442.	NPRM, 42 FR 64905, December 29, 1977 (EDR-343, Docket 31229). Rulemaking terminated, 47 FR 7443, February 19, 1982 (EDR-439/SPDR-86).	This rule would have tightened the existing rules on flight delays by U.S. charter airlines and extended those rules to passenger charter flights of all types of direct air carriers, other than air taxi operators. The Board terminated this rulemaking as part of its proposal to revise and simplify the charter rules (item C10 of this agenda). The Board concluded that the marketplace will deal adequately with the problem of flight delays.

APPENDIX—RULEMAKING COMPLETED OR TERMINATED SINCE PREVIOUS AGENDA—Continued

[Numbers in brackets are entry numbers from previous agenda]

Contact person	Status	Description
	[C2] ESCROW ACCOUNTING FOR PUBLIC CHARTERS (14 CFR PART 380)	
Mark Schwimmer, OGC, 202-673-5442.	NPRM, 44 FR 32399, June 6, 1979, (SPDR-69, Docket 35705). Rulemaking terminated, 47 FR 7442, February 19, 1982 (EDR-439/SPDR-86).	This rule would have amended the escrow system for the protection of Public Charter passengers' funds, to simplify the accounting procedures and to eliminate a limitation on disbursements by the escrow bank. This proceeding was suspended by, and terminated as a part of, the Board's proposal to revise and simplify the charter rules (item C10 of this agenda).
	[C3] REGISTRATION OF FOREIGN CHARTER OPERATORS (14 CFR PARTS 211, 215, 380, 385)	
David Schaffer, OGC, 202-673-5442.	Final rules, 46 FR 56601, November 18, 1981 (ER-1263, ER-1264, SPR-179, OR-188). Change in effective date, 47 FR 5204, February 4, 1982 (SPR-183, OR-189).	This rule replaces the requirement that foreign charter operators obtain a foreign air carrier permit under section 402 of the Federal Aviation Act with a simple registration requirement, to ease market entry and promote competition.
	[C8] USING INSURANCE POLICIES TO PROTECT PUBLIC CHARTER PASSENGERS, FUNDS (14 CFR PARTS 207, 208, 212, 380)	
David Schaffer, OGC, 202-673-5442.	NPRM, 45 FR 63500, September 25, 1980 (EDR-407/SPDR-79). Rulemaking terminated, 47 FR 7443, February 19, 1982 (EDR-439/SPDR-86).	This rule would have authorized insurance plans as an additional alternative to the security arrangements now permitted for Public Charter passengers' funds. This proceeding was suspended by, and terminated as a part of, the Board's proposal to revise and simplify the charter rules (item C10 on this agenda).
	[C9] REMOVAL OF PROHIBITION AGAINST PART CHARTERS (14 CFR PARTS 207, 208, 212, 380)	
Mark Schwimmer, OGC, 202-673-442.	Final rules, 47 FR 134, January 5, 1982 (ER-1275/ER-1276/ER-1277/SPR-182).	Section 401(n)(1) of the Act states that no carrier certificated under section 401 may commingle, on the same flight, charter passengers and scheduled passengers. That prohibition ceased to be in effect on December 31, 1981. These rules eliminated the various provisions in the Board's charter rules that would otherwise have continued to prohibit commingling of passengers.
	[D6] AMENDMENT OF SERVICE SEGMENT DATA REPORTING (14 CFR PART 241)	
Jack Calloway, OC, 202-673-6042.	Petition for rulemaking denied (Order 81-12-9, December 1, 1981, Docket 39387). Petition for reconsideration filed on December 22, 1981..	USAir petitioned the Board to reduce the level of domestic service segment data reported by large carriers to the same level of detail reported by small carriers. USAir alleged that the public availability of the more detailed data filed by larger carriers placed them at a competitive disadvantage. The Board denied the petition, but granted limited confidential treatment of service segment data to the extent that comparable data are not required from smaller carriers.
	[D7] EXEMPTION FROM REPORT ON FINANCIAL INTERESTS (14 CFR PARTS 245, 246)	
Joanne Petrie, OGC, 202-673-5442.	Final rule, 47 FR 761, January 7, 1982 (EDR-1280, ER-1281).	This rule exempts officers and directors of air carriers from certain shareholder reporting requirements in section 407(c) of the Act.
	[D14] EMPLOYEE PROTECTION PROGRAM (PROPOSED 14 CFR PART 314)	
Steven B. Farbman, BDA, 202-673-5340.	Final rule, 47 FR 9774, March 5, 1982 (PR-245)	Section 43 of the Airline Deregulation Act of 1978 established an employee protection program. Eligible protected employees may receive monthly assistance payments from the Secretary of Labor if the Board determines that a qualifying dislocation of an airline has taken place. This rule sets forth procedures for those Board determinations.
	[D15] ELIMINATION OF AIRPORT NOTICERS AND APPROVED SERVICE PLANS (14 CFR PARTS 202 AND 213)	
Ira Leibowitz, BIA, 202-673-5203.	Final rules, 47 FR 10516, March 11, 1982 (ER-1287, ER-1288, OR-193, OR-194).	The Board discontinued its airport notice and approved service plan requirements, as well as several unnecessary operating restrictions.
	[D22] CONTINUANCE OF EXPIRED AUTHORIZATIONS BY OPERATION OF LAW FOR FOREIGN AIR CARRIERS AND OTHER NON-U.S. CITIZENS. (14 CFR PART 377)	
Jeffrey Gaynes, BIA, 202-673-5035.	Final rule, 47 FR 7211, February 18, 1982 (SPR-184)	This rule amended Part 377 to relieve foreign air carriers and other non-U.S. citizens from the 60-day advance filing requirement for renewal of certain foreign air carrier permits and exemptions.
	[D23] IMPEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT (14 CFR PART 373)	
Joanne Petrie, OGC, 202-673-5442.	Final rule, 47 FR 16006, April 14, 1982 (SPR-186)	The Equal Access to Justice Act authorizes the award of Attorneys' fees and other expenses to certain private litigants who prevail against the United States in adversary adjudications. The rule implements the Act by providing a procedure for applications and processing of awards.
	[D25] DUAL AUTHORITY AFTER DOMESTIC ROUTE DEREGULATION (14 CFR PART 298)	
Mark Schwimmer, OGC, 202-673-5442.	Final rule, 47 FR 604, January 6, 1982 (ER-1278)	The Board's previous "dual authority" rule included exemptions that allowed certificated air carriers to operate with small aircraft under the air taxi rule as if they were air taxi operators. For passenger service, the exemptions were limited to flights outside the carrier's certificated route system. This rule removed that route limitation, so that all of a certificated carrier's passenger operations with small aircraft are considered as operations under the air taxi rule. There is a special provision for service within Alaska.
	[202-1] FORMAT OF CERTIFICATES BEGINNING JANUARY 1, 1982 (14 CFR PART 202)	
Donald Horn, OGC, 202-673-5205, or David Schaffer, 202-673-5442.	Final interpretation, 46 FR 62885, December 18, 1981 (Docket 40206).	The termination of the Board's authority to include terminal and intermediate points in domestic certificates after December 31, 1981, posed questions about the form of section 401 certificates authorizing the carriage of cargo and mail. The Board interpreted the Act as not requiring it to specify terminal and intermediate points in airline certificates authorizing cargo and mail service, except in Alaska. This cleared the way for airlines to serve any U.S. point without first obtaining Board approval.

APPENDIX—RULEMAKING COMPLETED OR TERMINATED SINCE PREVIOUS AGENDA—Continued

[Numbers in brackets are entry numbers from previous agenda]

Contact person	Status	Description
[221-1] FLEXIBILITY N CHARGING APPLICABLE THROUGH OR LOCAL FARE (14 CFR PART 221)		
Joanne Petrie, OGC, 202-673-5442.	Final rule, 47 FR 1947, March 26, 1982 (ER-1292)	The Board removed the fare precedence rule in order to give carriers and their agents flexibility to charge the lowest possible fare or rate.
[298-1] REVISION IN THE DEFINITION OF COMMUTER AIR CARRIER (14 CFR PART 298)		
David Schaffer, OGC, 202-673-5442.	Final rules, 47 FR 12945, March 26, 1982 (ER-1289, ER-1290, ER-1291).	This rule changes the definition of commuter air carrier so as to remove small all-cargo and mail carriers from the classification. This reduces the regulatory burdens on these carriers. Passenger commuters are not affected.
[315-1] INFORMATION SUBMITTED IN MERGER APPLICATIONS (14 CFR PART 315)		
David Schaffer, OGC, 202-673-5442.	Final rule, 47 FR . April , 1982 (PR-)	This rule sets forth the information that must be submitted with a section 408 merger application. It was adopted to enable the Board to meet the 6-month deadline imposed by the Act for issuing a final order or decision in a merger case.
[322-1] AUTOMATIC MARKET ENTRY PROGRAM (14 CFR PART 322)		
David Schaffer, OGC, 202-673-5442.	Final rule, 46 FR 63242, December 31, 1981 (PR-232)	Part 322 implemented section 401(d)(7) of the Act by establishing procedures whereby a carrier may apply and automatically receive one new domestic certificated route per year. The rule revoked Part 322 because its statutory authority terminated and certificated carriers may now serve new routes without applying for authority from the Board.
[323-1] SUSPENSION NOTICES AFTER JANUARY 1, 1982 (14 CFR PART 323)		
David Schaffer, OGC, 202-673-5442.	Final rule, 47 FR 7393, February 19, 1982 (PR-244)	Since January 1, 1982, the Act has required carriers to file termination notices only when the suspension would affect a community's essential air service. This rule eliminates most notices now required by Part 323 and requires a few new ones to ensure that the Board retains the capability to monitor essential service levels at eligible points.
[323-2] ELIMINATION OF SUSPENSION NOTICES FOR FOREIGN AIR TRANSPORTATION (14 CFR PARTS 323, 231)		
David Schaffer, OGC, 202-673-5442.	Final rule, 47 FR 7393, February 19, 1982 (PR-244)	This rule eliminated the requirements in 14 CFR Part 323 for suspension notices in foreign air transportation, which does not involve essential air service.
[380-1] PROTECTION OF CHARTER PARTICIPANTS' FUNDS (14 CFR PARTS 372, 380)		
Mark Schwimmer, OGC, 202-673-5442.	NPRM, 42 FR 61408, December 2, 1977 (SPDR-63, Docket 31735). Rulemaking terminated, 47 FR 7442, February 19, 1982 (EDR-439, Docket 35705).	This proceeding to review the Board's rules was superseded by, and terminated as a part of, the Board's broader proposal to revise and simplify the charter rules (item C10 of this agenda).
[380-2] ELIMINATION OF PROSPECTUS FILING FOR PUBLIC CHARTERS (14 CFR PART 380)		
Mark Schwimmer, OGC, 202-673-5442.	Consolidated into item C10	Currently a charter operator cannot begin to market a Public Charter until at least 10 days after it files a prospectus with the Board. If the Board disapproves the prospectus, the delay can be longer. The prospectus must include a flight schedule and tour itinerary (if any). It must also include certifications that the charter operator has entered into a charter contract with an airline and made certain arrangements for the protection of passengers' funds. The rule proposed in item C10 of this agenda would replace the prospectus-filing requirement with new, simplified procedures.

[FR Doc. 82-13195 Filed 5-14-82; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 29

Advisory Circular for Certification of Transport Category Rotorcraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft Advisory Circular and request for comments.

SUMMARY: The draft Advisory Circular on Transport Category Rotorcraft is intended to provide guidance material for demonstrating compliance with the requirements of Part 29 of the Federal Aviation Regulations.

DATE: Commenters must identify file AC 29–X number and comments must be received on or before July 23, 1982.

ADDRESSES: Send all comments on the draft Advisory Circular to: Federal Aviation Administration, Attn: Helicopter Policy and Procedures Staff (ASW–110), P.O. Box 1689, Fort Worth, TX 76101.

Comments received on the draft Advisory Circular may be inspected at the offices of The Helicopter Policy and Procedures Staff (ASW–110) 2nd floor, Building 3A, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas, between 8 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Plummer, Aerospace Engineer, Helicopter Policy and Procedures Staff (ASW–110), Aircraft Certification Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. Commercial telephone (817) 624–4911, extension 503, or FTS 736–9503.

SUPPLEMENTARY INFORMATION:

Comments Invited

The first two pages of the Advisory Circular 29–X are published below. These pages give an overview of the intent of the document. Copies of these pages and the second draft of technical material showing acceptable methods of compliance with Part 29 are being mailed to all known affected industry and Government entities, both domestic and foreign. Previous comments by the industry and other FAA offices on the first draft of each paragraph of the technical material were considered in

developing this second draft. Any interested person not receiving a copy of this second draft and desiring one should contact the person named above under "FOR FURTHER INFORMATON CONTACT."

A public meeting will be held in the FAA Southwest Regional Office training room, ground floor, Building 3B, 4400 Blue Mound Road, Forth Worth, Texas, on July 8, 1982, at 8 a.m., for the purpose of allowing interested parties to verbally deliver their written comments.

Issued in Fort Worth, Texas, on May 3, 1982.

C. R. Melugin, Jr.,

Director, Southwest Region.

[AC 29-X]

Advisory Circular—FAR Guidance Material

Certification of Transport Category Rotorcraft

1. *Purpose.*—a. This advisory circular is one method being utilized to achieve national standardization in rotorcraft certification.

b. This guidance material covers FAA policy regarding methods of compliance with Part 29 of Subchapter C, Chapter 1, Title 14 of the Code of Federal Regulations. Part 29 contains the Airworthiness Standards for Transport Category Rotocraft.

c. This guidance material is based largely on precedents set during helicopter certification programs spanning the past 25 years. This material consolidates policy contained in earlier correspondence between FAA Headquarters, the rotocraft industry, and certificating regions.

d. This advisory circular covers methods of compliance in the areas of basic design, ground tests, flight tests.

e. This material is intended as a ready reference for rotorcraft manufacturers, modifiers, FAA design evaluation engineers, flight test engineers, and engineering flight test pilots.

f. Initially this advisory circular is being published before policy material is developed for all sections of Part 29. The first issue covers the most complex and controversial sections. Revisions covering additional sections will be published as soon as practicable.

2. *Cancellation.* Order 8110.32, "Engineering Flight Test Guide for Transport Category Helicopters," dated May 5, 1978, is canceled. Portions of that order are contained in this advisory circular.

3. *Background.* FAA Order 8110.32, approved May 5, 1978, was published for internal use to describe acceptable methods of compliance with the flight test portions of Federal Aviation Regulation (FAR) Part 29. The FAA has now developed more comprehensive material which covers all disciplines of transport rotorcraft certification. This advisory circular was chosen as a medium to achieve distribution of this material to all affected persons.

4. *Deviations.* As rotorcraft designs vary from the conventional configurations it may become necessary to deviate from the methods and procedures outlined herein. These procedures are one acceptable means of compliance with Part 29. Any alternate means proposed by the applicant should be given due consideration. Major deviations from these procedures should be coordinated with the Helicopter Policy and Procedures Staff, ASW-110, in order to assure national standardization.

5. *Applicability.* Each paragraph has the applicable Part 29 amendment shown in the title. As Part 29 revisions occur, the appropriate revisions will be made to the affected paragraphs of this advisory circular.

This material is not to be construed as having any legal status and must be treated accordingly. However, to assure standardization in the certification process, these procedures should be applied to all rotocraft type certification and supplemental type certification activity.

6. *Related publications.* Certification personnel should be familiar with Order 8110.4, Type Certification and Notice N8100.5, Interim Operating Procedures for Aircraft Certification Directorates. The material in Chapter 1 of this advisory circular is closely related to Order 8110.4, however, duplication of procedures contained therein was not intended.

Throughout this advisory circular reference is made to other FAA advisory circulars and orders. Republishing these documents as a part of this advisory circular was not considered to be in the best interest of utilization of FAA resources.

7. *How to order.* Initial distribution is intended to include all interested persons. However, a free copy of this advisory circular is available by writing U.S. Department of Transportation, Publishing Section, M-443.1, Washington, D.C. 20590.

[FR Doc. 82-13198 Filed 5-14-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASO-18]

Proposed Alteration of Control Zone and Transition Area, Asheville, North Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to alter the Asheville, North Carolina, Control Zone and Transition Area. In order to satisfy operational needs, changes have been made in instrument flight procedures at Asheville Regional Airport. In addition, a new ILS instrument approach procedure is being established to serve the airport. It is necessary to alter the Control Zone and Transition Area descriptions to reflect the changes and provide required controlled airspace for containment of Instrument Flight Rule (IFR) aircraft operations.

DATES: Comments must be received on or before: June 20, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Chief, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined 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: Donald Ross, 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 parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. ——." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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. 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 procedure.

The Proposal

The FAA is considering an amendment to § 71.171 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of the Asheville, North Carolina, Control Zone and transition Area as follows: (1) increase the width and lengths of the control zone extensions to provide controlled airspace for IFR aircraft operating at an altitude of less than 1000 feet above the surface, (2) increase the size of the transition area to provide controlled airspace for IFR aircraft executing procedure turn maneuvers associated with various instrument approach procedures when such aircraft are operating at less than 1500 feet above the surface and (3) provide additional controlled airspace for aircraft flying diverse radar vectors while operating at low altitudes within the Asheville Terminal Radar Service Area (TRSA). Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by deleting the present description of the Asheville, North Carolina, Control Zone and Transition Area and substituting the following therefor:

Asheville, North Carolina Control Zone—Revised

Within a 5-mile radius of Asheville Regional Airport (Lat. 35°26'04"N., Long. 82°32'25"W.); within 3 miles each side of Runway 16/34 extended centerlines, extending from the runway thresholds to 11.5 miles north and south of the airport.

Asheville, North Carolina, Transition Area—Revised

That airspace extending upward from 700 feet above the surface within a 20-mile radius of Asheville Regional Airport (Lat. 35°26'04"N., Long. 82°32'25"W.); within 7 miles west and 9.5 miles east of the 340° bearing from Keans LOM and the 160° bearing from Broad River RBN, extending from the 20-mile radius area to 18.5 miles north of the LOM and south of the RBN; excluding that portion that coincides with the Cullowhee, North Carolina, Transition Area.

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

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

Issued in East Point, Georgia, on May 5, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-13238 Filed 5-14-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ASW-23]

Proposed Alteration of Transition Area: Paragould, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes alteration of a transition area at Paragould, AR. The intended effect of the proposed action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Paragould Muncipal Airport, AR. This action is necessary to provide protection for aircraft executing a new instrument approach procedure using a nondirectional radio beacon (NDB) located 4.5 miles southwest of the airport at latitude 36°01'48" N., longitude 90°35'49" W. This NDB is being relocated from an on-airport site and is being renamed Walcott NDB.

DATES: Comments must be received on or before June 16, 1982.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

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:

History

Federal Aviation Regulation, Part 71, Subpart G § 71.181 as republished in Advisory Circular AC 70-3 dated January 29, 1982, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area at Paragould, AR, will necessitate an amendment to this subpart. This amendment will be required at Paragould, AR, since there is a proposed change in IFR procedures to the Paragould Municipal Airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-ASW-23." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing

each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 624–4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Paragould, AR Revised

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Paragould Municipal Airport, AR (latitude 36°03'41" N., longitude 90°30'41" W.), and within 2.5 miles each side of the 247° magnetic bearing from the Walcott NDB (latitude 36°01'48" N., longitude 90°35'49" W.) extending from the 5-mile radius to 11 miles southwest of the NDB, excluding the portion within the Jonesboro, AR Contol Zone.

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

Issued in Fort Worth, TX, on May 5, 1982.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 82-13237 Filed 5-14-82; 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1610

Standard for the Flammability of Clothing Textiles; Proposed Enforcement and Administrative Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to issue a rule for the enforcement and administration of the Flammable Fabrics Act (FFA) regarding the use of tests other than the one in the Standard for the Flammability of Clothing Textiles (the Standard) to support guaranties for items subject to the Standard. The Commission proposes this rule in response to requests from manufacturers to use alternate test apparatus and alternate procedures for testing garments and fabrics under FFA standards. The proposed rule interprets the phrase "reasonable and representative tests," as it is used in section 8 of the FFA, to include any alternate test utilizing apparatus or procedures, other than those specified in the Standard, if the alternate test is as stringent as, or more stringent than, the test in the Standard. The purpose of the proposed rule is to set forth conditions under which persons and firms issuing guaranties for items subject to the Standard may base those guaranties on tests using apparatus or procedures other than those in the Standard.

DATES: Interested persons are invited to submit, on or before, July 16, 1982 written comments concerning the proposed rule.

Proposed Effective Date: The Commission proposes that the rule regarding use of alternate tests to support guaranties for items subject to the Standard become effective 30 days after it is issued in final form.

ADDRESS: Comments and any accompanying material should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, and titled "Clothing Textiles Standard, Proposed Rule Concerning Alternate Test Apparatus."

FOR FURTHER INFORMATION CONTACT: L. James Sharman, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492–6554.

SUPPLEMENTARY INFORMATION: The Standard for the Flammability of Clothing Textiles (the Standard, 16 CFR Part 1610) and the Flammable Fabrics Act (FFA, 15 U.S.C. 1191 *et seq.*) require that articles of wearing apparel and fabrics used or intended for use as clothing textiles must not exhibit "rapid and intense burning" when tested in accordance with the Standard.

The manufacture for sale, importation into the United States, or introduction in commerce of any item of wearing apparel or fabric which is subject to the Standard and which exhibits "rapid and intense burning" when tested in accordance with the Standard violates section 3 of the FFA (15 U.S.C. 1192) and section 5 of the Federal Trade Commission Act (FTCA, 15 U.S.C. 45). Such a violation may give rise to an administrative order to cease and desist from further violation of the FFA and FTCA, as well as to a civil action in a United States District Court under provisions of the FFA for injunction, or for seizure of items which fail to comply with an applicable standard of flammability.

In addition to seeking an administrative order, or initiating civil actions for violation of the Standard, the FFA, and the FTCA, the Commission may also proceed under section 7 of the FFA (15 U.S.C. 1196) to seek criminal penalties against any person who "willfully" violates the FFA.

Section 8(a) of the FFA (15 U.S.C. 1197(a)) provides that no person shall be subject to criminal prosecution under section 7 of the FFA if that person establishes a guaranty received in good faith which meets all requirements set forth in section 8 of the FFA. (A guaranty does not provide the holder any defense to an administrative action for an order to cease and desist from further violation of the applicable standard, the FFA, and the FTCA, nor to any civil action for injunction or seizure brought under the FFA.)

Requirements For Guaranties

Among the requirements established for a guaranty by section 8(a) of the FFA is that it must be based upon "reasonable and representative tests" conducted in accordance with the applicable standard. Section 8(b) of the FFA (15 U.S.C. 1197(b)) prohibits the issuance of a "false guaranty."

On July 8, 1980, Milliken Research Corporation (Milliken) submitted a petition (FP 80–3) requesting the Commission to amend the Standard to allow use of an alternate test utilizing different apparatus and procedure than those specified in the Standard. (9) [1] A

[1] Numbers in parentheses identify reference documents listed in Bibliography at the end of this notice. Requests for inspection of any of these documents should be made at the Commission's

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memorandum of a telephone conversation on November 20, 1980, between a member of the Commission staff and the author of the petition indicates that Milliken desired to use the alternate test for purposes of supporting guaranties of fabrics subject to the Standard. (12)

The petition from Milliken described the alternate test apparatus and procedures and stated that results obtained using the alternate test for two fabrics styles had been compared with results from tests conducted in accordance with the Standard on several hundred samples. According to the petition, the alternate test yielded results which were identical to (or slightly more severe than) results obtained from testing in accordance with the Standard. (9)

The petition stated that use of the alternate test could reduce the burden of testing to Milliken by approximately 75 per cent. (9)

The Commission staff prepared a briefing package which recommended that the Commission grant the relief requested in the Milliken petition by allowing persons and firms issuing guaranties to use alternate apparatus for testing to support guaranties, rather than by amending the Standard to change the apparatus to be used for testing by the Commission. (8)

Requests for inspection of the petition, the staff briefing package, or any other documents relating to the petition should be made at the Commission's public reading room, 1111 18th Street, N.W., eighth floor, Washington, D.C., or by calling the Office of the Secretary at (301) 492-6800.

Staff Analysis Petition

Included in the briefing package was a memorandum dated October 29, 1980 from the Division of Regulatory Management, Directorate for Compliance and Enforcement, which observed that section 8(a) of the FFA, establishing requirements for guaranties, is to some extent analogous to section 14 of the Consumer Product Safety Act (CPSA, 15 U.S.C. 2063), which sets forth requirements for certificates of compliance with safety standards issued under the CPSA. (11) (A major difference between the two acts is that issuance of a guaranty is optional under the FFA for a manufacturer, importer, or other person or firm initially introducing an item subject to a flammability standard into commerce, whereas issuance of a certificate of compliance with the applicable standard is mandatory for the manufacturer, importer, or private labeler of a product subject to a safety standard issued under the CPSA.)

Unlike the FFA, Section 14 of the CPSA requires issuance of the certificate of compliance if a product is subject to a safety standard issued under that act. Section 14(a) of the CPSA provides that the certificate shall be based upon a test of each product, or upon a "reasonable testing program."

Section 14(b) of the CPSA authorizes the Commission to issue regulations to prescribe reasonable testing programs for products subject to standards issued under that act. However, as a general practice, the Commission has not issued regulations to specify detailed requirements for testing programs to support certificates of compliance.

The memorandum from the Division of Regulatory Management recommended issuance of an interpretation of section 8 of the Flammable Fabrics Act to allow use of test apparatus and procedures other than those specified in the Clothing Textiles Standard for purposes of supporting guaranties of items subject to that Standard, provided that the person or firm using such alternate apparatus or procedure has data or other information to establish that tests conducted with the alternate apparatus or procedures are as stringent as, or more stringent than, tests conducted using the apparatus and procedures specified by the Standard. By issuance of such an interpretation, the commission would give manufacturers issuing guaranties for items subject to the Clothing Textiles Standard the same kind of flexibility afforded to manufacturers issuing certificates of compliance for items subject to consumer product safety standards issued under the CPSA.

The memorandum from the division of regulatory Management noted that by requiring the person or firm relying on alternate test apparatus or procedures to establish the equivalency of results with those obtained from testing in accordance with the Standard, the Commission would be able to avoid expenditure of large amounts of its resources on evaluation of proposed alternate test apparatus and procedures.

Commission Decision On Petition

After consideration of the Milliken petition, the staff briefing package, and other relevant information received during the briefing on January 14, 1981, the Commission voted on January 14, 1981 to propose an interpretation of section 8(a) of the FFA as follows:

(1) For purposes of supporting guaranties for items subject to the Standard, the term "reasonable and representative tests" as used in section 8(a) of the FFA includes the test specified in the Standard, and any alternate test utilizing apparatus and procedures other than those in the Standard, if that alternate test is as stringent as, or more stringent than, the test in the Standard. (13, 14) The rule proposed below provides that the Commission will consider an alternate test to be "as stringent as, or more stringent than" the test in the Standard if, when testing identical specimens, the alternate test yields failing results as often as, or more often than, the test in the standard.

(2) Specific approval from the Commission in advance of the use of any alternate test to support guaranties for items subject to the Standard is not required. However, any person or firm using an alternate test to support guaranties must have data or other information to demonstrate that the alternate test is as stringent as, or more stringent than, the test in the Standard. (13, 14)

(3) The Commission will test fabrics and garments subject to the Standard for compliance with the Standard using the apparatus, procedures, and criteria set forth in the Standard. The Commission may consider any failing results from compliance testing as evidence that the item in question failed to comply with the Standard, and that any guaranty issued for that item is a false guaranty in violation of section 8(b) of the FFA. (13, 14)

The staff briefing package suggested that the interpretation of the FFA and the standards in question could take the form of statements of policy and interpretation. After consideration of that package and an oral briefing by the staff, the Commission voted to propose statements of policy and interpretation. (13, 14)

However, in this notice, the Commission is proposing a regulation for the enforcement and administration of the FFA, under the authority conferred by section 5(c) of that act (15 U.S.C. 1194(c)). The Commission believes that the term "enforcement and administrative rule" describes the proposal published below more accurately than the term "statement of policy and interpreation" for the following reason. The rule proposed below, if issued on a final basis, could have a substantive impact on the obligations of persons and firms issuing guaranties of items subject to the Clothing Textiles Standard. The

public reading room, 1111 18th Street, N.W., Eighth Floor, Washington, D.C., or by calling the Office of the Secretary at (301) 492-6800.

hallmark of a policy statement is that it has no such substantive impact. Although the proposal published below is for an enforcement and administrative rule, it will not amount to an amendment of the Standard itself. As noted above, the Commission will continue to use the apparatus and procedures prescribed by the Standard when testing items subject to its requirements.

Related Proposal

The memorandum from the Division of Regulatory Management concerning the Milliken petition noted that in 1975, the Commission had received a request from a manufacturer of children's sleepwear for approval of an alternate test apparatus for use in testing for compliance with the Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (16 CFR Part 1616). (11,1) That memorandum and the staff briefing package recommended that any interpretation of the FFA to allow use of alternate apparatus for testing to support guaranties of items subject to the Clothing Textiles Standard should also extend to use of alternate apparatus for testing under the Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (16 CFR Part 1615) and the Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (16 CFR Part 1616). (11)

When the Commission considered the question of use of alternate tests to support guaranties for items subject to the Clothing Textiles Standard (Part 1610), it supported the staff recommendation and also voted to extend the interpretation to include use of alternate tests for purposes of complying with the two children's sleepwear flammability standards, and supporting guaranties of items subject to the children's sleepwear standards. (13,14) Elsewhere in this issue of the Federal Register, the Commission has proposed enforcement and administrative rules concerning use of alternate tests for purposes of compliance with the children's sleepwear standards and supporting guaranties of items subject to those standards.

Certification Of No Significant Economic Impact On Small Entities

The Regulatory Flexibility Act (RFA, Pub. L. 96-354) requires that after January 1, 1981, whenever an agency of the Federal government publishes a proposal under the Administrative Procedure Act (5 U.S.C. 553), it should endeavor to give particular consideration to small businesses, small non-profit organizations, and small local governments (collectively called "small entities") that may be subject to the agency's requirements.

Specifically, the RFA requires that before publication of a proposal, the agency must either:

(1) Prepare an initial regulatory flexibility analysis of the probable effect of the proposal on small businesses and other small entities in accordance with section 603 of the RFA (5 U.S.C. 603); or

(2) Determine that the proposal, if issued on a final basis, will not have a "significant economic impact on a substantial number of small entities," and prepare a certification to that effect to be signed by the head of the agency in accordance with section 605(b) of the RFA (5 U.S.C. 605(b)). If a certification of no significant impact is made, it must published in the **Federal Register** at the time notice is given of proposed rule-making, together with a succinct explanation of the reasons for the certification. In accordance with provisions of section 605(b) of the RFA, the Commission has certified that the proposed rule to allow use of alternate test apparatus and procedures will not have a significant economic impact on a substantial number of small entities.

Manufacturers, importers, and other persons or firms initially introducing items which are subject to the Clothing Textiles Standard (such as converters) are required to test items subject to the clothing textiles standard only when they issue guaranties for those items. Issuance of guaranties for items subject to the Clothing Textiles Standard is not required by that standard or the FFA, but is optional for the person or firm initially introducing those items into commerce. The rule proposed below does not require any person or firm not already issuing guaranties to begin doing so, or prohibit any person or firm presently issuing guaranties from discontinuing the issuance of such guaranties.

The proposal published below would not impose any new requirements on any person or firm issuing guaranties of items subject to the Clothing Textiles Standard. Rather, the proposed rule would allow persons and firms currently subject to existing requirements for testing to support guaranties to use test apparatus and procedures other than those specified in the Standard if they elect to do so.

The Commission decided to propose the rule in response to a request from a firm which claimed that by use of an alternate test apparatus, it could reduce the costs of testing required to support guaranties. If the Commission issues the rule on a final basis, the option of using alternate test apparatus and procedure would be available to that firm and all others now required to perform testing.

However, if any person or firm concludes that use of alternate test apparatus or procedures under the conditions specified in the proposal would not reduce testing costs or offer any other advantage, that person or firm is free to continue using the apparatus and procedures specified in the standard when testing to support guaranties.

Environmental Considerations

The rule proposed below falls within the categories of Commission actions described in 16 CFR 1021.5(c) that have little or no potential for affecting the human environment. For this reason, neither an environmental assessment nor an environmental impact statement is required.

Comments Solicited

As stated above, the Commission has reason to believe that if the rule proposed below were issued on a final basis, manufacturers of fabrics and garments subject to the clothing textiles standard and the children's sleepwear standards would be able to reduce their costs of compliance with those Standards and the FFA by using alternate test apparatus or procedures. The Commission also has reason to believe that use of alternative test apparatus or procedures under the conditions set forth in the proposal would not reduce the level of protection currently afforded to the public.

The Commission has published the proposed rule for public comment in order to obtain any additional information and views about these proposals which may be available from interested parties, including consumers and manufacturers.

The Commission specifically solicits comments from persons and firms issuing guaranties under the Clothing Textiles Standard on the following topics:

1. Whether individual firms would use alternate test apparatus or procedures for testing under the conditions set forth in the proposal.

2. If the answer to item one, above, is in the affirmative, estimates of savings in the cost of testing anticipated by such a person or firm from use of alternate test apparatus or procedures in accordance with the conditions specified in the proposal. The Commission desires information about the estimated number of hours of testing which might be eliminated annually, as well as the dollar amount of savings which might be achieved each year if

the proposed policy statements were issued on a final basis. The Commission also desires to know the method by which such estimates of savings are calculated.

3. Whether the proposed rule could be modified to increase savings to persons and firms testing under the standard, either in terms of hours required for testing, or total dollar costs of testing each year. Comments addressed to this issue are requested to suggest specific modifications, and to explain the amounts of additional savings of hours required for testing or dollar costs which could be expected to result from such modification.

List of Subjects in 16 CFR Part 1610

Clothing, Consumer protection, Flammable materials, Textiles, Warranties, Records.

Conclusion and Proposal

Therefore, in accordance with provisions of the Flammable Fabrics Act (15 U.S.C. 1194), and the Consumer Product Safety Act (15 U.S.C. 2079), the Commission proposes to amend the Code of Federal Regulations, Title 16, Chapter II, Sub-chapter B as follows:

PART 1610—STANDARD FOR THE FLAMMABILITY OF CLOTHING TEXTILES

Part 1610, Subpart B is proposed to be amended by adding a new § 1610.40 to read as follows:

§ 1610.40 Use of alternate apparatus, procedures, or criteria for tests for guaranty purposes.

(a) Section 8(a) of the Flammable Fabrics Act (FFA, 15 U.S.C. 1197(a)) provides that no person shall be subject to criminal prosecution under section 7 of the FFA (15 U.S.C. 1196) for a violation of section 3 of the FFA (15 U.S.C. 1192) if that person establishes a guaranty received in good faith which meets all requirements set forth in section 8 of the FFA. One of those requirements is that the guaranty must be based upon "reasonable and representative tests" in accordance with the applicable standard.

(b) The Standard for the Flammability of Clothing Textiles (the Standard) prescribes apparatus and procedures for testing fabrics and garments subject to its provisions. See 16 CFR 1610.4. The Standard prescribes criteria for classifying the flammability of fabrics and garments subject to its provisions as "Normal flammability, Class 1," "Intermediate flammability, Class 2," and "Rapid and intense burning, Class 3." See 16 CFR 1610.3. Sections 3 and 4 of the Flammable Fabrics Act, as enacted in 1953 and amended in 1954, prohibits the manufacture for sale, importation into the United States, or introduction in commerce of any fabric or article of wearing apparel subject to the Standard which exhibits "rapid and intense burning" when tested in accordance with the Standard. See 16 CFR Part 1609.

(c) The Commission recognize that for purposes of supporting guaranties, "reasonable and representative tests" could be either the test in the Standard, or alternate tests which utilize apparatus or procedures other than those in the Standard. This § 1610.40 sets forth conditions under which the Commission will allow use of alternate tests with apparatus or procedures other than those in the Standard to serve as the basis for guaranties.

(d)(1) Persons and firms issuing guaranties that fabrics or garments subject to the Standard meet its requirements may base those guaranties on any alternate test utilizing apparatus or procedures other than those in the Standard, if such alternate test is as stringent as, or more stringent than, the test in the Standard. The Commission considers an alternate test to be "as stringent as, or more stringent than" the test in the Standard if, when testing identical specimens, the alternate test yields failing results as often as, or more often than, the test in the Standard. Any person using such an alternate test must have data or information to demonstrate that the alternate test is as stringent as, or more stringent than, the test in the Standard.

(2) The data or information required by this paragraph (d) of this section to demonstrate equivalent or greater stringency of any alternate test using apparatus or procedures other than those in the Standard must be in the possession of the person or firm desiring to use such alternate test before the alternate test may be used to support guaranties of items subject to the Standard.

(3) The data or information required by paragraph (d) of this section to demonstate equivalent or greater stringency of any alternate test using apparatus or procedures other than those in the Standard must be retained for as long as that alternate test is used to support guaranties of items subject to the Standard, and for one year thereafter.

(e) Specific approval from the Commission in advance of the use of any alternate test using apparatus or procedures other than those in the Standard is not required. The Commission will not approve or disapprove any specific alternate test utilizing apparatus or procedures other than those in the Standard.

(f) Use of any alternate test to support guaranties of items subject to the Standard without the information required by this section may result in violation of section 8(b) of the FFA (15 U.S.C. 1197(b)), which prohibits the furnishing of a false guaranty.

(g) The commission will test fabrics and garments subject to the Standard for complaince with the standard using the apparatus and procedures set forth in the Standard. The Commission may consider any failing results from compliance testing as evidence that:

(1) The manufacture for sale, importation into the United States, or introduction in commerce of the fabric or garment which yielded failing results was in violation of the Standard and of section 3 of the FFA; and

(2) The person or firm using the alternate test as the basis for a guaranty has furnished a false guaranty, in violation of section 8(b) of the FFA.

Request for Comments

Interested persons are invited to submit written comments by July 16, 1982. Comments may be acompanied by written data, views and arguments and should be addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Received comments may be seen in the Office of the Secretary, Eighth Floor, 1111 18th Street NW., Washington, D.C. between 8:30 a.m. and 5:00 p.m., Monday through Friday.

(Sec. 5, Pub. L. 90–189, 81 Stat. 569, 15 U.S.C. 1194; Sec. 30(b), Pub. L. 92–573, 86 Stat. 1231, 15 U.S.C. 2079(b))

Dated May 11, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Bibliography

1. Letter from the William Carter Company to Secretary, Consumer Product Safety Commission, requesting approval for use of alternate test apparatus for purposes of testing for compliance with children's sleepwear standard for sizes 7 through 14 (16 CFR Part 1616), with attachments; 38 pages; July 11, 1975.

2. Memorandum from Bernard Schwartz. OSCA, to Distribution concerning request from Carter for approval of alternate test apparatus; 1 page; August 14, 1975.

3. Memorandum from Margaret L. Neily, BESB, to Bernard Schwartz, OSCA, commenting on Carter request for approval of alternate test apparatus; 2 pages; September 12, 1975.

4. Memorandum from Ralph Madison, BESB, to Bernard Schwartz, SCAT, concerning Carter request for approval of

alternate test apparatus; 1 page; September 12, 1975.

5. Log of telephone conversation between Bernard Schwartz, OSCA, and O. P. Beckwith, William Carter Company, concerning Carter request for approval of alternate test apparatus; 1 page; October 23, 1975.

6. Memorandum from Bernard A. Schwartz, OSCA, to Bureau of Engineering Sciences, requesting review of attached memorandum from Bureau of Economic Analysis, with attachments; 4 pages; May 25, 1976.

7. Memorandum from Margaret Neily, BESB, to Bernard Schwartz, OSCA, responding to memorandum of May 25, 1976, concerning economic analysis of Carter request for approval of alternate test apparatus, with attachment; 8 pages; August 26, 1976.

8. Staff briefing package prepared by Elaine A. Tyrrell, Office of Program Management addressing Milliken petition (FP 80-3); 5 pages; December 11, 1980. The tabs to this package are listed separately.

9. TAB A, Petition from Milliken Research Corporation (FP 80-3) requesting amendment of the Standard for the Flammability for Clothing Textiles to allow use of alternate test apparatus; 4 pages; July 1, 1980.

10. TAB B, memorandum from Stephen Lemberg, Assistant General Counsel to Office of the Secretary concerning FP 80-3; 2 pages; July 30, 1980.

11. TAB C, memorandum from Liz Jones, Division of Regulatory Management concerning FP 80-3; 4 pages; October 29, 1980.

12. Memorandum from Allen F. Brauninger, OGC, to Commission, transmitting staff briefing package on FP 80-3, with attachments; 5 pages; January 5, 1981.

13. Vote sheet concerning FP 80-3, from Allen F. Brauninger, OGC, to Commission; 2 pages; January 5, 1981.

14. Minutes of Commission meeting of January 14, 1981, recording Commission vote to grant FP 80-3; 2 pages; January 16, 1981.

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16 CFR Part 1615

Flammability Standard for Children's Sleepwear, Sizes 0 through 6X; Proposed Enforcement and Administrative Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to issue a rule for enforcement and administration of the Flammable Fabrics Act (FFA) regarding the use of tests other than those set forth in the children's sleepwear flammability standard for sizes 0 through 6X (16 CFR Part 1615) for purposes of complying with that standard and supporting guaranties of items subject to that standard. The Commission proposes this rule in response to requests from manufacturers to use alternate test apparatus and alternate procedures for testing garments and fabrics under Flammable Fabrics Act standards. The proposed rule allows the use of any alternate test apparatus or procedure which is as stringent as, or more stringent than, the apparatus and procedure specified in the standard. The proposed rule also interprets the phrase "reasonable and representative tests" as used in section 8 of the FFA to include any test utilizing an apparatus or procedures differing from those prescribed by the standard if the alternate test is as stringent as, or more stringent than, the test in the standard. The purpose of the proposed rule is to set forth conditions under which persons and firms required to perform testing for purposes of complying with the standard and supporting guaranties of items subject to that standard may use test apparatus or procedures other than those in the standard.

DATE: Interested persons are invited to submit, on or before July 16, 1982, written comments concerning the proposed rule.

PROPOSED EFFECTIVE DATE: The Commission proposes that the rule regarding use of alternate test apparatus and procedure for purposes of complying with the standard and supporting guaranties of items subject to the standard shall become effective 30 days after the rule is issued in final form.

ADDRESS: Comments and any accompanying material should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, and titled "Children's Sleepwear Flammability Standard (sizes 0 through 6X), Proposed Rule Concerning Alternate Test Apparatus."

FOR FURTHER INFORMATION CONTACT: L. James Sharman, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6554.

SUPPLEMENTARY INFORMATION: The Standard for the Flammability of Children's Sleepwear: Sizes 0 Through 6X (16 CFR Part 1615) requires that children's sleepwear garments and fabrics intended for use in such garments must self-extinguish when exposed to an open flame ignition source.

In order to comply with this standard, manufacturers, importers, and other persons (such as converters) initially introducing items subject to the standard into commerce must regularly test items from current production. The standard prescribes the apparatus and procedure to be used for performing tests of fabrics and garments subject to its provisions. See 16 CFR 1615.4(a), (f), and (g). The standard prescribes pass/fail criteria. See 16 CFR 1615.3(b). The standard requires that persons and firms subject to its provisions must group items into production units, and test samples from each production unit. See 16 CFR 1615.4(b), (c), and (d). The schedules for sampling and testing set forth in the standard are called "sampling plans."

The manufacture for sale, importation into the United States, or introduction into commerce of any item of children's sleepwear which is subject to the standard but fails to comply with its requirements violates section 3 of the FFA (15 U.S.C. 1192) and section 5 of the Federal Trade Commission Act (FTCA, 15 U.S.C. 45). Such a violation may give rise to an administrative order to cease and desist from further violation of the FFA and FTCA, as well as to a civil action in a United States District Court under provisions of the FFA for injunction, or for seizure of items which fail to comply with the standard.

In addition to seeking an administrative order, or initiating civil actions for violation of the standard the FFA, and the FTCA, the Commission may also proceed under section 7 of the FFA (15 U.S.C. 1196) to seek criminal penalties against any person who "willfully" violates the FFA.

Section 8(a) of the FFA (15 U.S.C. 1197(a)) provides that no person shall be subject to criminal prosecution under section 7 of the FFA if that person establishes a guaranty received in good faith which meets all requirements set forth in section 8 of the FFA. (A guaranty does not provide the holder any defense to an administrative action to cease and desist from further violation of the applicable standard, the FFA, and the FTCA, nor to any civil action for injunction or seizure brought under the FFA.)

Among the requirements established for a guaranty by section 8(a) of the FFA is that it must be based upon "reasonable and representative tests" conducted in accordance with the applicable standard. Regulations implementing the standard provide that for purposes of supporting guaranties for items subject to those standards, "reasonable and representative tests" shall be those tests performed pursuant to any sampling plan set forth in the applicable standard, or pursuant to any authorized alternate sampling plan. See 16 CFR 1615.31(f).

Section 8(b) of the FFA (15 U.S.C. 1197(b)) prohibits the issuance of a "false guaranty."

Application for Use of Alternate Test Apparatus

By letter dated July 11, 1975, the William Carter Company, a manufacturer of children's sleepwear, requested approval of an alternate test apparatus for use in testing fabrics and garments subject to the children's sleepwear standard for sizes 7 through 14 (16 CFR Part 1616) under provisions of § 1616.5(a) of that standard. (2) [1] That section of the standard states:

§ 1616.5 Test procedure.

(a) *Apparatus.* The following apparatus shall be used for the test. Alternate test apparatus may be use only with prior approval of the Consumer Product Safety Commission.

The Carter application included a description of the alternate test apparatus, and a comparison of results from testing two types of fabrics using both the alternate test apparatus, and the apparatus described in the standard. Carter claimed that the comparative test data demonstrated that use of the alternate test apparatus produced results which were equivalent to, or more stringent than, the results obtained from testing using the apparatus described in the standard. The application from Carter also stated that use of the alternate test apparatus would reduce the time required for testing by one-half to two-thirds. (2)

After reviewing the data included in the Carter application, the Commission staff concluded that Carter's analysis of the equivalency of test results was correct with regard to the two specific fabrics which were the subject of Carter's comparative testing program. (5) However, the staff lacked the resources needed to duplicate the apparatus described in the Carter application and verify that it would produce results equivalent to those obtained using the apparatus described in the standard on fabrics representative of the entire range used in the production of children's sleepwear. (8)

Related Petition

On July 8, 1980, Milliken Research Corporation submitted a petition (FP 80–3) requesting the Commission to amend the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) to allow use of an alternate test utilizing different apparatus and procedure, than those specified in the clothing textiles standard. (10)

Unlike the sleepwear standard, the clothing textiles standard does not require manufacturers, importers or other firms introducing items subject to that standard into commerce to test items from current production. All that is required for compliance with the clothing textiles standard is that any item subject to its provisions must not exhibit "rapid and intense burning" if tested by the Commission. (A more complete explanation of the applicability and requirements of the clothing textiles standard appears in a proposed policy statement interpreting that standard, which is also published in this issue of the **Federal Register.**)

Although manufacturers are not required to perform testing in order to comply with the clothing textiles standard, if they issue guaranties of items subject to that standard, the guaranty must be based on "reasonable and representative tests" conducted in accordance with that standard. A memorandum of a telephone conversation on November 20, 1980, between a member of the Commission staff and the author of the Milliken petition indicates that Milliken desired to use the alternate test for purposes of supporting guaranties of fabrics subject to the clothing textiles standard. (13)

The Commission staff prepared a briefing package which recommended that the Commission grant the relief requested in the petition from Milliken by allowing persons and firms issuing guarantees to use alternate apparatus for testing to support guaranties of items subject to the clothing textiles standard, rather than by amending that standard to change the apparatus to be used for testing by the Commission. (9) The staff briefing package also recommended that the Commission act on Carter's application for approval of alternate test apparatus by issuance of a similar interpretation of the children's sleepwear standards and the FFA to allow use of alternate test apparatus and procedures under certain conditions. (9)

The sleepwear standard for sizes 7 through 14 makes provision for use of test apparatus other than the equipment specified in that standard, as noted above. The sleepwear standard for sizes 0 through 6X has no specific provision authorizing or prohibiting the use of alternate test apparatus or procedure by persons and firms required to perform testing under that standard.

In the **Federal Register** of February 6, 1978 (43 FR 4853), the Commission amended the sleepwear standard for sizes 0 through 6X to make its requirements for flame resistance of fabrics and garments substantively identical to those of the standard for sizes 7 through 14. (1) The Commission staff is aware that many firms which manufacture sleepwear produce fabrics and garments which are subject to both the standard for sizes 0 through 6X and the standard for sizes 7 through 14. For these reasons, after considering the request from Carter for approval of alternate test apparatus and the petition from Milliken Corporation, the staff recommended that the Commission authorize use of alternate test apparatus and procedures under the same conditions for persons and firms required to perform testing under the sleepwear standard for sizes 0 through 6X as well as the standard for sizes 7 through 14.

Requests for inspection of the application from Carter, the Milliken petition, the staff briefing package, and all other documents relating to this proceeding should be made at the Commission's public reading room, 1111 18th Street, NW., eighth floor, Washington, D.C., or by calling the Office of the Secretary at (301) 492–6800.

Commission Decision on Application and Petition

The staff briefing package suggested that the interpretation of the FFA and the standards in question could take the form of a statement of policy and interpretation. After consideration of the Carter application for use of an alternate test apparatus, the Milliken petition, the briefing package, and other relevant information received during the briefing on January 14, 1981, the Commission voted on January 14, 1981, to propose a statement of policy interpreting section 8(a) of the FFA to allow use of alternate tests to support guaranties of items subject to the clothing textiles standard. (14, 15) The Commission also voted to extend the policy statement to include use of alternate tests for purposes of complying with the two children's sleepwear standards and supporting guaranties of items subject to those standards.

However, in this notice, the Commission is proposing a regulation for the enforcement and administration of the FFA, under the authority conferred by section 5(c) of that act (15 U.S.C. 1194(c)). The Commission believes that the term "enforcement and administrative rule" more correctly describes the proposal published below

[1] Numbers in parentheses identify reference documents listed in Bibliography at the end of this notice. Requests for inspection of any of these documents should be made at the Commission's public reading room, 1111 18th Street, NW., eighth floor, Washington, D.C., or by calling the Office of the Secretary at (301) 492–6800.

than the term "statement of policy and interpretation" for the following reason. The rule proposed below, if issued on a final basis, could have a substantive impact on the obligations of persons and firms required to perform testing under the flammability standard for sleepwear in sizes 0 through 6X. The hallmark of a policy statement is that it has no such substantive impact. Although the proposal published below is for an enforcement and administrative rule, it will not amount to an amendment of the standard itself. As noted above, the Commission will continue to use the apparatus and procedures prescribed by the standard when testing items subject to its requirements.

The rule proposed below concerns the use of alternate apparatus and procedures for testing fabrics and garments subject to the standard for children's sleepwear in sizes 0 through 6X (16 CFR Part 1615). Elsewhere in this issue of the **Federal Register**, the Commission has published a proposed rule concerning use of alternate tests and procedures by persons and firms whose products are subject to the children's sleepwear standard for sizes 7 through 14 (16 CFR Part 1616).

Summary of Proposal

The rule proposed below sets forth the conditions under which the Commission will approve use of alternate test apparatus or procedures by persons and firms required to perform testing for purposes of compliance with the standard for sizes 0 through 6X, and to support guaranties of items subject to that standard.

Section 1615.35(b) of the proposal states that the Commission gives its approval to any person or firm desiring to use apparatus or procedures other than those appearing in the standard for purposes of complying with the standard, if that person or firm has data or other information demonstrating that a test utilizing the alternate apparatus or procedures is as stringent as, or more stringent than, a test utilizing the apparatus and procedures specified in the standard. Proposed § 1616.35(b) states further that the Commission will consider a test utilizing alternate apparatus or procedures to be "as stringent as, or more stringent than" a test utilizing the apparatus and procedures specified in the standard if, when testing identical specimens, a test utilizing alternative apparatus or procedures yields failing results as often as, or more often than, a test utilizing the apparatus and procedures specified in the standard.

That section of the proposal also provides that the data or information concerning equivalent stringency of the alternate apparatus or procedures must be in the possession of the person or firm desiring to use such apparatus or procedure prior to its use for purposes of complying with the standard and must be retained for as long as the alternate test or procedure is used for compliance with the standard, and for a period of one year thereafter.

Proposed § 1615.35(c) states that written application to the Commission is not required for approval of alternate test apparatus, and that the Commission will not act on any individual written application for such approval.

Section 1615.36 of the proposal published below concerns use of alternate test apparatus or procedures for purposes of supporting guaranties of items subject to the children's sleepwear standard for sizes 0 through 6X. Proposed § 1615.36(c) states that any person or firm meeting the requirements of § 1615.35 for use of alternate test apparatus for purposes of compliance with the standard may also use such alternate apparatus or procedures under the same conditions for purposes of conducting a "reasonable and representative test to support guaranties of items subject to the standard.

The proposed rule also announces that the Commission will test fabrics and garments subject to the standard using the apparatus and procedures set forth in the standard. The Commission may consider any failing results from its testing as evidence of violation of the standard and section 3 of the FFA, as well as evidence of the issuance of a false guaranty in violation of section 8(b) of the FFA. See proposed §§ 1615.35(e) and 1615.36(d).

Certification of no Significant Economic Impact on Small Entities

The Regulatory Flexibility Act (RFA, Pub. L. 96–354) requires that after January 1, 1981, whenever an agency of the Federal government publishes a proposal under the Administrative Procedure Act (5 U.S.C. 553), it should endeavor to give particular consideration to small businesses, small nonprofit organizations, and small local governments (collectively called "small entities") that may be subject to the agency's requirements.

Specifically, the RFA requires that before publication of a proposal, the agency must either:

(1) prepare an initial regulatory flexibility analysis of the probable effect of the proposal on small businesses and other small entities in accordance with section 603 of the RFA (5 U.S.C. 603); or

(2) determine that the proposal, if issued on a final basis, will not have a "significant economic impact on a substantial number of small entities," and prepare a certification to that effect to be signed by the head of the agency in accordance with section 605(b) of the RFA (5 U.S.C. 605(b)). If certification of no significant impact is made, it must be published in the **Federal Register** at the time notice is given of proposed rule-making, together with a succinct explanation of the reasons for the certification.

In accordance with provisions of section 605(b) of the RFA, the Commission has certified that the proposed rule to allow use of alternate test apparatus and procedures will not have a significant economic impact on a substantial number of small entities.

The reasons for the certification are as follows:

The children's sleepwear standard for sizes 0 through 6X presently requires manufacturers, importers, and other person initially introducing items subject to the standard into commerce (such as converters) to test fabrics and garments in order to comply with the standard. Regulations implementing the standard (16 CFR Part 1615, Subpart B) require maintenance of records of testing to demonstrate compliance with the standard, and if guaranties of items subject to the standard are issued, to support such guaranties.

The rule proposed below would not impose any new requirements on any persons or firms manufacturing or otherwise initially introducing items subject to the standard into commerce. Rather, the proposed rule would allow persons and firms currently subject to existing requirements for testing to use test apparatus and procedures other than those specified in the standard if they elect to do so.

The Commission decided to propose the rule in response to a request from one manufacturer who claimed that use of an alternate test apparatus could reduce the cost of testing for that firm. If the Commission issues the rule on a final basis, that firm, and any other person or firm currently required to perform testing in order to comply with the standard or support guaranties, would have the option of using alternate test apparatus or procedures.

However, if any person or firm concludes that use of alternate test apparatus or procedures under the conditions specified in the proposal would not reduce testing costs or offer any other advantage, that person or firm is free to continue using the apparatus and procedures specified in the standard for purposes of complying with the

standard and supporting guaranties of items subject to the standard.

Environmental Considerations

The rule proposed below falls within the categories of Commission actions described in 16 CFR 1021.5(c) that have little or no potential for affecting the human environment. For this reason, neither an environmental assessment nor an environmental impact statement is required.

Comments Solicited

As stated above, the Commission has reason to believe that if the rule proposed below were issued on a final basis, manufacturers of fabrics and garments subject to the clothing textiles standard and the children's sleepwear standards would be able to reduce their costs of compliance with those standards and the FFA by using alternate test apparatus or procedure. The Commission also has reason to believe that use of alternate test apparatus or procedures under the conditions set forth in the proposed policy statements would not reduce the level of protection currently afforded to the public.

The Commission has published the proposed rule for public comment in order to obtain any additional information and views about these proposals which may be available from interested parties, including consumers and manufacturers.

The Commission specifically solicits comments from persons and firms subject to the requirements of the flammability standard for children's sleepwear in sizes 0 through 6X on the following topics:

1. Whether individual firms would use alternate test apparatus or procedures for testing under the conditions set forth in the proposal.

2. If the answer to item one, above, is in the affirmative, estimates of savings in the cost of testing anticipated by such a person or firm from use of alternate test apparatus or procedures in accordance with the conditions specified in the proposal. The Commission desires information about the estimated number of hours of testing which might be eliminated annually, as well as the dollar amount of savings which might be achieved each year if the proposed rule was issued on a final basis. The Commission also desires to know the method by which such estimates of savings are calculated.

3. Whether the proposed rule could be modified to increase savings to persons and firms testing under the standard, either in terms of hours required for testing, or total dollar costs of testing each year. Comments addressed to this issue are requested to suggest specific modifications, and to explain the amounts of additional savings of hours required for testing or dollar costs which could be expected to result from such modification.

List of Subjects in 16 CFR Part 1615

Clothing, Consumer protection, Flammable materials, Infants and children, Labeling, Textiles, Records, Warranties.

Conclusion and Proposal

Therefore, in accordance with provisions of the Flammable Fabrics Act (Pub. L. 90–189, sec. 5, 81 Stat. 569 (15 U.S.C. 1194), and the Consumer Product Safety Act, sec. 30, Pub. L. 92–573 (15 U.S.C. 2079)), the Commission proposes to amend the Code of Federal Regulations, Title 16, Chapter II, Subchapter B as follows:

PART 1615—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 0 THROUGH 6X (FF 3–71)

Part 1615, Subpart B is proposed to be amended by adding new § 1615.35 and § 1615.36 to read as follows:

§ 1615.35 Use of alternate apparatus, procedures, or criteria for testing under the standard.

(a) The Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (the Standard) requires every manufacturer, importer, and other person (such as a converter) initially introducing items subject to the Standard into commerce to group items into production units, and to test samples from each production unit. See 16 CFR 1615.4 (b), (c) and (d). The Standard prescribes an apparatus and procedure for performing tests of fabric and garments subject to its provisions. See 16 CFR 1615.4 (a), (f), and (g). The Standard prescribes pass/fail criteria at 16 CFR 1615.3(b).

(b)(1) By issuance of this § 1615.35, the Commission gives its approval to any person or firm desiring to use test apparatus or procedures other than those prescribed by the Standard for purposes of compliance with the Standard, if that person or firm has data or other information to demonstrate that a test utilizing such alternate apparatus or procedures is as stringent as, or more stringent than, a test utilizing the apparatus and procedures specified in the Standard. The Commission considers a test utilizing alternate apparatus or procedures to be "as stringent as, or more stringent than" a test utilizing the apparatus and procedures specified in the standard if, when testing identical specimens, a test utilizing alternate apparatus or procedures yields failing results as often as, or more often than, a test utilizing the apparatus and procedures specified in the Standard.

(2) The data or information required by this paragraph (b) of this section as a condition to the Commission's approval of the use of alternate test apparatus or procedures must be in the possession of the person or firm desiring to use such alternate apparatus or procedures before the alternate apparatus or procedures may be used for purposes of compliance with the Standard.

(3) The information required by this paragraph (b) of this section must be retained by the person or firm using the alternate test apparatus or procedure for as long as that apparatus or procedure is used for purposes of compliance with the Standard, and for a period of one year thereafter.

(c) Written application to the Commission is not required for approval of alternate test apparatus or procedure, and the Commission will not act on any individual written application for approval of alternate test apparatus or procedure.

(d) Use of any alternate test apparatus or procedure without the data or information required by paragraph (b), of this section, may result in violation of the Standard and section 3 of the Flammable Fabrics Act (15 U.S.C. 1192).

(e) The Commission will test fabrics and garments subjects to the Standard for compliance with the requirements of the Standard using the apparatus and procedures set forth in the Standard. The Commission may consider any failing results from compliance testing as evidence of a violation of the Standard and section 3 of the Flammable Fabrics Act (15 U.S.C. 1192).

§ 1615.36 Use of Alternate Apparatus or Procedures for Tests for Guaranty Purposes.

(a) Section 8(a) of the Flammable Fabrics Act (FFA, 15 U.S.C. 1197(a)) provides that no person shall be subject to criminal prosecution under section 7 of the FFA (15 U.S.C. 1196) for a violation of section 3 of the FFA (15 U.S.C. 1192) if that person establishes a guaranty received in good faith which meets all requirements set forth in section 8 of the FFA. One of those requirements is that the guaranty must be based upon "reasonable and representative tests" in accordance with the applicable standard.

(b) Section 1615.31(f) of the regulations implementing the Standard

for the Flammability of Children's Sleepwear: Sizes 0 through 6X (the Standard) provides that for purposes of supporting guaranties issued in accordance with section 8 of the FFA for items subject to the Standard, "reasonable and representative tests" are tests "performed pursuant to any sampling plan or authorized alternative sampling plan engaged in pursuant to the requirements of the Standard."

(c) At § 1615.35, the Commission has set forth conditions under which the Commission will approve the use of test apparatus or procedures other than those prescribed in the Standard for purposes of demonstrating compliance with the requirements of the Standard. Any person or firm meeting the requirements of § 1615.35 for use of alternate test apparatus or procedure for compliance with the Standard may also use such alternate test apparatus or procedures under the same conditions for purposes of conducting "reasonable and representative tests" to support guaranties of items subject to the Standard, following any sampling plan prescribed by the Standard or any approved alternate sampling plan.

(d) The Commission will test fabrics and garments subject to the Standard for compliance with the Standard using the apparatus and procedures set forth in the Standard. The Commission may consider any failing results from compliance testing as evidence that the person or firm using alternate test apparatus or procedures has furnished a false guaranty in violation of section 8(b) of the FFA (15 U.S.C. 1197(b)).

Request for Comments:

Interested persons are invited to submit written comments by July 16, 1982. Comments may be accompanied by written data, views and arguments and should be addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Received comments may be seen in the Office of the Secretary, eighth floor, 1111 18th Street N.W., Washington, D.C. between 8:30 a.m. and 5:00 p.m. Monday through Friday.

(Sec. 5, Pub. L. 90–189, 81 Stat. 569, 15 U.S.C. 1194; Sec. 30(b), Pub. L. 92–573, 86 Stat. 1231, 15 U.S.C. 2079(b))

Dated May 11, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety.

Bibliography

1. Federal Register notice amending Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X, and Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14; 8 pages; February 6, 1978 (43 F.R. 4849).

2. Letter from the William Carter Company to Secretary, Consumer Product Safety Commission, requesting approval for use of alternative test apparatus for purposes of testing for compliance with children's sleepwear standard for sizes 7 through 14 (16 CFR Part 1616), with attachments; 38 pages; July 11, 1975.

3. Memorandum from Bernard Schwartz, OSCA, to Distribution concerning request from Carter for approval of alternate test apparatus; 1 page; August 14, 1975.

4. Memorandum from Margaret L. Neily, BESB, to Bernard Schwartz, OSCA, commenting on Carter request for approval of alternate test apparatus; 2 pages; September 12, 1975.

5. Memorandum from Ralph Madison, BESB, to Bernard Schwartz, SCAT, concerning Carter request for approval of alternate test apparatus; 1 page; September 12, 1975.

6. Log of telephone conversation between Bernard Schwartz, OSCA, and O. P. Beckwith, William Carter Company, concerning Carter request for approval of alternate test apparatus; 1 page; October 23, 1975.

7. Memorandum from Bernard Schwartz, OSCA, to Bureau of Engineering Sciences, requesting review of attached memorandum from Bureau of Economic Analysis, with attachments; 4 pages; May 25, 1976.

8. Memorandum from Margaret Neily, BESB, to Bernard Schwartz, OSCA, responding to memorandum of May 25, 1976, concerning economic analysis of Carter request for approval of alternate test apparatus, with attachment; 8 pages; August 26, 1976.

9. Staff briefing package prepared by Elaine A. Tyrrell, Office of Program Management addressing Milliken Petition, FP 80–3; 5 pages; December 11, 1980. The tabs to this package are listed separately.

10. TAB A, Petition from Milliken Research Corporation (FP 80–3) requesting amendment of the Standard for the Flammability for Clothing Textiles to allow use of alternate test apparatus; 4 pages; July 1, 1980.

11. TAB B, memorandum from Stephen Lemberg, Assistant General Counsel to Office of the Secretary concerning FP 80–3; 2 pages; July 30, 1980.

12. TAB C, memorandum from Liz Jones, Division of Regulatory Management concerning FP 80–3; 4 pages; October 29, 1980.

13. Memorandum from Allen F. Brauninger, OGC, to Commission, transmitting staff briefing package on FP 80–3, with attachments; 5 pages; January 5, 1981.

14. Vote sheet concerning FP 80–3, from Allen F. Brauninger, OGC, to Commission; 2 pages; January 5, 1981.

15. Minutes of Commission meeting of January 14, 1981, recording Commission vote to grant FP 80–3; 2 pages; January 16, 1981.

[FR Doc. 82-13341 Filed 5-14-82; 8:45 am]

BILLING CODE 6355-01-M

16 CFR Part 1616

Flammability Standard for Children's Sleepwear, Sizes 7 Through 14; Proposed Enforcement and Administrative Rule

AGENCY: Consumer Produce Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to issue a rule for enforcement and administration of the Flammable Fabrics Act (FFA) regarding the use of tests other than those set forth in the children's sleepwear flammability standard for sizes 7 through 14 (16 CFR Part 1616) for purposes of complying with that standard and supporting guaranties of items subject to that standard. The Commission proposes this rule in response to requests from manufacturers to use alternate test apparatus and alternate procedures for testing garments and fabrics under Flammable Fabrics Act standards. The proposed rule allows the use of any alternate test apparatus or procedures which is as stringent as, or more stringent than, the apparatus and procedures specified in the Standard. The proposed rule also interprets the phrase "reasonable and representative tests" as used in section 8 of the FFA to include any test utilizing an apparatus or procedures differing from those prescribed by the standard if the alternate test is as stringent as, or more stringent than, the test in the standard.

The purpose of the proposed rule is to set forth conditions under which persons and firms required to perform testing for purposes of complying with the standard and supporting guaranties of items subject to that standard may use test apparatus or procedures other than those in the standard.

DATES: Interested persons are invited to submit, on or before July 16, 1982, written comments concerning the proposed rule.

PROPOSED EFFECTIVE DATE: The Commission proposes that the rule regarding use of alternate test apparatus and procedure for purposes of complying with the standard and supporting guaranties of items subject to the standard shall become effective 30 days after the rule is issued in final form.

ADDRESS: Comments any any accompanying material should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, and titled "Children's Sleepwear Flammability Standard (sizes 7 through 14). Proposed

Rule Concerning Alternate Test Apparatus."

FOR FURTHER INFORMATION CONTACT: L. James Sharman, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 (301) 492–6554.

SUPPLEMENTARY INFORMATION: The Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (16 CFR Part 1616) requires that children's sleepwear garments and fabrics intended for use in such garments must self-extinguish when exposed to an open flame ignition source.

In order to comply with this standard, manufacturers, importers, and other persons (such as converters) initially introducting items subject to the standard into commerce must regularly test items from current production. The standard prescribes the apparatus and procedures to be used for performing tests of fabrics and garments subject to its provisions. See 16 CFR 1616.5. The standard prescribes pass/fail criteria. See 16 CFR 1616.3(b). The standard requires that persons and firms subject to its provisions must group items into production units, and test samples from each production unit. See 16 CFR 1616.4. The schedules for sampling and testing set forth in the standard are called "sampling plans."

The manufacture for sale, importation into the United states, or introduction into commerce of any item of children's sleepwear which is subject to the standard but fails to comply with its requirements violates section 3 of the FFA (15 U.S.C. 1192) and section 5 of the Federal Trade Commission Act (FTCA, 15 U.S.C. 45). Such a violation may give rise to an administrative order to cease and desist from further violation of the FFA and FTCA, as well as to a civil action in a United States District Court under provisions of the FFA for injunction, or for seizure of items which fail to comply with the standard.

In addition to seeking an administrative order, or initiating civil actions for violation of the standard the FFA, and the FTCA, the Commission may also proceed under section 7 of the FFA (15 U.S.C. 1196) to seek criminal penalties against any person who "willfully" violates the FFA.

Section 8 (a) of the FFA (15 U.S.C. 1197(a)) provides that no person shall be subject to criminal prosecution under section 7 of the FFA if that person establishes a guaranty received in good faith which meets all requirements set forth in section 8 of the FFA. (A guaranty does not provide the holder any defense to an administrative action to cease and desist from further violation of the applicable standard, the FFA, and the FTCA, nor to any civil action for injunction or seizure brought under the FFA.)

Among the requirements established for a guaranty by section 8(a) of the FFA is that it must be based upon "reasonable and representative tests" conducted in accordance with the applicable standard. Regulations implementing the standard provide that for purposes of supporting guaranties for items subject to those standards, "reasonable and representative tests" shall be those tests performed pursuant to any sampling plan set forth in the applicable standard, or pursuant to any authorized alternate sampling plan. See 16 CFR 1616.31(e).

Section 8(b) of the FFA (15 U.S.C. 1197(b)) prohibits the issuance of a "false guaranty."

Application for Use of Alternate Test Apparatus

By letter dated July 11, 1975, the William Carter Company, a manufacturer of children's sleepwear, requested approval for use of an alternate test apparatus under provisions of 16 CFR 1616.5(a) for use in testing fabrics and garments subject to the standard for sizes 7 through 14. (1)[1] That section of the standard states:

§ 1616 Test procedure.

(a) *Apparatus.* The following apparatus shall be used for the test. Alternate test apparatus may be used only with prior approval of the Consumer Product Safety Commission

The Carter application included a description of the alternate test apparatus, and a comparison of results from testing two types of fabrics using both the alternate test apparatus, and the apparatus described in the standard. Carter claimed that the comparative test data demonstrated that use of the alternate test apparatus produced results which were equivalent to, or more stringent than, the results obtained from testing using the apparatus described in the standard. The application from Carter also stated that use of the alternate test apparatus would reduce that time required for testing by one-half to two-thirds. (1)

After reviewing the data included in the Carter application, the Commission staff concluded that Carter's analysis of the equivalency of test results was correct with regard to the two specific fabrics which were the subject of Carter's comparative testing program. (4) However, the staff lacked the resources needed to duplicate the apparatus described in the Carter application and verify that it would produce results equivalent to those obtained using the apparatus described in the standard on fabrics representative of the entire range used in the production of children's sleepwear. (7)

Related Petition

On July 8, 1980, Milliken Research Corporation submitted a petition (FP 80–3) requesting the Commission to amend the Standard for the Flammability of Clothing Textiles (16 CFR Part 1610) to allow use of an alternate test utilizing different apparatus and procedure, than those specified in the clothing textiles standard. (9)

Unlike the sleepwear standard, the clothing textiles standard does not require manufacturers, importers or other firms introducing items subject to that standard into commerce to test items from current production. All that is required for compliance with clothing textiles standard is that any item subject to its provisions must not exhibit "rapid and intense burning" if tested by the Commission. (A more complete explanation of the applicability and requirements of the clothing textiles standard appears in a proposed policy statement interpreting that standard, which is also published in this issue of the **Federal Register.**

Although manufacturers are not required to perform testing in order to comply with the clothing textiles standard, if they issue guaranties of items subject to that standard, the guaranty must be based on "reasonable and representative tests" conducted in accordance with that standard. A memorandum of a telephone conversation on November 20, 1980, between a member of the Commission staff and the author of the Milliken petition indicates that Milliken desired to use the alternate test for purposes of supporting guaranties of fabrics subject to the clothing textiles standard. (12)

The Commission staff prepared a briefing package which recommended that the Commission grant the relief requested in the petition from Milliken by allowing persons and firms issuing guaranties to use alternate appartus for testing to support guaranties of items subject to the clothing textiles standard, rather than by amending that standard to change the apparatus to be used for testing by the Commission. (8) The staff

[1] Numbers in parentheses identify reference documents listed in Bibliography at the end of this notice. Request for inspection of any of these documents should be made at the Commission's public reading room, 1111 18th Street, N.W., eighth floor, Washington, D.C., or by calling the Office of the Secretary at (301) 492–6800.

briefing package also recommended that the Commission act on Carter's application for approval of alternate test apparatus by issuance of a similar interpretation of the children's sleepwear standards and the FFA to allow use of alternate test apparatus and procedures under certain conditions. (8)

Requests for inspection of the application from Carter, the Milliken petition, the staff briefing package, and all other documents relating to this proceeding should be made at the Commission's public reading room, 1111 18th Street, N.W., eighth floor, Washington, D.C., or by calling the Office of the Secretary at (301) 492–6800.

Commission Decision On Application And Petition

The staff briefing package suggested that the interpretation of the FFA and the standards in question could take the form of a statement of policy and interpretation. After consideration of the Carter application for use of an alternate test apparatus, the Milliken petition, the briefing package, and other relevant information received during the briefing on January 14, 1981, the Commission voted on January 14, 1981, to propose a statement of policy interpreting section 8(a) of the FFA to allow use of alternate tests to support guaranties of items subject to the clothing textiles standard. (13, 14) The Commission also voted to extend the policy statement to include use of alternate tests for purposes of complying with the two children's sleepwear standards and supporting guaranties of items subject to those standards.

However, in this notice, the Commission is proposing a regulation for the enforcement and administration of the FFA, under the authority conferred by section 5(c) of that act (15 U.S.C. 1194(c)). The Commission believes that the term "enforcement and administrative rule" more accurately describes the proposal published below than the term "statement of policy and interpretation" for the following reason. The rule proposed below, if issued on a final basis, could have a substantive impact on the obligations of persons and firms required to perform testing under the flammability standard for sleepwear in sizes 7 through 14. The hallmark of a policy statement is that it has no such substantive impact. Although the proposal published below is for an enforcement and administrative rule, it will not amount to an amendment of the standard itself. As noted above, the Commission will continue to use the apparatus and procedures prescribed by the standard when testing items subject to its requirements.

The rule proposed below concerns the use of alternate apparatus and procedures for testing fabrics and garments subject to the standard for children's sleepwear in sizes 7 through 14 (16 CFR Part 1616). Elsewhere in this issue of the **Federal Register**, the Commission has published a proposed rule concerning use of alternate tests and procedures by persons and firms whose products are subject to the children's sleepwear standard for sizes 0 through 6X (16 CFR Part 1615).

Summary Of Proposal

The rule proposed below sets forth the conditions under which the Commission will approve use of alternate test apparatus or procedures, in accordance with 16 CFR 1616.5(a).

Proposed § 1616.35(c) states that by issuance of the policy statement, the Commission is giving its approval to any person or firm desiring to use apparatus or procedures other than those appearing in the standard for purposes of complying with the standard, if that person or firm has data or other information demonstrating that the alternate apparatus or procedures will yield results as stringent as, or more stringent than, the results which the apparatus and procedures of the standard would yield. Proposed § 1616.35(c) states further that the Commission will consider a test utilizing alternate apparatus or procedures to be "as stringent as, or more stringent than" a test utilizing the apparatus and procedures specified in the standard if, when testing identical specimens, a test utilizing alternative apparatus or procedures yields failing results as often as, or more often than, a test utilizing the apparatus and procedures specified in the standard.

That section of the proposal also provides that the data or information concerning equivalent stringency of results from use of the alternate apparatus or procedures must be in the possession of the person or firm desiring to use such apparatus or procedures prior to its use for purposes of complying with the standard and must be retained for as long as the alternate apparatus or procedures is used for compliance with the standard, and for a period of one year thereafter.

Proposed § 1616.35(d) states that written application to the Commission is not required for approval of alternate test apparatus, and that the Commission will not act on any individual written application for such approval.

Section 1616.36 of the proposal published below concerns use of alternate test apparatus or procedures for purposes of supporting guaranties of items subject to the children's sleepwear standard for sizes 7 through 14. Proposed § 1616.36(c) states that any person or firm meeting the requirements of § 1616.35 for use of alternate test apparatus for purposes of compliance with the standard may also use such alternate apparatus or procedures under the same conditions for purposes of conducting "reasonable and representative tests" to support guaranties of items subject to the standard.

The proposed rule also announces that the Commission will test fabrics and garments subject to the standard using the apparatus and procedures set forth in the standard. The Commission may consider any failing results from its testing as evidence of violation of the standard and section 3 of the FFA, as well as evidence of the issuance of a false guaranty in violation of section 8(b) of the FFA. See proposed §§ 1616.35(f) and 1616.36(d).

Certification Of No Significant Economic Impact On Small Entities

The Regulatory Flexibility Act (RFA, Pub. L. 96–354) requires that after January 1, 1981, whenever an agency of the Federal government publishes a proposal under the Administrative Procedure Act (5 U.S.C. 553), it should endeavor to give particular consideration to small businesses, small non-profit organizations, and small local governments (collectively called "small entities") that may be subject to the agency's requirements.

Specifically, the RFA requires that before publication of a proposal, the agency must either:

(1) prepare an initial regulatory flexibility analysis of the probable effect of the proposal on small businesses and other small entities in accordance with section 603 of the RFA (5 U.S.C. 603); or

(2) determine that the proposal, if issued on a final basis, will not have a "significant economic impact on a substantial number of small entities," and prepare a certification to that effect to be signed by the head of the agency in accordance with section 605(b) of the RFA (5 U.S.C. 605(b)). If a certification of no significant impact is made, it must be published in the **Federal Register** at the time notice is given of proposed rule-making, together with a succinct explanation of the reasons for the certification.

In accordance with provisions of section 605(b) of the RFA, the Commission has certified that the proposed rule to allow use of alternate

test apparatus and procedures will not have a significant economic impact on a substantial number of small entities.

The reasons for the certification are as follows:

The children's sleepwear standard for sizes 7 through 14 presently requires manufacturers, importers, and other persons initially introducing items subject to the standard into commerce (such as converters) to test fabrics and garments in order to comply with the standard. Regulations implementing the standard (16 CFR Part 1616, Subpart B) require maintenance of records of testing to demonstrate compliance with the standard, and if guaranties of items subject to the standard are issued, to support such guaranties.

The rule proposed below would not impose any new requirement on any person or firms manufacturing or otherwise initially introducing items subject to the standard into commerce. Rather, the proposed rule would allow persons and firms currently subject to existing requirements for testing to use test apparatus and procedures other than those specified in the standard if they elect to do so.

The Commission decided to propose the rule in response to a request from one manufacturer who claimed that use of an alternate test apparatus could reduce the cost of testing for that firm. If the Commission issues the rule on a final basis, that firm, and any other person or firm currently required to perform testing in order to comply with the standard or support guaranties, would have the option of using alternate test apparatus or procedures.

However, if any person or firm concludes that use of alternate test apparatus or procedures under the conditions specified in the proposal would not reduce testing costs or offer any other advantage, that person or firm is free to continue using the apparatus and procedures specified in the standard for purposes of complying with the standard and supporting guaranties of items subject to the standard.

Environmental Considerations

The rule proposed below falls within the categories of Commission actions described in 16 CFR 1021.5(c) that have little or no potential for affecting the human environment. For this reason, neither an environmental assessment nor an environmental impact statement is required.

Comments Solicited

As stated above, the Commission has reason to believe that if the rule proposed below were issued on a final basis, manufacturers of fabrics and garments subject to the clothing textiles standard and the children's sleepwear standards would be able to reduce their costs of compliance with those standards and the FFA by using alternate test apparatus or procedure. The Commission also has reason to believe that use of alternate test apparatus or procedures under the conditions set forth in the proposed rule would not reduce the level of protection currently afforded to the public.

The Commission has published the proposed rule for public comment in order to obtain any additional information and views about these proposals which may be available from interested parties, including consumers and manufacturers.

The Commission specifically solicits comments from persons and firms subject to the requirements of the flammability standard for children's sleepwear in sizes 7 through 14 on the following topics:

1. Whether individual firms would use alternate test apparatus or procedures for testing to support guaranties under the conditions set forth in the proposal.

2. If the answer to item one, above, is in the affirmative, estimates of savings in the cost of testing to support guaranties anticipated by such a person or firm from the use of alternate test apparatus or procedures in accordance with the conditions specified in the proposal. The Commission desires information about the estimated number of hours of testing which might be eliminated annually, as well as the dollar amount of savings which might be achieved each year if the proposed rule were issued on a final basis. The Commission also desires to know the method by which such estimates of savings are calculated.

3. Whether the proposed rule could be modified to increase savings to persons and firms issuing guaranties, either in terms of hours required for testing, or total dollar costs of testing each year. Comments addressed to this issue are requested to suggest specific modifications, and to explain the amounts of additional savings of hours required for testing or dollar costs which could expected to result from such modification.

List of Subjects in 16 CFR Part 1616

Clothing, Consumer protection, Flammable materials, Infants and children, Labeling, Textiles, Records, Warranties.

Conclusion and Proposal

Therefore, in accordance with provisions of the Flammable Fabrics Act (Pub. L. 90–189, sec. 5, 81 Stat. 569 (15 U.S.C. 1194), and the Consumer Product Safety Act, sec. 30, Pub. L. 92–573 (15 U.S.C. 2079)), the Commission proposes to amend the Code of Federal Regulations, Title 16, Chapter II, Subchapter B as follows:

PART 1616—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 7 THROUGH 14 (FF 5–74)

Part 1616, Subpart B is proposed to be amended by adding new §§ 1616.35 and 1616.36 to read as follows:

§ 1616.35 Use of alternate apparatus, procedures, or criteria for testing under the standard.

(a) The Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (the Standard) requires every manufacturer, importer, and other person (such as a converter) initially introducing items subject to the Standard into commerce to group items into production units, and to test samples from each production unit. See 16 CFR 1616.4. The Standard prescribes an apparatus and procedure for performing tests of fabric and garments subject to its provisions. See 16 CFR 1616.5. The Standard prescribes pass/fail criteria at 16 CFR 1616.3(b).

(b) Section 1616.5(a) states that alternate test apparatus may be used by persons or firms required to perform testing under the Standard "only with prior approval" of the Commission.

(c)(1) By issuance of this § 1616.35, the Commission gives its approval to any person or firm desiring to use test apparatus or procedures other than those prescribed by the Standard for purposes of compliance with the Standard, if that person or firm has data or other information to demonstrate that a test utilizing such alternate apparatus or procedure is as stringent as, or more stringent than, a test utilizing the apparatus and procedure specified in the Standard. The Commission considers a test utilizing alternate apparatus or procedures to be "as stringent as, or more stringent than" a test utilizing the apparatus and procedures specified in the standard, if when testing identical specimens, a test utilizing alternative apparatus or procedures yields failing results as often as, or more often than, a test utilizing the apparatus and procedures specified in the standard.

(2) The data or information required by this paragraph (c) of this section as a condition to the Commission's approval of the use of alternate test apparatus or procedures must be in the possession of the person or firm desiring to use such

alternate apparatus or procedures before the alternate apparatus or procedures may be used for purposes of compliance with the standard.

(3) The information required by this paragraph (c) of this section must be retained by the person or firm using the alternate test apparatus or procedures for as long as that apparatus or procedure is used for purposes of compliance with the standard, and for a period of one year thereafter.

(d) Written application to the Commission is not required for approval of alternate test apparatus or procedures, and the Commission will not act on any individual written application for approval of alternate test apparatus or procedures.

(e) Use of any alternate test apparatus or procedures without the data or information required by paragraph (c), of this section, may result in violation of the Standard and section 3 of the Flammable Fabrics Act (15 U.S.C. 1192).

(f) The Commission will test fabrics and garments subject to the standard for compliance with the requirements of the standard using the apparatus and procedures set forth in the standard. The Commission may consider any failing results from compliance testing as evidence of a violation of the standard and section 3 of the Flammable Fabrics Act (15 U.S.C. 1192).

§ 1616.36 Use of alternate apparatus or procedures for tests for guaranty purposes.

(a) Section 8(a) of the Flammable Fabrics Act (FFA, 15 U.S.C. 1197(a)) provides that no person shall be subject to criminal prosecution under section 7 of the FFA (15 U.S.C. 1196) for a violation of section 3 of the FFA (15 U.S.C. 1192) if that person establishes a guaranty received in good faith which meets all requirements set forth in section 8 of the FFA. One of those requirements is that the guaranty must be based upon "reasonable and representative tests" in accordance with the applicable standard.

(b) Section 1616.31(e) of the regulations implementing the Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (the Standard) provides that for purposes of supporting guaranties issued in accordance with section 8 of the FFA for items subject to the Standard, "reasonable and representative tests" are tests "performed pursuant to any sampling plan or authorized alternative sampling plan engaged in pursuant to the requirements of the Standard."

(c) At § 1616.35, the Commission has set forth conditions under which the Commission will approve the use of test apparatus or procedures other than those prescribed in the Standard for purposes of demonstrating compliance with the requirements of the Standard. Any person or firm meeting the requirements of § 1616.35 for use of alternate test apparatus or procedure for compliance with the Standard may also use such alternate test apparatus or procedure under the same conditions for purposes of conducting "reasonable and representative tests" to support guaranties of items subject to the Standard, following any sampling plan prescribed by the Standard or any approved alternate sampling plan.

(d) The Commission will test fabrics and garments subject to the Standard for compliance with the Standard using the apparatus and procedures set forth in the Standard. The Commission may consider any failing results from compliance testing as evidence that the person or firm using alternate test apparatus or procedures has furnished a false guaranty in violation of section 8(b) of the FFA (15 U.S.C. 1197(b)).

Request for Comments:

Interested persons are invited to submit written comments by July 16, 1982. Comments may be accompanied by written data, views and arguments and should be addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Received comments may be seen in the Office of the Secretary, third floor, 1111 18th Street NW., Washington, D.C. between 8:30 a.m. and 5:00 p.m. Monday through Friday.

(Sec. 5, Pub. L. 90-189, 81 Stat. 569, 15 U.S.C. 1194; Sec. 30(b), Pub. L. 92-573, 86 Stat. 1231, 15 U.S.C. 2079(b))

Dated: May 11, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Bibliography

1. Letter from the William Carter Company to Secretary, Consumer Product Safety Commission, requesting approval for use of alternate test apparatus for purposes of testing for compliance with children's sleepwear standard for sizes 7 through 14 (16 CFR Part 1616), with attachments; 38 pages; July 11, 1975.

2. Memorandum from Bernard Schwartz, OSCA, to Distribution concerning request from Carter for approval of alternate test apparatus; 1 page; August 14, 1975.

3. Memorandum from Margaret L. Neily, BESB, to Bernard Schwartz, OSCA, commenting on Carter request for approval of alternate test apparatus; 2 pages; September 12, 1975.

4. Memorandum from Ralph Madison, BESB, to Bernard Schwartz, SCAT, concerning Carter request for approval of alternate test apparatus; 1 page; September 12, 1975.

5. Log of telephone conversation between Bernard Schwartz, OSCA, and O. P. Beckwith, William Carter Company, concerning Carter request for approval of alternate test apparatus; 1 page; October 23, 1975.

6. Memorandum from Bernard A. Schwartz, OSCA, to Bureau of Engineering Sciences, requesting review of attached memorandum from Bureau of Economic Analysis, with attachments; 4 pages; May 25, 1976.

7. Memorandum from Margaret Neily, BESB, to Bernard Schwartz, OSCA, responding to memorandum of May 25, 1976, concerning economic analysis of Carter request for approval of alternate test apparatus, with attachment; 8 pages; August 26, 1976.

8. Staff briefing package prepared by Elaine A. Tyrrell, Office of Program Management addressing the Milliken Petition, FP 80-3; 5 pages; December 11, 1980. The tabs to this package are listed separately.

9. TAB A, Petition from Milliken Research Corporation (FP 80-3) requesting amendment of the Standard for the Flammability for Clothing Textiles to allow use of alternate test apparatus; 4 pages; July 1, 1980.

10. TAB B. memorandum from Stephen Lemberg, Assistant General Counsel to Office of the Secretary concerning FP 80-3; 2 pages; July 30, 1980.

11. TAB C, memorandum from Liz Jones, Division of Regulatory Management concerning FP 80-3; 4 pages; October 29, 1980.

12. Memorandum from Allen F. Brauninger, OGC, to the Commission, transmitting staff briefing package on FP 80-3, with attachments; 5 pages; January 5, 1981.

13. Vote sheet concerning FP 80-3, from Allen F. Brauninger, OGC, to Commission; 2 pages; January 5, 1981.

14. Minutes of Commission meeting of January 14, 1981, recording Commission vote to grant FP 80-3; 2 pages; January 16, 1981.

[FR Doc. 82-13342 Filed 5-14-82; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 81

[Docket No. R-82-987]

Federal National Mortgage Association-Maximum Debt-to-Capital Ratio

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This rule is being proposed to amend the current regulation in order to permit the Secretary to change FNMA's maximum debt-to-capital ratio from time to time upon request by FNMA supported by justification satisfactory to

the Secretary. The proposed revision would require that upon the fixing of any change in the ratio by the Secretary, notice would be published in the **Federal Register**. This action is proposed due to the Secretary's determination that the interests of neither the public nor FNMA or the purposes of the Charter Act require resort to rulemaking procedures upon FNMA requests for increase in its maximum debt-to-capital ratio, and in order to permit the Secretary to respond to requests for increases in a manner more directly focused on FNMA's immediately foreseeable requirements than would be practicable in rulemaking proceedings.

DATE: Comments due June 16, 1982.

ADDRESS: Interested persons are invited to submit written comments on or before the due date to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Each comment should include the commentor's name and address and must refer to the docket number indicated in the heading of this rule. A copy of each comment will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: John A. Maxim, Jr., Associate General Counsel for Finance and Insured Housing, Office of General Counsel, Department of Housing and Urban Development, Room 9252, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-6274 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 304(b) the FNMA Charter Act, 12 U.S.C. 1719, provides that FNMA—

> Is authorized to issue * * * and have outstanding at any one time obligations having such rate or rates of interest as may be determined by the corporation * * *; but the aggregate amount of obligations of the corporation under this subsection outstanding at any one time shall not exceed fifteen times the sum of its capital, capital surplus, general surplus, reserves, and undistributed earnings unless a greater ratio shall be fixed at any time or from time to time by the Secretary of Housing and Urban Development.

Section 304(e) of the Charter Act provides that, for the purpose of the above limitation, the amount of FNMA's outstanding subordinated obligations are deemed to be capital.

By a document published at 33 FR 14779, effective October 1, 1968, the Secretary fixed the maximum ratio described in section 304(b) at 20-to-1. By a document published at 34 FR 19656, effective December 8, 1969, the Secretary changed the ratio to 25-to-1. In the regulations published at 43 FR 36200, effective September 14, 1978, the 25-to-1 maximum ratio was retained and a procedure was established whereby FNMA may request a change in that ratio. Specifically, 24 CFR 81.15 provides in relevant part:

> (a) Under section 304(b) of the Charter Act, FNMA's debt-to-capital ratio may not exceed 15 to 1, unless a greater maximum ratio is fixed by the Secretary. Effective December 8, 1969, the maximum debt-to-capital ratio for FNMA, was fixed at 25 to 1 by the Secretary.
>
> (b) Except as provided in paragraph (f) of this section, FNMA shall not issue any debt instrument if such issuance would cause its debt-to-capital ratio to exceed 25 to 1.
>
> (c) Any request by FNMA to change the maximum debt-to-capital ratio fixed in paragraph (b) of this section shall be submitted in writing to the Secretary, together with a justification for such change (including possible alternatives thereto) and supporting financial data.
>
> (d) Within 30 workdays after the submission of a request by FNMA under paragraph (c) of this section, the Secretary shall approve, reject, or request additional information as to FNMA's proposed change in its maximum debt-to-capital ratio.

Pursuant to the above described procedure, FNMA recently has requested the Secretary to increase the maximum debt-to-capital ratio to 35-to-1. In support of its request, FNMA adivsed that its debt-to-capital ratio had increased to 19.42-to-1 at December 31, 1980, and to 22.5-to-1 at December 31, 1981. Increases in the ratio during 1981 resulted more from contraction of stockholders' equity (caused by losses due to the negative spread on FNMA's portfolio) than from large increases in total borrowings. Further increases resulting from the same factors are expected to occur during 1982. FNMA's request for an increase as great as to 35-to-1, however, was based in major part upon the length of time inevitably consumed by rulemaking proceedings and a desire to avoid such repetitive proceedings.

The Secretary's authority to fix FNMA's maximum debt-to-capital ratio pursuant to section 304(b) of the Charter Act is independent of the Secretary's general authority under Section 309(h) of the Charter Act to issue rules and regulations as shall be necessary and proper to insure that the purposes of the Charter Act are accomplished. The Secretary does not believe that the interests of FNMA or the public or the purposes of the Charter Act require resort to rulemaking procedures under the Administrative Procedure Act whenever a request for an increase in FNMA's maximum debt-to-capital ratio is submitted. The Secretary is aware, however, that knowledge of the maximum debt-to-capital ratio by which FNMA at any time is bound may be material to investors.

The Secretary proposes, therefore, to amend the current regulation in order to permit the Secretary to change FNMA's maximum debt-to-capital ratio from time to time upon request by FNMA supported by justification satisfactory to the Secretary. The proposed revision would require that upon the fixing of any change in the ratio by the Secretary, notice thereof will be published in the **Federal Register**.

Upon adoption of a final rule, the Secretary will respond to FNMA, request for an increase in the current maximum ratio in a manner more directly focused upon FNMA's foreseeable intermediate requirements than would be permitted under the time horizons necessarily considered in rulemaking proceedings. It is also noted that notwithstanding increases in the maximum debt-to-capital ratio, FNMA will continue to require separate Secretarial authorization for increases requested from time to time in obligational authority (24 CFR 85.14).

The Department has determined that this proposed rule does not constitute a "major rule" as defined in Executive Order 12291. Analysis of the proposed rule indicates that it will not: (1) Have an annual effect on the economy of $100 million or more; (2) Cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) Have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(c) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying (at a charge of 10 cents per page) during regular business hours in the Office of the Rules Docket Clerk at the address set forth above.

Pursuant to section 605(b) of the Regulatory Flexibility Act, the undersigned hereby certifies that this rule does not have a significant impact on a substantial number of small entities.

This rule was not listed in the Department's Semiannual Agenda of Regulations published pursuant to Executive Order 12291 and the Regulatory Flexibility Act on August 17, 1981 (46 FR 41708).

List of Subjects in 24 CFR Part 81

Accounting, Mortgages, Reporting and recordkeeping requirements, Securities.

PART 81—REGULATIONS IMPLEMENTING THE AUTHORITY OF THE SECRETARY OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OVER THE CONDUCT OF THE SECONDARY MARKET OPERATIONS OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA)

Accordingly, 24 CFR Part 81 is proposed to be amended as follows:

Section 81.15 is revised to read as follows:

§ 81.15 Debt-to-capital ratio.

(a) Under section 304(b) of the Charter Act, FNMA's maximum debt-to-capital ratio may not exceed 15 to 1, unless a greater maximum ratio is fixed by the Secretary. Upon request submitted in writing by FNMA including justification satisfactory to the Secretary and supporting financial data, the Secretary from time to time may fix such greater maximum ratio as the Secretary, in his discretion, shall determine, which shall remain in effect as FNMA's maximum debt-to-capital ratio until otherwise specified by the Secretary. Upon fixing or changing a maximum ratio pursuant hereto, the Secretary shall cause notice of such action to be published in the Federal Register.

(b) Except as provided in paragraph (d) of this section, FNMA shall not issue any debt instrument if such issuance would cause its debt-to-capital ratio to exceed the maximum ratio established by section 304(b) of the Charter Act or such other maximum ratio as has fixed by the Secretary as provided in paragraph (a) of this section.

(c) The Secretary may decrease the maximum debt-to-capital ratio fixed in paragraph (a) of this section (but not below a ratio of 15 to 1), if the Secretary determines that such action: (1) Will not adversely affect the fiscal integrity of or limit the availability of credit to the corporation, and (2) Will not impair FNMA's ability to discharge its obligations to the holders of FNMA's debt instruments and holders of subordinated debentures issued under section 304(e) of the Charter Act. The Secretary shall provide FNMA 60 workdays written notice of the effective date of any decrease in its maximum debt-to-capital ratio.

(d) In the event at any time of a reduction in the sum of the corporation's capital, capital surplus, general surplus, reserves, and undistributed earnings, the maximum debt-to-capital ratio is automatically increased to such ratio as may be necessary to include all obligations issued pursuant to section 304(b) of the Charter Act and outstanding at such time. In the event at any time of a maturity or other event requiring the payment or redemption of any of the obligations issued under section 304(e) of the Charter Act, the maximum debt-to-capital ratio is automatically increased to such ratio as may be necessary to permit the issuance of obligations under section 304(b) of the Charter Act in an amount sufficient to provide the proceeds required to pay the principal of an interest on the obligations outstanding under such section 304(e) and so required to be paid or redeemed at such time.

(Secs. 304(b) and 309(h), Charter Act (12 U.S.C. 1719 and 1723a))

Dated: April 27, 1982.

Samuel R. Pierce, Jr.,

Secretary of Housing and Urban Development.

[FR Doc. 82-13419 Filed 5-14-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommiting, and Supervising Federal Prisoners

AGENCY: Parole Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to eliminate provisions in its rules that allow oral presentations at appellate hearings in cases designated for the Commission's original jurisdiction, and that allow for the holding of regional appellate hearings in other cases. The Commission is proposing to consider appeals on the record only, in all cases, in order to promote a more productive use of its time and to provide a more uniform parole decision-making process.

DATE: Comments must be received by July 16, 1982.

ADDRESS: Send comments to the United States Parole Commission, 5550 Friendship Blvd., Chevy Chase, MD. 20815, Attention: Office of General Counsel.

FOR FURTHER INFORMATION CONTACT: Toby Slawsky, Office of General Counsel, telephone 301-492-5959.

SUPPLEMENTARY INFORMATION: This proposed rule revision was originally proposed on July 2, 1980, 45 FR 44966. The proposal was withdrawn on December 22, 1980, 45 FR 84090. It is being proposed again because the Commission's continued experience has confirmed that oral presentations add little to the appeal process and that their elimination would facilitate a more parole decisionmaking process.

The parole hearing, rather than the appeal process, is the appropriate stage of the parole procedure for the submission of evidence, and for oral questioning and dicussion about the case. Prisoners and parolees are given prior notice of the time and place of their parole hearings and full disclosure of any material the Commission will consider so that they may prepare for their hearings. Additionally, prisoners and parolees may be represented at their hearings by a person of their choice. In order for the Commission to make informed initial decisions, prisoners and parolees should present all significant information to the Commission at the time of their hearing and not delay presenting their case until the appeal stage, by way of oral argument. If after a hearing a prisoner or parolee wishes to present to the Commission significant information not known at the time of the hearing, that information can be submitted in documentary form under the Commission's rules, §§ 2.25, 2.26, and 2.27. Furthermore, the rule at § 2.28 provides that a Commissioner may, on his own motion, reopen a case at any time upon receipt of new information of substantial significance.

It has been the Commission's experience that the information provided by represenatives at oral argument is often a repetition of information which has already been submitted, and that effective presentation of a case can be done in writing without any lessening of the opportunity for full consideration. Moreover, the appearance of a representative usually requires considerably more time than that in which an appeal consideration could be completed on the record. Since oral arguments add little that could not be submitted in documentary form, the Commission believes that eliminating this feature of the appeal would not depreciate the opportunity for full consideration of the merits of each case.

Additionally, the Commission believes that the current practice of allowing oral presentations at original jurisdiction appeals can be perceived as providing a right to prisoners and parolees whose cases have been designated for original jurisdiction consideration which is unavailable in practice to those prisoners and parolees whose cases have not been so designated. This is so because, while 28 CFR 2.25(c) provides for the possibility of oral presentations at regional appellate hearings, very few regional

appellate hearings are held. Therefore, only prisoners and parolees who are designated for the Commission's original jurisdiction consideration have the practical opportunity to have an oral presentation on appeal.

To avoid the appearance that there is an unequal advantage for these persons, as well as for the reasons stated above, the Commission proposes the elimination of oral presentations at original jurisdiction appeals and of regional appellate hearings.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, prisoners, probation and parole.

PART 2—PAROLE, RELEASE, SUPERVISON, AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

§ 2.27 [Amended]

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6) the Commission proposes the removal of § 2.25(c) and § 2.27(c) from Part 2 of Title 28.

* * * * *

I certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Dated: April 30, 1982.

Benjamin F. Baer,

Chairman, Parole Commission.

[FR Doc. 82-13286 Filed 5-14-82; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Surface Coal Mining and Reclamation Enforcement in Tennessee; Review of State Program Submission

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Reopening of public comment period.

SUMMARY: The Office of Surface Mining (OSM) is reopening the period for review and comment on the resubmission by Tennessee of its program for the regulation of surface coal mining and reclamation in the State. Specifically, OSM is reopening the comment period to allow the public sufficient time to consider and comment on additional material in the Administrative Record.

DATE: Written comments, data, or other relevant information relating to the Tennessee program submission must be received on or before 4:00 p.m., May 27, 1982, to be considered.

ADDRESS; Comments on the Tennessee program submission should be mailed or hand-delivered to: Office of Surface Mining, *Attention:* Tennessee Administrative Record, 530 South Gay Street, SW., Suite 500, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT: John T. Davis, Assistant Regional Director, State and Federal Programs, Office of Surface Mining, 530 South Gay Street, SW., Suite 500, Knoxville, Tennessee 37902, Telephone: (615) 971-5104.

SUPPLEMENTARY INFORMATION: On February 10, 1982, at 47 FR 6031-32, OSM published notice of the public hearing and the public comment period on the resubmitted Tennessee program. On April 22, 1982, OSM and Tennessee regulatory authority officials met in executive session in Knoxville, Tennessee to discuss the resubmitted Tennessee program (Administrative Record No. TN-509). Thus, OSM is reopening the public comment period until 4:00 p.m., May 27, 1982, to allow the public time to review and comment on the above meeting notes and additional material submitted by Tennessee (Administrative Record No. TN-515).

This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfulling the purposes of the Surface Mining Control and Reclamation Act of 1977.

Dated: May 11, 1982.

William Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 82-13338 Filed 5-14-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF EDUCATION

34 CFR Part 5b

Privacy Act Regulations

AGENCY: Education Department.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Secretary proposes to amend the Department's regulations under the Privacy Act of 1974 to permit the Office for Civil Rights (OCR) to withhold investigatory materials contained in its "Complaint Files and Log" system of records. Currently, complainants have access to case files compiled during investigations of civil rights complaints made against recipients of Federal financial assistance. A complainant's potential access to information in a case file has in certain instances impeded OCR's investigatory efforts because recipients are reluctant and, at times, refuse to make certain information available to OCR, particularly where providing such information compromises legitimate privacy interests of a source. Untimely release of information may also jeopardize negotiations that would otherwise result in successful resolution of complaints. The proposed regulation would permit OCR to exempt the system of records from certain provisions of the Privacy Act, including the access provisions and some of the notice provisions.

DATE: Comments must be received on or before June 16, 1982.

ADDRESS: Comments should be addressed to Antonio J. Califa, Director for Litigation, Enforcement and Policy Service, Office for Civil Rights, U.S. Department of Education, Room 5054, Switzer Building, 400 Maryland Avenue SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Jean Peelen, (202) 245-0261.

SUPPLEMENTARY INFORMATION: The Office for Civil Rights is responsible for enforcing Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975, statutes which guarantee equal opportunity in education programs and activities which receive Federal financial assistance. This responsibility includes investigation of discrimination complaints filed against recipients.

Case files are compiled and maintained on complaints investigated by OCR. These files are retrievable by name of the complainant. Generally, the Privacy Act of 1974 and Department regulations (formerly 45 CFR Part 5b) require that an individual have access to all information kept in files retrievable by a personal identifier, such as a name. Thus, complainants currently have access to the information in these case files.

The Privacy act permits the head of an agency to exempt systems of records from certain notification and access provisions of the Act if the system of records contains investigatory material compiled for law enforcement purposes. The Department has not previously made use of this exemption.

Recipients of Federal financial assistance are required to make available any information in their

possession needed by OCR during an investigation, including information of a "confidential" nature, to determine whether prohibited discrimination has occurred. Recipients have often been reluctant and have, at times, refused to make certain information available to OCR due to potential access to that information by complainants. This has been true particularly where providing such information compromises legitimate privacy interests of a source. Refusals to provide information have impeded OCR's ability to carry out its responsibilities and have led to protracted and contentious denial of access proceedings.

Additionally, complaints can often be resolved during the course of an investigation before a formal letter of findings is issued.

Negotiations can, however, be delicate and lengthy. Premature disclosure of draft findings or agreements could jeopardize the agency's ability to resolve complaints.

The proposed regulation would permit OCR to exempt the system of records from the following provisions of the Privacy Act: (c)(3), (d)(1)–(4), (e)(4)(G), (H), and (f). The following discussion describes the effects of these exemptions on the access and notice right of individuals. OCR would not have to provide an individual with access to records that pertain to the individual. In addition, this proposed regulation would permit OCR to delete portions of the notice of the system of records which is published in the **Federal Register**. OCR would also not have to make the accounting of disclosure of an individual's record available to the individual.

However, if an individual is denied any right, privilege or benefit to which he or she would otherwise be entitled under Federal law, or for which he or she would otherwise be eligible, as a result of maintaining material in this system of records, that material shall be provided to the individual. OCR would not have to release this material if disclosure of the material would reveal the identity of a source who furnished information to the government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the Privacy Act, under an implied promise that the identity of the source would be held in confidence.

List of Subjects in 34 CFR Part 5b

Administrative practice and procedure, Civil rights, Privacy, Privacy Act Regulations.

Executive Oder 12291

This proposed amendment has been reviewed by the Department in accordance with Executive Order 12291 and is classified as a non-major regulation because it does not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that this regulation will not have significant economic impact on a substantial number of small entities. These regulations are administrative and do not affect any small entities.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed regulation.

To assist the Department in complying with the specific requirements of Executive Order 12291 and its overall objective of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in this regulation, especially with regard to paperwork and compliance requirements.

Written comments and recommendations may be sent to the address given at the beginning of this preamble. The Secretary will consider all comments received on or before June 16, 1982, in the development of the final regulation.

All comments submitted in response to these proposed regulations will be available for public inspection during and after the comment period in Room 5116, Switzer Building, 330 C Street, SW., Washington, D.C. between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday of each week except Federal holidays.

Citation

A citation of statutory authority is placed in parentheses on the line following the proposed change in the regulations.

Dated: May 10, 1982.

T. H. Bell,

Secretary of Education.

PART 5b—PRIVACY ACT REGULATIONS

The Secretary proposes to amend Part 5b of Title 34 of the Code of Federal Regulations as follows:

1. Section 5b.11 is revised by adding a new paragraph (b)(2)(ii) to read as follows:

§ 5b.11 Exempt systems.

* * * * *

(b) * * *

(2) * * *

(ii) Pursuant to subsection (k)(2) of the Act: Complaint Files and Log, Office for Civil Rights.

(5 U.S.C. 552a(k))

* * * * *

[FR Doc. 82–13333 Filed 5–14–82; 8:45 am]

BILLING CODE 4000–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[A–10–FRL 2119–5]

State Implementation Plan and Attainment Status Designations; State of Idaho

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: EPA proposes to approve revisions to the Idaho State Implementation Plan (SIP) submitted between January 15, 1980 and March 1, 1982. Approval of these revisions, cumulatively representing an entirely new recodified Idaho SIP, will remove the new source construction moratorium in nonattainment areas and will result in the State resuming an air pollution control program, provided such action is completed by August 1, 1982. EPA proposes to approve the SIP submittals which replace the original State adopted—EPA approved SIP and which also contain provisions to satisfy requirements of Part D of the Clean Air Act (hereafter referred to as the Act). The proposed approval contains certain conditions and in addition is based on a number of understandings achieved through negotiation with the State.

Further, EPA is proposing to redesignate some areas from nonattainment to attainment or unclassifiable. These changes are made necessary due to air quality improvements and changes in source emissions. The redesignations will remove the need for attainment plans and will lift the construction moratorium now in effect.

DATE: Comments are due by June 16, 1982.

ADDRESSES: Comments submitted on this proposal, copies of SIP submissions, and other relevant information may be examined during normal business hours at the following locations:

Air Programs Branch, M/S 532,
Environmental Protection Agency,

Region 10, 1200 Sixth Avenue, Seattle, WA 98101.
Idaho Operations Branch, Environmental Protection Agency, 422 West Washington Street, Boise, Idaho 83702.

Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Michael Schultz, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, M/S 532, Seattle, WA 98101, Telephone: (206) 442–1985, FTS: 399–1985.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to the requirements of section 107(d) of the Act, EPA published in the **Federal Register** on March 3, 1978 (43 FR 8962) and on September 11, 1978 (43 FR 40412) a designation of the attainment status of certain areas in the State of Idaho with respect to the National Ambient Air Quality Standards (NAAQS) for total suspended particulates (TSP), carbon monoxide (CO), and sulfur dioxide (SO_2). Areas designated "nonattainment" by pollutant are as follows:

TSP—Silver Valley, Lewiston, Pocatello, Soda Springs.

SO_2—Silver Valley, Pocatello.

CO—Boise.

This designation process triggered a requirement for the State to submit revisions to the State Implementation Plan (SIP) required by Part D of the Act.

The State of Idaho used this opportunity to revise its existing SIP along with adopting new regulations and plans required by Part D. These revisions, cumulatively representing a new SIP, were received by EPA in eight different submittals between January 15, 1980 and February 5, 1981.

EPA has been negotiating with the State to make needed revisions to the SIP submittals when, early in 1981, the Idaho Legislature acted to terminate funding for the air program as of June 30, 1981. As a result of this Legislative action and due to limited EPA staff resources, EPA hired a contractor to assist in maintaining a minimal air program until the State resumed its leadership role in this area. This joint EPA-contractor effort is continuing at this time.

On July 16, 1981, EPA published rulemaking (46 FR 36869) which proposed to promulgate those rules necessary for EPA to assume a temporary role of managing the Idaho air program. After an extended comment period and lengthy deliberations with affected Idaho industry representatives, EPA developed final draft rulemaking on this subject.

However, before this rulemaking could be submitted for final approval and publication in the **Federal Register**, EPA determined that the 1982 Idaho Legislature was interested in the possibility of reinstating the air program. Thus, final action on the EPA promulgation was suspended, and EPA focused its attention on reinstatement of the State air program. During the 1982 session, the Idaho Legislature requested and EPA provided technical information and support on this subject. Also during this period, the State submitted a seventh SIP submittal. A letter dated March 1, 1982 withdrew certain controversial regulations and clarified the State's intent with respect to other regulations.

In March, 1982, the Legislature passed a Bill and the Governor signed into law an action which funds and reinstates the air program by August 1, 1982. Initiation of the State Air Program is contingent on EPA approving the SIP as submitted during the period January 15, 1980 through March 1, 1982. The enactment provides for the State to make certain changes in the SIP submittal described in the Legislative Special Air Quality Committee Report dated March 8, 1982. The docket contains the enactment and the report. The report incorporates State-EPA correspondence that clarifies the SIP.

Based on these developments, EPA is proposing in today's notice to (1) approve the revised Idaho SIP, (2) rescind the previously approved SIP except for emission regulations which are being temporarily retained to meet continuity requirements, and (3) officially withdraw the July 16, 1981 proposal (46 FR 36869) for an EPA-promulgated SIP.

Furthermore, EPA has reviewed air monitoring data for the Pocatello SO_2 nonattainment area and the Silver Valley SO_2 and TSP nonattainment areas and has determined that nonattainment designations are no longer appropriate. Therefore, EPA is proposing in today's notice to redesignate Pocatello to attainment status for SO_2 and to redesignate the Silver Valley to unclassifiable for both TSP and SO_2. The bases for these redesignations are discussed in greater detail in section III below. EPA intends to approve the State's SIP submittals for these areas, but the criteria for approval will be the requirements of section 110 of the Act rather than those for nonattainment areas contained in Part D of the Act.

It is also important to note that, on July 1, 1979, a construction moratorium went into effect in all nonattainment areas in the State pursuant to section 110(a)(2)(I) of the Act and 40 CFR 52.24. The moratorium applies to new major stationary sources and major modifications to existing sources in all designated nonattainment areas in the State. Further, the moratorium will remain in effect until EPA takes final action to approve or promulgate Part D plans for the nonattainment areas, or takes final action to redesignate the areas to attainment or unclassifiable.

II. Rulemaking Topics

A. *Redesignations.* In the absence of the State agency, EPA is initiating action under section 107(d)(2) of the Act to change the nonattainment designations for SO_2 in Pocatello and for both TSP and SO_2 in Silver Valley.

B. *State Submittals.* The SIP revisions which are now before EPA were submitted as described below.

1. January 15, 1980—Revisions submitted in response to the Act's Section 110 and Part D requirements. The major revisions included new source review procedures for nonattainment areas, revised rules and regulations, emission inventories, air quality monitoring data, source surveillance, emergency episode plans, a CO attainment plan for Boise, TSP attainment plans for Silver Valley, Lewiston (incomplete), and Soda Springs, and an incomplete SO_2 attainment plan for Silver Valley. Operating permits containing emission control provisions for particulate matter were also included for the larger sources in the Silver Valley and Soda Springs nonattainment areas. Permits for the Silver Valley nonattainment area were submitted for a lead and zinc smelter, and four lumber mills. Permits for the Soda Springs and Conda area were submitted for a phosphate fertilizer manufacturing plant, an ore crushing facility, an elemental phosphorus plant, and a vanadium pentoxide (V_2O_5) plant. Finally, much of the previously approved Section 110 SIP was resubmitted, unchanged except for recodification.

2. March 7, 1980—TSP attainment plan for Pocatello, including operating permits for a phosphate fertilizer manufacturing plant, and elemental phosphorous plant, and a Portland cement plant.

3. August 8, 1980—Complete SO_2 attainment plan for Silver Valley, including SO_2 emission regulations for lead and zinc smelters. On December 23, 1980, the State withdrew certain of these

SO_2 emission regulations. On March 1, 1982, the remaining SO_2 emission regulations for lead and zinc smelters were withdrawn.

4. October 27, 1980—Request to delete the indirect source review rules (rules 1–1002.37, 1–1002.76, and 1–1004) and Appendix F (indirect source review techniques) from the Idaho SIP.

5. December 4, 1980—Permits for sources in the Lewiston TSP nonattainment area as well as corresponding revisions to the attainment plan. Estimated particulate matter emissions contained in the State's January 15, 1980 submittal were revised to correspond to permit requirements. Permits were submitted for a Kraft pulp mill and two grain terminals.

6. February 5, 1981—Revision to the TSP attainment plan for Pocatello and a permit inadvertently omitted from the December 4, 1980 Lewiston submittal. Modification to the Pocatello plan focused on correcting errors in the emissions inventory, adding a RACT certification, and redoing the attainment demonstration based on allowable rather than estimated 1982 emissions. The Lewiston permit submitted was for a wood products operation associated with the Kraft mill addressed in submittal five above.

7. March 1, 1982—Withdrawal of the variance regulation and SO_2 emission regulations for lead and zinc smelters.

Each of the above mentioned TSP attainment plans, required by Part D of the Act, contains (1) and ambient air quality summary, (2) emissions inventory, (3) control strategy discussion and demonstration, (4) demonstration of RFP, and (5) attainment demonstration. Permits for sources of particulate matter addressed in each of those TSP plans restrict emissions from process and combusion equipment as well as fugitive emissions.

C. *Past Federal Actions.* Several past EPA promulgations are relevant to today's action on Part D SIPs. The Pocatello plan includes emission limits and other provisions promulgated by EPA in the June 9, 1976 **Federal Register** (41 FR 23203). The Silver Valley plan includes emission limits and other provisions promulgated by EPA in the **Federal Register** on November 19, 1975 (40 FR 53588); December 13, 1979 (44 FR 72120); and January 7, 1980 (45 FR 1419).

Second, EPA approved the transportation control plan portion of the Boise CO attainment plan in a rulemaking published in **Federal Register** on October 23, 1980 (45 FR 70252).

Two provisions in the SIP not referred to or affected by this rulemaking are (1) a State submitted (under Section 110 of the Act) EPA approved consent order limiting SO_2 emissions for Beker Industries in Conda, Idaho, and (2) EPA promulgated (under Part C of the Act) Regulations for Preventing Significant Deterioration of Air Quality (40 CFR Part 52.683).

III

Under Section 107 (d) of the Act, EPA is proposing the following redesignations:

Area	Pollutant	Present designation	Proposed designation
Pocatello	SO_2	Nonattainment	Attainment.
Silver valley	SO_2	Nonattainment	Unclassifiable.
Silver Valley	TSP	Nonattainment	Unclassifiable.

In Pocatello, there have been no violations of the NAAQS for SO_2 during the past eight calendar quarters. Therefore, this area meets EPA's criteria for a redesignation to attainment.

In the Silver Valley, a large lead and zinc smelter has indefinitely suspended operations. Since the smelter commenced its phase-down in October 1981, ambient TSP and SO_2 concentrations have dropped dramatically. This industrial source was the only major source of SO_2 and particulate matter emissions in the Valley. Emissions from all other sources of SO_2 and all other industrial sources of particulate matter are insignificant compared to the smelter's emissions. EPA has concluded that the suspension of operations at the smelter facility has had such a significant impact on air quality in the Valley that data collected prior to the suspension are no longer reliable indicators of the area's attainment status. Therefore, EPA is proposing to redesignate the area as unclassifiable for both the SO_2 and particulate matter standards.

With the suspension of operations at the smelter, attainment for both standards appears certain. However, additional data is needed to confirm that the area is in fact in attainment. EPA will be closely monitoring air quality data and the plant's closure status. Information available at the end of this year will be used to redesignate the area to attainment or nonattainment as appropriate.

It is important to note that a designation change from nonattainment to unclassifiable would lift the construction moratorium now in effect for this area and eliminate the need for an attainment plan required under Part D of the Act.

Data supporting the proposed redesignations for both Pocatello and Silver Valley are contained in the docket and are available for review at the locations listed in the "ADDRESSES" section.

IV. Plan Revisions

As noted in the Background section of this notice, the State of Idaho will resume a State-operated air program provided that EPA approves, by August 1, 1982, the SIP submitted between January 15, 1980 and March 1, 1982 in accordance with the terms of the enactment and Committee Report.

A. *Summary of Proposed Approval Actions.* EPA proposes to approve, with the limitations discussed in this section, Idaho SIP submittals dated January 15, 1980, March 7, 1980, August 8, 1980, October 27, 1980, December 4, 1980, December 23, 1980, February 5, 1981, and March 1, 1982. These submittals, in conjunction with the EPA promulgations and approvals discussed in Section II.C above, constitute the entire Idaho SIP.

With respect to the four submitted TSP control strategies, EPA proposes to conditionally approve the Lewiston, Pocatello and Soda Springs attainment plans pursuant to Part D of the Act and the Silver Valley plan pursuant to the requirements of Section 110. Silver Valley approval is being taken under Section 110 and not Part D because EPA is also proposing in today's notice, as discussed in Section III above, to redesignate Silver Valley to unclassifiable (from nonattainment) for TSP. Note that for Pocatello and Lewiston, proposed approval is based on additional studies and control of nontraditional sources as needed. EPA is now working on these studies and Idaho will assume responsibility for completing these actions when the State air program is reinstated.

As stated in Section II.B of today's notice, the State withdrew its submittal of regulations 1–1851 through 1–1868 which represented the SO_2 control strategy for the Silver Valley attainment plan. As also stated earlier, EPA is proposing to redesignate Silver Valley to unclassifiable (from nonattainment) for SO_2. Therefore, EPA is proposing to approve the remaining emissions inventory and air quality data sections of this SO_2 plan under section 110 rather than Part D of the Act.

The content of the Idaho SIP and changes produced by these proposed revisions are shown in the table found in subsection D of this section.

B. *Approval With Certain Understandings.* Several regulations contained language that allowed

interpretations or latitude which, if exercised beyond certain points, could produce results contrary to requirements of the Act. These uncertainties were clarified in a letter from EPA to the Idaho Legislature dated February 24, 1982 and a letter from the IDHW to EPA dated March 1, 1982. Therefore, EPA proposes to approve the following rules with the identified stipulations and understandings:

1. Rule 1–1006 ("Upset Conditions, Breakdown")—Application of this rule will be compatible with Clean Air Act objectives. The State affirmed this position in its March 1, 1982 letter and further stipulated: "The burden of proof that excess emissions are unavoidable due to start up, shut down, upset, or malfunction is on the industry. If such proof is not provided through the required reporting process, a violation is deemed to have occurred. Frequent repetitive exceedances are not allowed by this regulation." It is EPA's understanding that the State is clarifying its operating procedures to achieve the intent stated above.

2. Rule 1–1900.01 ("Alternative Emission Limits")—Individual "bubble" permits developed pursuant to the rule will be submitted to EPA as SIP revisions. EPA will approve such permits provided that the permits:

(a) Are consistent with Idaho rules 1–1327, 1,1328, 1,1329, 1–1330 (process weight rate emission limitations),

(b) Are consistent with approved and applicable SIP control strategies,

(c) quantify the allowable emission for each point of emission,

(d) Are enforceable,

(e) Limit trade-offs between sources to the same criteria pollutant,

(f) Do not allow an existing source within a facility to violate an applicable NSPS under Section 111 of the Act or allow an increase in emissions of pollutants regulated under Section 112 of the Act,

(g) Are adopted with administrative procedures applicable to SIP's.

The applicable SIP control strategies referred to in item (b) above include requirements that major facilities meet BACT and LAER. EPA will approve permits provided that they maintain BACT and LAER limitations. Further, paragraph (b) of Rule 1900.01 requires that "there will be no degradation in air quality." EPA interprets this provision to mean that permits containing bubble applications must demonstrate that there will be no new, or exacerbations of existing, violations of NAAQS. As part of the agreement between the State and EPA, the State intends to seek authority to administer Part C, Prevention of Significant Deterioration (PSD) requirements. Until that is accomplished, EPA will continue to administer the PSD regulation in Idaho, including protection of PSD increments affected by Idaho bubble permits.

Finally, the State has identified development of a generic bubble permit regulation consistent with EPA policy as a priority activity since permits covered by such a generic rule would not have to be submitted as SIP revisions.

3. Rules 1–1003.03(b), 1–1003.04, and 1–1906.08 (permit requirements)—A permit to construct or modify and an opportunity for public comment shall be provided for each new major stationary source and major modification. An opportunity for public comment shall be provided for any other source or modification which will have a significant impact on air quality.

4. Rule 1906.01 ("LAER Requirements")—As was intended by the State, LAER shall apply where rule conditions .01(a) (source location requirements) and .01(c) (cut-off date for commencement of construction) are met or .01(b) (air quality considerations) and .01(c) are met. The State also agreed to make the corresponding correction to the rule and submit it as a SIP revision.

5. Rule 1–1906.07 ("Emission Banking")—Since an emission banking provision is identified but no program or procedures provided, the State has agreed to submit all applications of the emission banking provisions to EPA as SIP revisions. If the State adopts banking procedures, the need to submit individual banking actions can be eliminated.

6. Rules 1–1010 and 1–1803 (Source test procedures)—Any substantive revisions to the formally adopted source test procedures manual (dated 1977) will be submitted to EPA for approval.

7. Definitions:

a. Administrator—As used in the State rules, the term means Director of the IDHW.

b. Source/Facility (1.002.67/1.002.32)—The State defines "facility" as EPA defines "source" and vice versa. This is not a problem except that the terms are not used consistently in different regulations. The occasional oversight of using these terms interchangeably will be corrected by the State.

c. Fugitive Dust (1–1002.34)—It is the State's intent that this definition shall not preclude or interfere with requiring control of fugitive particulate emissions from industrial sources. Further, it is recognized that the Act requires, in certain instances, application of RACT in controlling particulate fugitive emissions from industries.

8. Part D New Source Review Rules. The Idaho NSR rules were designed to satisfy the EPA requirements as they existed in 1979, specifically the Offset Interpretive Ruling (40 CFR Part 51, Appendix S, January 16, 1979) and the General Preamble for Part D SIPs (44 FR 20372, April 4, 1979). Since adoption and submittal by the State, EPA regulations for Part D NSR programs (40 CFR 51.18(j)) have been promulgated in response to court decisions (45 FR 31307, May 13, 1980 and 45 FR 52676, August 7, 1980). As a result, a number of State provisions differ from current EPA requirements. Some of these differences are addressed in the "Approval with Certain Understandings and Conditional Approval" sections of this proposed action. Several other differences are discussed in the Technical Support Document ("TSD") which presents EPA's rationale for approving the new source review rules. The TSD has been placed in the docket and is available for inspection at the locations listed in the "ADDRESSES" section of this notice.

As explained in greater detail in the TSD, several of these differences have been addressed by specific interpretations of the State's rules. EPA's proposed approval is also based in part on the State's commitment to review and revise its new source review rules within nine months of EPA's final approval in order to satisfy the requirements of 40 CFR 51.18(j). This commitment was incorporated into the Idaho Legislature's Special Air Quality Committee Report, which is referenced in the March 1982 enactment. In addition, EPA has reviewed the State's program and recent permitting history, and concluded that the differences are not expected to cause any adverse impact on air quality before the State completes its review and revision.

C. *Conditional Approval.* EPA proposes to approve the total suspended particulate (TSP) attainment plans and regulations developed pursuant to Part D of the Act and to approve several definitions only on the condition that specific revisions or actions are completed within nine months from the date EPA publishes final rulemaking on this subject. These conditions are discussed below.

1.TSP Attainment Plans—The State must update statistical data in the plan for each of the TSP nonattainment areas. Information is to include, as required by Section 172 of the Act, emission inventories, updated air quality summaries, and revised RFP curves showing adequate progress toward attainment of NAAQS. Emissions inventory data shall be comprehensive and accurate and shall

include both current and projected emissions.

2. Alternatives Analysis—The State must adopt and submit to EPA a regulation which requires, consistent with section 172(b)(11)(A) of the Act, "an analysis of alternative sites, sizes, production processes, and environmental control techniques." This regulation would apply to the permitting process for construction or modification of a major CO emitting facility in the Boise nonattainment area.

3. Definitions:

a. "Emission Standard"—In order to be consistent with the definition of "emission limitation" found in section 302(k) of the Act, the term "emission standard" must be modified to clearly require "continuous emission reduction."

b. "Major Facility" and "Major Modification"—For consistency with 40 CFR 51.18(j), the State must use the same "allowable emission" cut-off for CO as for other criteria pollutants or must define major facility and major modification in terms of "potential to emit" not to exceed 100 tpy.

D. *SIP Content.* The content of the Idaho SIP and changes produced by these proposed revisions are shown in the table below. The term "Old Designation" refers to identification of sections or regulations in the current approved SIP. "New Designation" identifies corresponding or new elements in the submitted SIP revision being acted on today.

CONTENT OF THE IDAHO SIP

Old designation	New designation	Subject	Substantive change
Chapter I	Chapter I	Introduction and general review	Update for 1977 CAA Amendments.
Chapter II	Chapter III and Appendix B	Emissions inventory	Updated for 1977.
Chapters III and IX	Chapter IV	AQ monitoring and data	Updated through 1978.
Chapter IV	Chapter VIII	Control strategies	Replaced with Part D attainment plans.
Chapter V	Appendices G-K (permits for nonattainment areas).	Compliance schedule	Updated for Part D attainment plans.
Chapters VI, VIII, XIII	Chapter II	Administrative elements including legal authority, intergovernmental cooperation and resources.	Updates plus administrative elements added to meet § 121, 126, 128 and other requirements.
Chapter VII and Federal promulations:.	Appendix A.3 and Federal promulations:.	Rules and regulations	Itemized below.
40 CFR, Part 52 Subpart A	Same	General provisions	None.
Regulation A:			
Section 1	1-1000, 1-1001	Introduction	Legal authority added.
Section 2	1002	Definitions	Itemized below.
A	1002.01	Act	None.
B	1002.02	Air contaminant	None.
C	1002.03	Air pollution	None.
D	1002.05	Air quality	None.
E	1002.06	Air quality criterion	None.
	1002.07	Allowable emission	New term.
F	1002.08	Ambient air	None.
G	1002.10	Area source	None.
H	1002.11	ASTM	None.
	1002.13	Baseline concentration	New term.
	1002.14	BACT	New term.
I	1002.16	BTU	None.
J	1002.17	Certificate of registration	None.
K	1002.18	Collection efficiency	None.
L	1002.20	Commission	None.
M	1002.22	Control equipment	None.
N	1002.23	Controlled emission	None.
O	1002.64	Settleable particulate	None.
	1002.24	Criteria pollutant	New term.
P	1002.27	Emission	None.
Q	1002.28	Emission standard	None.
R	1002.30	Equivalent air-dried Kraft pulp	None.
S	1002.31	Existing source	None.
	1002.32	Facility	New term.
T	1002.33	Fuel-burning equipment	New term.
U	1002.34	Fugitive dust	None.
V	1002.35	Hot mix asphalt plant	None.
W	1002.36	Incineration	None.
X	1002.38	Industrial process	None.
Y	1002.39	Kraft pulping	None.
	1002.40	LAER	New term.
	1002.41	Major facility	New term.
	1002.42	Major modification	New term.
Z	1002.45	Monitoring	None.
AA	1002.46	Multiple chamber incinerator	None.
BB	1002.47	New source	None.
	1002.48	Nonattainment area	New term.
CC	1002.49	Non-condensibles	None.
DD	1002.50	Odor	None.
EE	1002.51	Opacity	None.
FF	1002.52	Open burning	None.
GG	1002.53	Particulate matter	None.
HH	1002.54	Person	Added "association" and "Federal . . . governmental entity."
II	1002.56	Portable hot-mix asphalt plant	None.
JJ	1002.57	ppm	None.
KK	1002.58	Primary ambient air quality standard	None.
LL	1002.59	Process or process equipment	None.
MM	1002.60	Process weight	None.
NN	1002.61	Process weight rate	None.
OO	1002.62	Salvage operations	None.
PP	1002.63	Secondary ambient air quality standard	None.
QQ	1002.65	Show cause order	None.
RR	1002.66	Smoke	None.
SS	1002.67	Source	Redefined—now a single process.
TT	1002.68	Source operation	None.
UU	1002.69	Stack	None.

CONTENT OF THE IDAHO SIP—Continued

Old designation	New designation	Subject	Substantive change
VV	1002.70	Standard cond.	None.
	1002.72	Time interval	New term.
WW	1002.73	TRS	None.
XX	1002.74	Ringlemann smoke chart	None.
YY	1002.75	Uncontrolled emission	None.
ZZ	1002.75	Wigwam burner (definitions)	None.
AAA	1002.12	Background level	None.
BBB	1002.71	Stationary source	None.
CCC	1002.44	Modification	None.
DDD	1002.55	Pilot plant	None.
EEE	1002.25	Department	None.
FFF		Indirect source	Withdrawn.
GGG	1002.21	Construction	"Modification" added.
HHH	1002.19	Commence construction or modification	None.
III	1002.76	Urbanized area	None.
JJJ	1002.09	Ambient air quality violation	None.
KKK	1002.29	Emission standard violation	None.
LLL	1002.43	Malfunction	None.
MMM	1002.04	Air pollution source permit	None.
NNN	1002.15	Board	None.
OOO	1002.26	Director	None.
Section 3	1-1003	Registration and permit procedures for stationary sources	Permit requirements for nonattainment areas added.
Section 4		Permit procedures for indirect sources	Not in new SIP.
Section 5	1-1005	Reporting	None.
Section 6	1-1006	Scheduled maintenance	Upset and breakdown provisions added.
Section 8	1-1008	Circumvention	None.
Section 9	1-1009	Total compliance	None.
Section 10	1-1010	Sampling and analytical procedures	Procedures manual developed.
Section 11	1-1011	Provisions governing specific activities	None.
Regulation B	1-1052 through 1-1055	Air pollution episodes	CO, O3 and NO_2 added.
Regulation C	1-1101 through ———	Ambient air quality	None.
Regulation D	1-1151 through 1-1153	Open burning	None.
Regulation E	1-1201 and 1-1203	Visible emissions	40% to 20% opacity for most existing sources.
Regulation F	1-1251 and 1-1252	Fugitive dust control	From "where possible" to "where practical."
Regulation G	1-1301	Particulate emission from fuel burning equipment	(1) From lbs/BTU to grains/scf, (2) New rules by fuel type.
Regulation H	1-1327 through 1-1330	Particulate matter from processing equipment	More restrictive for large sources; somewhat less restrictive for sources smaller than 2000 lbs/hr.
Regulation I	1-1351 through 1-1353	Sulfur content of fuels	None.
Regulation J	1-1401 and 1-1402	Fluoride emission	None.
Regulation K	1-1451 and 1-1452	Odors	None.
Regulation L	1-1501 through 1-1503	Particulate matter from incinerators	None.
Regulation M	1-1551 through 1-1553	Motor vehicle emissions	None.
Regulation N	1-1601 through 1-1605	Hot mix asphalt plants	Special provisions for portable plants are deleted.
Regulation O	1-1651 through 1-1662	Kraft pulp mills	None.
Regulation P		Wigwam burners	Deleted.
Regulation Q	1-1751 through 1-1755	Rendering plants	None.
Regulation T	1-1900 through 1-1906	Source operating permits	Added a "bubble" provision and "Permit Requirements in Non-attainment Areas."
Regulation U	1-1955 through 1-1968	New source performance standards	More restrictive particulate standard for new incinerators.
40 CFR Sections 52.675, 52.677 and 52.680 (EPA promulgation 41 FR 23202).	Same	Regulations for control of SO_2 emissions from sulfuric acid plants (J. R. Simplot Co., Pocatello).	None.
Beker Industries 1973 Consent Order.	Same	SO_2 emission limitation	None.
40 CFR 52.683 (EPA promulgations 43 FR 26410 and 45 FR 52676.	Same	Significant deterioration of air quality	None.
Chapter X	Chapter V	Source surveillance	None.
Chapter XI	Chapter VII	Approval procedures for new and modified sources	Replaced with description of regulations and process for reviewing new and modified sources impacting nonattainment areas.
Chapter XII	Chapter VI	Emergency episode plan	Revised program description and added area specific contingency plans.

E. *Continuity of Regulations.* In conjunction with the proposed approval of the recodified and revised Idaho SIP, EPA is proposing to rescind the SIP currently in effect except those Regulations containing actual emission limits. These limits would remain applicable and enforceable to prevent a source from operating without controls or under less stringent controls, while moving toward compliance with the new regulations (or, if it chooses, challenging the new regulations). The old limits will be rescinded when affected sources achieve compliance with new limits proposed for approval in this Notice.

F. *Withdrawal of Rulemaking.* EPA proposes to withdraw proposed rulemaking published on July 16, 1981 (46 FR 36869). This action dealt with those rules necessary for EPA to temporarily manage the Idaho air program.

IV. Call For Comments

Interested parties are invited to comment on all aspects of this proposal. Comments should be submitted, preferably in triplicate, to the address listed in the front of this Notice. Public comments postmarked by June 16, 1982 will be considered in any final action EPA takes on this proposal.

Under Executive Order 12291, today's action is not "major." It has been submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at the addresses listed above.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals and redesignations do not have significant economic impact on a substantial number of small entities. (See 46 FR 8709).

List of Subjects in 40 CFR Part 52

Air Pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Sections 107(d), 110, 171, 172 and 301(a) of the Clean Air Act (42 U.S.C 7407(d), 7410(a), 7501, 7502 and 7601(a))

Dated: May 10, 1982.

John R. Spencer,

Regional Administrator.

[FR Doc. 82-13343 Filed 5-14-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 228

[WH-FRL-2095-5]

Ocean Dumping; Proposed Designation of Site

Correction

In the isue of Wednesday, May 5, 1982, on page 19382, in the first column, a correction regarding FR Doc. 82-11524 appeared, however it must be disregarded because it was mislabeled and contained other inaccuracies.

For the correct information, see the issue of Thursday, May 13, 1982, page 20639.

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Services Covered Under Automobile, Liability, and Employer Group Health Insurance

AGENCY: Health Care Financing Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Health Care Financing Administration is proposing regulations dealing with services covered under automobile medical, no-fault, or liability insurance and services to end-stage renal disease beneficiaries who are also insured under employer group health plans

These rules are required by sections 953 of the Omnibus Reconciliation Act of 1980 which excludes from Medicare coverage any services for which payment has been made or can reasonably be expected to be made under an automobile or liability insurance policy or plan or under no-fault insurance, and section 2146 of the Omnibus Budget Reconciliation Act of 1981 which makes medicare benefits secondary to benefits payable under an employer group health plan for services furnished to end-stage renal disease beneficiaries during a specified period of up to 12 months.

The intent is to conserve Medicare funds and prevent duplicate payments by Medicare.

DATE: In order to ensure consideration, comments should be mailed by July 16, 1982.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235.

You may prefer to deliver your comments to:

Health Care Financing Administration, Room 309-G, Hubert Humphrey Bldg., 200 Independence Ave., S.W., Washington, D.C.; or

Health Care Financing Administration, Room 789, East High Rise Bldg., 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to BPP-164-P. Comments will be available for public inspection beginning approximately two weeks from today, in Room 309-G of our offices at 200 Independence Ave., SW., Washington, D.C. on Monday through Friday 8:30 a.m. to 5 p.m. ((202) 245-7890).

FOR FURTHER INFORMATION CONTACT: Herbert Pollock (301) 594-4978.

SUPPLEMENTARY INFORMATION: The proposed amendments would provide as follows:

1. With respect to services covered under automobile medical or no-fault insurance, Medicare would pay only if private insurance payment would be delayed, and would recover when the private insurer paid.

2. For services covered under liability insurance, Medicare would pay and recover when payment, or a judgment or settlement, was obtained.

3. For services furnished to beneficiaries entitled solely on the basis of end-stage renal disease (ESRD) Medicare would be the secondary payer if those services were—

- Furnished during a specified period of up to 12 months; and
- Covered under an employer group health plan. If employer plan payments were substantially less prompt than Medicare, Medicare would make conditional payments and recover when the employer plan paid.

Statutory Basis

Section 953 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96-499) amended section 1862(b) of the Social Security Act to exclude from Medicare coverage any services for which payment has been made or can reasonably be expected to be made under an automobile or liability insurance policy or plan (including a self-insured plan) or under no-fault insurance.

Section 2146 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) further amended section 1862(b) of the Act to make Medicare benefits secondary to benefits payable under an employer group health plan for services furnished to an end-stage renal disease beneficiary during a 12-month period that begins with the earlier of—

- The month in which the individual initiates a regular course of renal dialysis; or
- If the individual recieves a kidney transplant, the first month in which he or she could become entitled to Medicare on that basis.

This provision does not apply to individual policies.

Under section 1862(b), any Medicare payment for an item or service is conditioned on reimbursement to the appropriate trust fund (the supplementary medical insurance trust fund or the hospital insurance trust fund) when notice or other information is received that payment has been made under automobile medical, no-fault, or liability insurance, or, in the case of an ESRD beneficiary, under an employer group health plan.

The two amendments also authorize us to waive recovery in an individual claim if we determine that the probability of recovery of the amount involved does not justify pursuit of the claim.

Basic Issues

The basic issues we considered during the development of the proposed regulation are discussed below:

Issue: Whether Medicare benefits would be secondary even when the private insurance policy or plan states that its benefits are secondary to Medicare or otherwise excludes or limits its payments to Medicare beneficiaries.

A number of jurisdictions have no-fault laws that, through varying language, provide that the no-fault insurers pay only supplementary benefits if benefits are payable under Medicare. Some of these jurisdictions lower no-fault premiums for the elderly to compensate for the antiduplication provision. Certain automobile medical insurance policies also specify that payment will not be made if Medicare benefits are payable. Most employer group health plans provide coverage that only supplements Medicare. Under the proposed regulations, Medicare would be secondary even if the automobile policy, no-fault law, or employer plan contains a provision making its benefits secondary to

Medicare. Our interpretation of sections 953 of Pub. L. 96–499 and 2146 of Pub. L. 97–35 is consistent with the cost-saving objectives of these provisions and eliminates incentives for States and insurance plans to provide coverage that only supplements Medicare.

The legislative history of sections 953 and 2146 indicates that it was the intent of Congress that Medicare be the secondary payer if services are also covered by private insurance. The Report of the House Committee on the Budget to accompany the Reconciliation Bill H.R. 7765 (Report No. 96–1167, July 21, 1980) contains the following language on page 389:

> Under Title XVIII, Medicare will have residual rather than primary liability for the payment of services required by a beneficiary as a result of an injury or illiness sustained in an auto accident where payment for the provision of such services can also be made under an automobile insurance policy* * *
>
> Under present law, medicare is the primary payor (except where a workmen's compensation program is determined to be responsible for payments for needed medical services) for hospital and medical services received by beneficiaries. This is true even in cases in which a beneficiary's need for services is related to an injury or illness sustained in an auto accident and the services could have been paid for by a private insurance carrier under the terms of an automobile insurance policy. As a result, medicare has served to relieve private insurers of obligations to pay the costs of medical care in cases where there would otherwise be liability under the private insurance contract. The original concerns that prompted inclusion of this program policy in the law—the administrative difficulties involved in ascertaining private insurance liability and the attendant delays in payments—no longer justify retaining the policy.

Senate Finance Committee Report No. 97–139, July 1, 1981, p. 469, noted that most employer group health plans preclude payment if there is Medicare coverage and added that the purpose of the Committee's bill was to change the coordination of benefits relationships between Medicare and any private coverage that is present at the onset of ESRD.

> The bill changes the benefit coordination arrangements between the medicare end-stage renal program and any other health benefits * * * by making any private coverage primary to medicare for an initial 12 months after the beneficiary is determined eligible for medicare coverage under the end-stage renal provisions * * *
>
> The committee expects physicians and providers and suppliers of health services to end-stage renal patients to recognize that the purpose of this provision is only to change the coordination of benefits relationships between medicare and private health benefit coverage to the extent that any private coverage is present at the onset of end-stage renal disease. Reimbursement for covered expenses for care of such patients is still assured, through the apportionment of such expenses between private plans and medicare will be somewhat diffeent for the intial 12-month coverage of those patients who have other health benefit coverage. Therefore, the committee expects that no end-stage renal patients will be denied needed care or services by reason of the enactment of this coordination of benefits provision. The committee intends that the provision would not result in a reduction in medicare beneficiaries combined protection under the medicare and private insurance programs.

Full implementation of section 1862(b) to effect congressional intent requires that Medicare be made the secondary payer even if an insurance policy or no-fault law contains a Medicare nonduplication clause. This result would not do violence to the provisions in no-fault laws or insurance policies, since they typically attempt to create coverage secondary to whatever Medicare coverage may exist. Thus, the language of the policies and laws assumes that Medicare coverage might be expanded or contracted and that the scope of coverage under the policy or no-fault law would be changed accordingly. Here, section 1862(b) contemplates that Medicare will not pay benefits that are also covered by insurance and therefore contracts the scope of Medicare coverage. By its own terms, a nonduplication clause would ordinarily not be invoked, since, by virtue of the existence of the insurance policy or no-fault law, Medicare coverage would not exist.

Moreover, even if a Medicare nonduplication clause were not made inapplicable by its own terms, it would properly be overriden by section 1862(b). Insurance policies sometimes include provisions intended to make them secondary to any other insurance, or void if other insurance exists. These "other insurance" clauses are not favored in the law and are construed accordingly. See Appleman, *Insurance Law and Practice*, chapter 204 (1979). By the same token, a provision in an insurance policy or State law attempting to make coverage secondary to Medicare cannot override a Federal statue establishing the opposite priority. We believe that provisions intended to limit coverage when Medicare is available are ineffective under the amendments to section 1862(b).

We considered whether our proposed interpretation of the amendments would violate the McCarran-Ferguson Act. That Act reserves to the several States the right to regulate the business of insurance and provides that no Federal law shall be construed to invalidate, impair, or supersede any State law for regulating insurance unless the Federal statute specifically relates to the business of insurance (15 U.S.C. 1012). Since the amendments to section 1862(b) plainly relate to the business of insurance, however, the McCarran-Ferguson Act is in no way contravened.

With respect to the ESRD provisions, we considered whether the tax provision (an employer may not take a tax deduction for the expenses of a group health plan that differentiates between benefits to ESRD patients and benefits to others) shows that Congress intended to discourage (rather than prevent) employers from making their health benefits secondary to Medicare benefits.

We agree that Congress did not intend to prevent employers from using a group health plan that does not cover ESRD services (at the expense of losing the tax deduction). However, practically all employer group health plans make their benefits secondary to Medicare. Since section 2146 is clearly aimed at making Medicare secondary, the provision would have little if any application or cost-saving effect if interpreted to mean that Medicare would continue paying primary benefits if the employer plan provided benefits which only supplemented Medicare.

The tax provision of section 2146, shows that Congress intended to encourage employer group health plans to accept responsibility for services required by ESRD patients. In this respect, the Senate Finance Committee Report noted that most group health plans preclude payment if there is Medicare coverage, and added that the purpose of the Committee's bill was to change the coordination of benefits relationships between Medicare and any private coverage that is present at the onset of ESRD.

Issue: Whether the period of secondary benefits for ESRD beneficiaries would be 12 months or less. We considered interpreting section 2146 as requiring Medicare to be secondary to the employer group health plan for the first 12 months of an individual's entitlement based solely on ESRD. This alternative would be supported by the Senate Budget Committee Report (Report No. 97–139, June 17, 1981), which states, on page 469, that the bill would: "make * * * private coverage primary to Medicare for an initial period of 12 months after the beneficiary is determined eligible for Medicare * * *"

However, the law states that the 12-month period begins with the first month

of renal dialysis. Medicare entitlement generally begins with the 4th month of dialysis because there is a 3-month waiting period that is waived only if the patient begins training for self-dialysis. Therefore, an individual who became entitled after a waiting period would be entitled only during the last 9 months of the 12-month period. The regulations provide that Medicare will be secondary payer for those 9 months. They also provide for a shortened period of secondary payment if delay in filing an application delays entitlement. (Under the law, an application may not be retroactive for more than 12 months.)

Issue: Whether to deny Medicare payments routinely or pay and recover later from the private insurer.

Under automobile medical or no fault insurance, payment can frequently be foreseen with reasonable certainty. In such cases, the question arises of whether to make payments and later seek recovery, or to withhold Medicare payments in the expectation that insurance payments will be made. A policy of paying and recovering later appears to be supported by the Senate Finance Committee Spending Reduction Recommendations for fiscal year 1981 (CP–96–36, June 25, 1980) which state, on page 42:

> Medicare would pay for the patient's care in the usual manner and then seek to be reimbursed by private insurance after, and to the extent that, liability has been determined.

With respect to automobile medical and no-fault insurance, however, we do not believe that this suggestion overrides the statutory command in section 1862(b)(1) that payments "may not be made" if insurance payments "can reasonably be expected to be made." Under the proposed regulations, conditional Medicare payments could be made if insurance coverage was contested or if payments were delayed, but if insurance payments could reasonably be expected, Medicare payments would be withheld.

With respect to liability insurance (which does not specify what benefits are payable) Medicare would pay and recover when a judgment or settlement is obtained.

With respect to the ESRD provisions we have followed the statutory language.

Section 1862(b)(2)(A) provides that Medicare payment may not be made for services furnished an ESRD beneficiary if payment has been made under an employer plan or the Secretary determines that payment under such a plan will be as prompt as Medicare payment would be.

The Report of the Conference Committee (Report 97–208, 97th Congress, 1st session) refers to Medicare payment until the employer plan begins to pay or will be able to pay as promptly as Medicare. In most cases the ESRD patient will not become entitled until three months after he or she initiates dialysis. This means that in most instances the employer health plan will already be paying benefits when the patient becomes entitled to Medicare.

Our decision to follow the statutory language is consistent with our decision regarding automobile medical and no-fault insurance, and in accordance with the usual sequence of payments. The proposed regulations provide that conditional payments may be made if the intermediary or carrier knows from experience or ascertains that an employer plan's payments are substantially less prompt than Medicare payments.

In order to facilitate recovery of Medicare payments, the proposed regulations provide for recovery directly by Medicare or through the beneficiary. Accordingly, if a beneficary receives payment from any insurer for services for which Medicare has paid, the beneficiary would be required to refund the Medicare payment. If the beneficiary did not pursue the claim, HCFA could institute its own action against the insurer or the person responsible for the injury. In its discretion, HCFA could require a beneficiary who is to receive a conditional payment to authorize HCFA to pursue the beneficiary's rights if the beneficiary fails to do so.

PROVISIONS OF THE REGULATIONS

Services Covered Under Automobile or Liability Insurance

A. Definitions and Basic Rules

Proposed new § 405.322 would specify that the regulations apply to services required because of accidents that occur on or after December 5, 1980 (the date of enactment of the amendments), define terms, preclude Medicare payments that duplicate payments made under either automobile or liability insurance for services furnished on or after the above date, and set forth HCFA's right to recover payments for services covered by the private insurance. To prevent inequity to beneficiaries who have already received insurance payments without knowldege of Medicare's potential claim on them, the proposed regulation would exempt from recovery any payment actually received by a beneficiary before the effective date of the final regulation. This exemption would not apply to insurance payments received by a provider that has been assigned rights under an insurance policy.

B. Automobile Medical or No-Fault Insurance

Proposed new § 405.323 would set forth the specific rules applicable to services covered under automobile medical or no-fault insurance. It would (1) apply to services furnished at least 60 days after issuance of final regulations, (2) stipulate that Medicare payment is excluded even when the automobile policy or plan states that its benefits are secondary to Medicare, and (3) set forth the rules for conditional payments.

C. Liability Insurance

Proposed new § 405.324 would set forth the rules for conditional payments and for recovery when a judgment or settlement has been obtained under any liability insurance, such as automobile liability, homeowners' insurance, or malpractice insurance.

Liability claims are usually filed against the individual or other entity that allegedly caused the injury rather than against a liability insurer. When the claim is setttled or adjudicated, usually after protracted negotiation and possible litigation, a liability insurer may pay all or only part of the claim. A beneficiary who obtained payment, or a judgment or settlement, would be required to reimburse the program. The amount to be reimbursed would take into account the costs of securing the judgment or settlement. We chose this option (as opposed to disregarding these costs) because it is more equitable and is consistent with policies under which Medicaid and other programs that have subrogation rights share in the costs of securing judgment or settlement. Beneficiaries would be expected to avail themselves of insurance benefits so that the Medicare trust funds can be protected to the extent possible. If the beneficiary did not pursue the claim, HCFA could institute its own action.

D. Effect on Benefit Utilization and Deductibles, When Services are Payable Under Automobile or Liability Insurance

Proposed new § 405.325 would specify that services for which Medicare payment is not made (or if made is later recovered) because payment has been made by an automobile medical or no-fault insurer or by a liability insurer would not be charged against the number of inpatient care days available to the beneficiary. It would also specify that expenses incurred for services paid for by an automobile insurer or any

liability insurer would not be credited toward the Medicare deductible amounts. These are expenses for noncovered services. Under the law, noncovered expenses cannot be credited to the deductible amounts.

Services to ESRD Beneficiaries Covered Under an Employer Group Health Plan

A. Scope and Applicability

Proposed new § 405.326 would—

- Specify that the policies and procedures of §§ 405.326–405.329 apply only to beneficiaries who are entitled to Medicare solely on the basis of ESRD and who are covered under an employer group health plan;
- Define "employer" as it is defined in the Internal Revenue Code and regulations, i.e., to include income tax exempt entities and the Federal, State, and local governments, as well as entities engaged in a trade or business.
- Define "employer group health plan" as a plan that is of, or contributed to by, an employer, and provides health care to current or former employees or to current or former employees and members of their families;
- Explain that Medicare benefits are "secondary" to benefits under more than one employer plan if the beneficiary is covered by more than one; and
- Specify that Medicare benefits are secondary to employer plans even though the employer plan states that its benefits are secondary to Medicare, or otherwise excludes or limits its payments to Medicare beneficiaries.

B. Medicare as Secondary Payer

Proposed new § 405.327 would (1) specify that Medicare benefits are secondary to benefits under an employer group health plan for up to 12 consecutive months; (2) make clear that the 12-month period may not begin until October 1981 or later; and (3) set forth the rules for payment during the period when Medicare benefits may be secondary to employer group health plan benefits. it would also—

- Make clear that the individual may become entitled later than the beginning of the 12-month period.
- Specify that the period of secondary payment will end if the basis for the individual's entitlement changes from ESRD to age 65 or disability.
- Provide that the secondary payer rules apply to each period of entitlement based solely on ESRD.

(The 12-month period may not begin earlier than October 1981 because that would make employer plans responsible for paying benfits on the basis of an event (initiation of dialysis or kidney transplant) that occurred before the amendment was enacted.)

C. Limits on Medicare Secondary Payment

Proposed new § 405.328 would—

- Set forth the limits on the amounts of secondary Medicare payments to supplement the amount paid by an employer plan if the plan does not pay the entire bill.
- Specify that if Medicare pays secondary benefits, the beneficiary will be charged with utilization of Part A benefits only to the extent that Medicare paid for the services.
- Provide that expenses which would serve to meet the beneficiary's Part A or Part B deductible if Medicare were primary payer, will be credited to the deductible even if they are reimbursed by the employer plan.

D. Conditional Payments and Recovery

Proposed new § 405.329 would set forth the policies for making conditional primary payments when the intermediary or carrier knows that payment by the employer plan would be substantially less prompt than Medicare payment.

These rules are essentially the same as the rules for services covered by automobile or liability insurance.

Impact Analysis

Executive Order 12291

We estimate that the changes making Medicare a secondary payer for ESRD services will save $20 million in Medicare expenditures in fiscal year 1983 and $70 million in fiscal year 1984. We estimate the change limiting Medicare payments for services covered under liability insurance would save $9 million in Medicare expenditures in fiscal year 1983 and $39 million in fiscal year 1984. Hence, neither of these separate changes (combined in this rulemaking for convenience) exceeds $100 million.

Moreover, these regulations simply conform the existing rules to the change legislated by section 953 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96–449) and section 2146 of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35). Effective dates for these provisions were established by these statutes. the cost impacts are solely the result of the legislation. Therefore, these regulations do not "result in" a cost impact of $100 million or more or otherwise trigger the criteria for a major rule established in E.O. 12291.

Regulatory Flexibility Act

The Secretary certifies, pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–345), that these regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities. By making private insurance companies primarily responsible in covering the services required by Medicare beneficiaries, they will experience an estimated increased outlay of $109 million in fiscal year 1984. This is only about one-tenth of 1 percent of the estimated premium income for fiscal year 1984, $87 billion. This loss can be offset by adjusting premiums. For example, it is estimated that the employer group plans, the premium would increase 50 cents a month per person, when coverage is for a three-person family. We believe an adjustment of this magnitude will not affect significantly the financial situation of the insurance industry or companies large and small within it.

Furthermore, as stated above, the economic effect of these changes is caused by the law rather than the regulations. Therefore, a regulatory flexibility analysis is not required.

Response To Comments

Because we receive large numbers of comments, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and will respond to them in the preamble to that rule.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Certification of compliance, Clinics, Contracts (agreements), End-stage renal disease (ESRD), Health care, Health facilities, Health maintenance organizations (HMO), Health professions, Health suppliers, Home health agencies, Hospitals, Inpatients, Kidney diseases, Laboratories, Medicare, Nursing homes, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

In 42 CFR Part 405, Subpart C is amended as set forth below:

A. The table of contents is revised to reflect the insertion of undesignated centered headings and the addition of new § § 405.322 through 405.329, and to revise the authority statement as follows:

Subpart C—Exclusions, Recovery of Overpayment, Liability of a Certifying Officer and Suspension of Payment

General Provisions

405.301 Scope of subpart.
405.310 Types of expenses not covered.
405.310–1 Nonreimbursable expenses; conclusive effect of PSRO determinations on claims payment.

General Exclusions

405.311 Nonreimbursable expenses; individual has no legal obligation to pay for items or services.
405.311a Nonreimbursable expenses; items or services furnished by a Federal provider of services or other Federal agency.
405.311b Nonreimbursable expenses; items or services which a provider or other person is obligated to furnish at public expense under a law of, or contract with, the United States.
405.312 Nonreimbursable expenses; items or services paid for by governmental entity.
405.313 Nonreimbursable expenses; items or services not provided in the United States.
405.314 Nonreimbursable expenses; items or service required as a result of war.
405.315 Nonreimbursable expenses; charges imposed by immediate relatives or members of the beneficiary's household.

Exclusion of Services Covered Under Workers' Compensation

405.316 Nonreimbursable expenses; payment for services made under workmen's compensation law.
405.317 Effect of workmen's compensation payment.
405.318 Responsibility of the individual concerning workmen's compensation paymet.
405.319 Responsibility of intermediary where there is a possibility of workmen's compensation coverage.
405.320 Effect of lump-sum settlement and final release.
405.321 Apportionment of a lump-sum compromise settlement of a workmen's compensation claim.

Exclusion of Services Covered Under Automobile Medical, No-fault, or Liability Insurance

405.322 Services covered under automobile medical or no-fault insurance or any liability insurance: General provisions.
405.323 Special provisions: Services for which payment can reasonably be expected under automobile medical or no-fault insurance.
405.324 Special provisions: Services for which payment can reasonably be expected under liability insurance.
405.325 Effect on benefit utilization, deductibles, and coinsurance when services are payable under automobile medical, no-fault, or liability insurance.

Limitations on Payment for Services To End-stage Renal Disease Beneficiaries Who are Covered Under Employer Group Health Plans

405.326 Scope and applicability.
405.327 Period of secondary medicare payment.
405.328 Amount of secondary medicare payment.
405.329 Conditional payments and recovery of payments.

Payment for Certain Excluded Services

405.330 Payment for certain nonreimbursable expenses.
405.331 Liability for certain noncovered items or services.
405.332 Criteria for determining that there was knowledge that certain services were nonreimbursable.

Liability for Payments To Providers or Suppliers and Handling of Incorrect Payments

405.350 Individual's liability for payments made to providers and other persons for items and services furnished the individual.
405.351 Incorrect payments for which the individual is not liable.
405.352 Adjustment of title XVIII incorrect payments.
405.353 Certification of amount that will be adjusted against individual title II or railroad retirement benefits.
405.354 Procedures for adjustment or recovery—title II beneficiary.
405.355 Waiver of adjustment or recovery.
405.356 Principles applied in waiver of adjustment or recovery.
405.359 Liability of certifying or disbursing officer.

Suspension of Payment To Providers and Suppliers and Collection and Compromise of Overpayments

405.370 Suspension of payments to providers of services and other suppliers of services.
405.371 Proceeding for suspension.
405.372 Submission of evidence and notification of administrative determination to suspend.
405.373 Subsequent action by intermediary or carrier.
405.374 Collection and compromise of claims for overpayments.

Authority: Sec. 1102, 1842, 1862, 1870, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395u, 1395y, 1395gg, and 1395hh).

B. The regulation text is amended as set forth below:

1. Undesignated centered headings are inserted as follows:

"General Provisions" is inserted immediately before § 405.301.

"General Exclusions" is inserted immediately before § 405.311.

"Exclusion of Services Covered Under Workers' Compensation" is inserted immediately before § 405.316.

"Payment for Certain Excluded Services" is inserted immediately before § 405.330.

"Liability for Payments To Providers or Suppliers and Handling of Incorrect Payments" is inserted immediately before § 405.350.

"Suspension of Payment and Collection and Compromise of Overpayments" is inserted immediately before § 405.370.

2. Undesignated centered headings and new §§ 405.322 through 405.329 are added to read as follows:

Exclusion of Services Covered Under Automobile Medical, No-fault, or Liability Insurance

§ 405.322 Services covered under automobile medical or no-fault insurance, or any liability insurance: General provisions.

(a) *Applicability.* The provisions of this section and of §§ 405.323 through 405.325 are applicable to services required because of accidents that occurred on or after December 5, 1980.

(b) *Definitions.* As used in this section, and §§ 405.323 through 405.325—*"Automobile"* means any self-propelled land vehicle of a type that must be registered and licensed in the State in which it is owned.

"Automobile medical or no-fault insurance" means automobile insurance (including self-insured plans) that pays for all or part of the medical expenses for injuries sustained in the use, occupancy, or operation of an automobile, regardless of who may have been responsible for causing the accident. (This insurance is sometimes called "medical payments coverage" or "medical expense coverage".)

"Liability insurance" means insurance (including a self-insured plan) that provides payment based on legal liability for injury to persons or damage to property. It includes, but is not limited to, automobile liability insurance, uninsured motorist insurance, homeowners' liability insurance, malpractice insurance, product liability insurance, and general casualty insurance.

"Self-insured plan" means a plan under which an entity (or an individual) is authorized by State law to carry its own risk instead of insuring itself with a carrier.

"Uninsured motorist insurance" means insurance under which the policyholder's insurer will pay for damages caused by a motorist who has no automobile liability insurance or who carries less than the amount of insurance required by law or is underinsured.

(c) *Exclusion from Medicare payment.* Medicare payment may not be made for any services to the extent that payment has been made or can reasonably be expected to be made under automobile medical or no-fault insurance or under any liability insurance policy or plan

(including a self-insured plan). If payment was erroneously made by HCFA for services covered under automobile medical or no-fault insurance, or paid for under liability insurance, the payment is subject to recovery and HCFA may bring an action against the insurer.

(d) *Services paid for under automobile or liability insurance.* Effective for services furnished on or after December 5, 1980, if payment is made under automobile medical or no-fault insurance or any liability insurance—

(1) Except as provided in paragraph (d)(2) of this section, Medicare payment will be denied or, if already made, will be recovered from the provider, supplier, or beneficiary who received the Medicare payment.

(2) *Exception.* HCFA will not recover the Medicare payment if the insurance payment was actually received by the beneficiary between December 5, 1980 and the 60th day after this proposal is published in final form.

(e) *Waiver of recovery.* HCFA may waive recovery action if the probability of recovery or the amount involved does not warrant pursuit of the claim.

§ 405.323 Special provisions: Services for which payment can reasonably be expected under automobile medical or no-fault insurance.

(a) *Effective date.* This section is effective for services furnished sixty days or more after publication of final regulations.

(b) *Automobile medical or no-fault benefits excluded or limited for medicare beneficiaries.* Except as specified in paragraph (c) of this section, payment may not be made for services covered under an automobile medical or no-fault insurance policy or plan even though State law or the insurance policy or plan states that its benefits are secondary to Medicare's or otherwise excludes or limits its payments if the injured party is also entitled to Medicare benefits.

(c) *Conditional payment in contested or otherwise delayed cases.* (1) A conditional Medicare payment may be made under any of the following circumstances:

(i) The beneficiary, or the provider or supplier, has filed a claim for automobile medical or no-fault insurance benefits, but the claim is contested by the insurer or for any other reason, there will be substantial delay in making insurance payments.

(ii) The beneficiary failed to file a claim because of physical or mental incapacity.

(2) If a conditional Medicare payment is made, the following rules apply:

(i) The beneficiary must reimburse Medicare up to the amount it paid if he or she receives payment from the automobile medical or no-fault insurer.

(ii) If, for any reason, payment is not received from the insurer, HCFA may bring an action against the insurer, and the beneficiary must cooperate in HCFA's action.

(iii) HCFA may, as a prerequisite for the conditional payment, require the beneficary to authorize it to pursue the beneficiary's rights against the insurer if the beneficiary does not, and to promise to cooperate in HCFA's action.

(iv) The amount of recovery under paragraph (c)(2)(ii) or (iii) of this section will not exceed the amount of the conditional payment.

(3) At the time the conditional payment is made, the intermediary or carrier will notify the beneficiary or his or her representative of the obligation to refund the conditional payment.

(4) Failure to send notice does not relieve the beneficiary of the obligation to refund the conditional payment, as required by paragraph (c)(2)(i) of this section.

§ 405.324 Special provisions: Services for which payment can reasonably be expected under liability insurance.

(a) *Conditional Medicare payment.* (1) If HCFA has information that services for which Medicare benefits have been claimed are for treatment of an injury or illness that was allegedly caused by another party and that the beneficiary has filed, or has the right to file, a liability claim against the other party, a conditional Medicare payment may be made. In that case—

(i) the beneficiary must reimburse Medicare up to the amount it paid if he or she receives payment from an insurance carrier or self-insured party;

(ii) If payment is not received from the insurer of the responsible party, HCFA may bring an action against the insurer or the responsible party, and the beneficiary must cooperate in HCFA's action;

(iii) HCFA may, as a prerequisite for the conditional payment, require the beneficiary to authorize it to pursue the beneficiary's rights against the insurer or the responsible party if the beneficiary does not, and to promise to cooperate in HCFA's action;

(iv) The amount of recovery under paragraph (a)(1) (ii) or (iii) of this section will noit exceed the amount of the conditional payment.

(2) At the time the conditional Medicare payment is made, the intermediary or carrier will notify the beneficiary or his or her representative of the obligation to refund the conditional payment.

(3) Failure to send notice does not relieve the beneficiary of the obligation to refund the conditional payment as required by paragraph (a)(1)(i) of this section.

(b) *Determining the amount to be recovered from a beneficiary who received a liability insurance payment as a result of a judgment or settlement.*—(1) *Basic rule.* The amount to be recovered from the beneficiary is the amount Medicare paid, less a proportionate share of the costs of procuring the judgment or settlement. If the Medicare payments equal or exceed the amount of the judgment or settlement, the total procurement costs are subtracted from the Medicare payments. The individual will not be required to refund more than the liability insurance payment minus the procurement costs.

(2) *Computation when Medicare payment is less than the amount of the judgment or settlement.* If the Medicare payment is less than the amount of the judgment or settlement—

(i) Determine the ratio of the Medicare payments to the total amount of the judgment or settlement;

(ii) Apply this ratio to the reasonable costs of procuring the judgment or settlement, including attorney fees; and

(iii) Subtract the Medicare share of procurement costs form the Medicare payments. The remainder is the amount of reimbursement to be refunded to the Medicare program.

(3) *Computation when Medicare payment equals or exceeds the amount of the judgment or settlement.* If the Medicare payment equals or exceeds the amount of the judgment or settlement, subtract the total procurement costs from the Medicare payment. The remainder, up to the amount of the liability insurance payment after the procurement costs have been subtracted, is the amount of reimbursement to be refunded to the Medicare program.

§ 405.325 Effect on benefit utilization and deductibles when services are payable under automobile medical, no-fault, or liability insurance.

(a) *Benefit utilization.* Inpatient services for whch Medicare payment is not made (or if made is later recovered) because benefits are paid by an automobile medical or no-fault insurer or by a liability insurer will not be counted against the number of inpatient care days available to the beneficiary under Medicare Part A.

(b) *Deductibles.* Expenses for services for which Medicare payment is not made (or if made is later recovered) because benefits are paid by an automobile medical or no-fault insurer or by a liability insurer cannot be credited toward the Medicare Part A or Part B deductible amounts. If an individual is hospitalized twice in the same benefit period, and the first hospitalization is completely paid for by the insurer, the inpatient hospital deductible would apply to the second hospitalization.

Limitations on Payment for Services to End-Stage Renal Disease Beneficiaries Who Are Also Insured Under Employer Group Health Plans

§ 405.326 Scope and applicability.

(a) Sections 405.327 through 405.329 set forth policies and procedures for payment of benefits for services furnished to individuals who are entitled to Medicare solely on the basis of end-stage renal disease (ESRD) and who are also insured under an employer group health plan.

(b) In §§ 405.327 through 405.329 the following terms have the specified meanings:

(1) *"Employer"* has the same meaning as in the Internal Revenue Code (26 U.S.C. 3401(d)) and implementing regulations at 26 CFR 31.3401(d)–1. It includes, in addition to individuals and organizations engaged in a trade or business, other entities exempt from income tax such as religious, charitable, and educational institutions, the governments of the United States, the individual States, the Territories, Puerto Rico, the Virgin Islands, Guam and the District of Columbia, and the agencies, instrumentalities, and political subdivisions of these governments.

(2) *"Employer group health plan"* or *"employer plan"* means any group health plan that—

(i) Is of, or contributed to by, an employer; and

(ii) Provides medical care on an expense-incurred basis, directly or through other methods such as insurance or reimbursement, to current or former employees, or to current or former employees and their families.

(3) *"Secondary,"* when used to characterize Medicare payments, means that Medicare benefits are payable only to the extent that payment cannot be made by one or more employer group health plans under which the Medicare beneficiary is insured.

§ 405.327 Medicare benefits secondary to employer group health plan benefits.

(a) *General rules.* (1) Effective for months after September 1981, Medicare benefits will be secondary to benefits payable under an employer plan, for services furnished to an ESRD beneficiary during a period of up to 12 consecutive months as specified in paragraphs (b) and (c) of this section.

(2) If the individual becomes entitled to Medicare after the 12-month period has begun, as set forth in paragraph (c) of this section, Medicare benefits are secondary only for that portion of the 12-month period that begins with the month of entitlement.

(3) During the period in which Medicare benefits are secondary, Medicare will—

(i) Pay primary benefits for Medicare covered services that are not covered by the employer plan; and

(ii) Make secondary payments, within the limits specified in §405.328, to supplement the amount paid by the employer plan if that plan pays only a portion of the charge for the service.

(4) Any Medicare benefits payable within the 12-month period are secondary to employer policies or plans even though the employer policy or plan states that its benefits are secondary to Medicare's or otherwise excludes or limits its payments to Medicare beneficiaries.

(b) *Beginning of 12-month period.* The period of 12 consecutive months specified by law begins with any month after September 1981 that is the earlier of the following months:

(1) The month in which the individual initiates a regular course of renal dialysis.

(2) In the case of an individual who receives a kidney transplant, the first month in which the individual could become entitled to Medicare if he or she filed a timely application, that is, the earliest of the following:

(i) The month in which the transplant is performed.

(ii) The month in which the individual is admitted to the hospital in preparation for, or anticipation of, a transplant that is performed within the next two months.

(iii) The second month before the month the transplant is performed, if performed more than 2 months after admission.

(c) *Beginning of period in which Medicare is secondary payer.* The period in which Medicare is secondary payer begins later than the beginning of the 12-month period (and therefore lasts less than 12 months) if the individual—

(1) Is subject to the 3-month waiting period for individuals who initiate renal dialysis but do not begin training for self-dialysis during the first 3 months of dialysis; or

(2) Files the application for Medicare entitlement more than 12 months after the month in which a 12-month period begins. (Under the Act, an application may not be retroactive for more than 12 months.)

(d) *Examples.* The following examples illustrate how to determine, in different situations, the number of months during which Medicare is secondary payer.

(1) *Individual filed a timely application and became entitled without a waiting period.* In October 1981, John began a regular course of dialysis and filed an application for Medicare. In December 1981, John began training for self-dialysis. Since John initiated self-dialysis training during the first 3 months of dialysis, he is exempt from the waiting period and becomes entitled as of October 1981, the first month of dialysis. In this situation, the month of entitlement coincides with the beginning of the 12-month period and Medicare is secondary payer during the entire period.

(2) *Individual filed a timely application and became entitled to Medicare after a waiting peiod.* (i) Janice started a regular course of renal dialysis in October 1981 and filed an application in the same month. The 12-month period begins with October 1981, but the 3-month waiting period doesn't end until December 1981. The month of entitlement for Janice is January 1982. Medicare is secondary payer from January through September 1982.

(ii) Peter started a regular course of dialysis in January 1982, and was hospitalized and received a kidney transplant in March 1982. The 12-month period begins with January 1982. The kidney transplant cuts short the dialysis waiting period so that Peter becomes entitled in March 1982. Medicare is secondary payer from March through December 1982.

(3) *Individual did not file a timely application.* In January 1982, Katherine suffered kidney failure and received a kidney transplant but did not apply for Medicare until July, 1983. Since the application is retroactive for only 12 months, Katherine becomes entitled to Medicare in July 1982. The 12-month period begins in January 1982, the month in which Katherine could have been entitled if she had filed a timely application. Medicare is secondary payer from July through December 1982.

(e) *Effect of changed basis for Medicare entitlement.* If the basis for an individual's entitlement to Medicare changes from ESRD to age 65 or disability, the 12-month period terminates with the month before the month in which the change is effective.

(f) *Determinations for subsequent periods of ESRD entitlement.* If an individual has more than one period of entitlement based solely on ESRD, a period during which Medicare may be secondary payer will be determined for each period of entitlement, in accordance with this section.

§405.328 Amounts of secondary medicare payment.

(a) *Services reimbursed on a reasonable charge basis.* The Medicare secondary payment will be the lowest of the following:

(1) The actual charge by the supplier, minus the amount paid by the employer plan.

(2) the amount that Medicare would pay if the services were not covered by the employer plan.

(3) The sum of the amounts that would have been paid by Medicare as primary payer and the employer plan as secondary payer, minus the amount actually paid by the employer plan.

(4) If the claim is filed under an assignment, the Medicare reasonable charge, minus the amount paid by the employer plan. (If the beneficiary does not assign the claim but files for direct payment, the limit of this paragraph (a)(3) does not apply.)

(b) *Services reimbursed on a reasonable cost basis.* The Medicare secondary payment will be the lower of the following:

(1) The lesser of the provider's reasonable cost or customary charges, minus any applicable deductible or coinsurance amount.

(2) The lesser of the provider's reasonable cost or customary charges, minus the amount paid by the employer plan.

(c) *Services reimbursed on a fixed-rate basis.* The Medicare secondary payment will be the lower of the following:

(1) The fixed rate established for the service minus any applicable deductible or coinsurance amount.

(2) The fixed rate established for the service, minus the amount paid by the employer plan.

(d) *Example of computation of Medicare secondary payment for services reimbursed on a reasonable charge basis.*

(1) Physician's charge for professional services	$120
(2) Employer plan's allowable charge	110
(3) Medicare reasonable charge	100
(4) As primary payer—	
(i) Employer plan pays 80 percent of allowable charge (.80×110)	88
(ii) Medicare pays 80 percent of reasonable charge (.80×100)	80
(5) As secondary payer—	
(i) Employer plan pays the difference between its allowable charge and the primary payment ($110-$80)	30
(ii) Medicare pays the lowest of the amounts specified in paragraph (a) of this section.	
(6) The excess of the actual charge over the amount paid by the employer plan is $120-$88	32
(7) The amount Medicare would pay if the services were not covered by an employer plan is .80×$100	80
(8) The sum of the amounts that would have been paid by Medicare as primary payer and the employer plan as secondary payer, minus the amount actually paid by the employer plan is ($80+$30=$110)−$88	22
(9) If the physician accepted assignment the Medicare reasonable charge minus the amount paid by the employer plan is $100−$88	12

Since Medicare pays the lowest of the amounts determined under paragraph (a), the Medicare payment is $22 if the beneficiary filed for direct payment; $12 if the physician filed the claim under an assignment.

(e) *Effect of secondary payments on Part A utilization.* If Medicare pays secondary benefits, the beneficiary will be charged with utilization of Medicare benefits only to the extent that Medicare paid for the services.

(f) *Crediting expenses toward deductibles.* Expenses that would serve to meet the beneficiary's Part A or Part B deductible if Medicare were primary payer, will be credited to the deductible even if the expenses are reimbursed by the employer group health plan.

§ 405.329 Conditional payments and recovery of payments.

If the intermediary or carrier knows from experience or ascertains that the employer plan's payments in general are substantially less prompt than Medicare, it will pay conditional primary benefits. In that case—

(a) The claimant (beneficiary, provider, or supplier) must file a claim with the employer plan and, to the extent that the claimant receives payment, reimburse the amount that Medicare paid in excess of its obligation as secondary payer;

(b) If payment is not received from the employer plan for any reason, HCFA may bring an action against the employer plan, and the beneficiary must cooperate in HCFA's action;

(c) HCFA may, as a prerequisite to making the conditional payment, require the beneficiary to authorize it to pursue the beneficiary's right against the employer plan if the beneficiary does not, and to promise to cooperate in HCFA's action;

(d) HCFA may waive recovery action if the probability of recovery or the amount involved does not warrant pursuit of the claim.

(Catalog of Federal Domestic Assistance Program No. 13773, Medical—Hospital Insurance; and No. 13774, Medicare—Supplementary Medical Insurance)

Dated: April 5, 1982.

Carolyne K. Davis,
Administrator, Health Care Financing Administration.

Approved: April 23, 1982.

Richard S. Schweiker,
Secretary.

[FR Doc. 82-13312 Filed 5-14-82; 8:45 am]
BILLING CODE 4120-03-M

FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

Regulatory Flexibility Agenda

AGENCY: Federal Maritime Commission.

ACTION: Regulatory flexibility agenda.

SUMMARY: Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 (*et seq.*) the Commission anticipates having under consideration during the period from April 1, 1982 to October 31, 1981 actions in the areas listed below which are likely to have a significant economic impact on a substantial number of small entities.

DATES: None.

FOR FURTHER INFORMATION CONTACT: For further information concerning Commission rulemaking procedures or the status of any matter listed below, contact Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573; (202) 523-5725.

SUPPLEMENTARY INFORMATION: Section 602 of the Regulatory Flexibility Act (5 U.S.C. 602) requires the publication of an agenda of items for which the agency may propose or promulgate a rule which is likely to have a significant economic impact on a substantial number of small entities. The agenda does not necessarily include petitions for rulemakings which are under staff review.

In addition, the Commission is publishing a compilation of the status of pending rulemaking proceedings and a listing of rules that have become final since the publication of the most recent regulatory agenda (November 1981). Pursuant to section 602(d) of the Regulatory Flexibility Act, this list will be made available to the press and interested groups.

Francis C. Hurney,
Secretary.

I. Unpublished Rules

Title	Subject	Summary and Objective	Legal basis	Impact	Staff contact
Equal access to justice	Implementation of Commission's responsibilities under the Equal Access to Justice Act (Pub. L. 96-481, 5 U.S.C. 504 *et seq.*).	The Equal Access to Justice Act provides for reimbursement to persons who have been subjected to investigatory processes of government agencies and subsequently prevail on the merits. Proposed rule will prescribe procedures for implementation of this Act.	Equal Access to Justice Act (Pub. L. 96-481, 5 U.S.C. 504 *et seq.*); Section 43, Shipping Act, 1916 (46 U.S.C. 841a).	Unknown	Francis C. Hurney, Secretary (202) 523-5725.
Informal Dockets (46 CFR 502.301).	Petitions for reconsideration in informal complaint proceedings.	The Rules of Practice and Procedure (46 CFR 502) through a drafting oversight permit parties to file petitions for reconsideration after the Commission has determined not to review the decision of the Settlement Officer even though the parties by agreeing to the procedure under Subpart S (46 CFR 502.301) have no right to file exceptions to the decision. This rule would eliminate this inconsistency.	Sections 22 and 43, Shipping Act, 1916; (46 U.S.C. 820, 841a).	do	Do.
Exemption of vessel charters from Section 15.	Section 15 requirements for vessel charters.	This rule would exempt from the filing and approval requirements of section 15 of the Shipping Act, 1916, vessel charter arrangements between competitors for a short term or for a small portion of the fleets of the parties and vessel charters between non-competitors.	Sections 15, 35, Shipping Act, 1916 (46 U.S.C. 814, 833a).	None	Robert G. Drew, Director, Bureau of Agreements (202) 523-5787.
Exemption of terminal agreements.	Exemption of routine port and terminal agreements from the requirements of section 15 of the Shipping Act, 1916.	This rule would exempt from the filing and approval requirements of section 15 certain agreements relating to (a) the lease, license, assignment or other similar use of marine terminal real property; (b) the performance of traditional stevedoring services; (c) the use of dock, berth, apron, or pier space; (d) use of other terminal facilities at other than tariff rates; and (e) marine terminal services at other than tariff rates.	Sections 15, 35, Shipping Act, 1916 (46 U.S.C. 814, 833a).	do	Do.
Subjectivity of parties to terminal agreements to the Shipping Act, 1916.	Termination of "Not Subject" procedures for terminal agreements under 46 CFR 530.5a.	To eliminate an expensive and time consuming process for advisory opinions of the amenability of terminal agreements to the requirements of section 15 and to place this responsibility on parties to the agreements. This will probably involve a proposal to delete the last sentence of the guidelines set forth in 46 CFR 530.5(a).	Sections 1, 15, Shipping Act, 1916 (46 U.S.C. 801, 814).	do	Do.
Company policies to combat rebating.	Manner and form of annual certification.	General Order 43 (46 CFR 552) requires vessel operating common carriers to file with the Commission an annual certification of policies and efforts to combat rebating. The proposal would prescribe the certification to take the form of an annual tariff amendment.	Sections 18b, 21b, and 43, Shipping Act, 1916; (46 U.S.C. 817b, 820b and 841a).	Probably none	Daniel J. Connors, Director, Bureau of Tariffs (202) 523-5796.
Currency adjustment factors	Procedures and requirements for publishing currency adjustment factors in common carrier tariffs through amendment to the Commission's General Order No. 13 (46 CFR 536).	The proposed rule would establish a simplified and uniform procedure for the publishing and filing of currency adjustment factors in tariffs based upon changes in the exchange rate of the tariff currency.	Sections 18b and 43 of the Shipping Act, 1916 (46 U.S.C. 817b, 841a).	Unknown	Do.
Definition of non-vessel operating common carrier.	Applicability of General order 13 (46 CFR 536) to non-vessel operating common carriers.	The existing definition of carrier (46 CFR 536.26) incorporates the definition of non-vessel operating common carrier as contained in 46 CFR 510.21(d) (now 46 CFR 510.2(e)), which limits the definition to transportation from the United States. This change will correct the definition to include export and import movements.	Sections 18b and 43 of the Shipping Act, 1916 (46 U.S.C. 817b, 841a).	do	Do.
Filing and service fees	Revision of fee schedules	The Commission is authorized to recoup costs for services of value to a person through imposition of fees.	Independent Office Appropriation Act of 1950 (31 U.S.C. 483 (a)); OMB Circular A-25; section 43, Shipping Act, 1916 (46 U.S.C. 841a).	do	Samuel L. Simonovich, Office of Budget and Financial Management (202) 523-5770.
Foreign discrimination	Actions to adjust or meet conditions unfavorable to shipping in the foreign trades.	Review of 46 CFR Part 507, effective December 14, 1977 which was designed to deal with conditions created by the Government of Guatemala. See: Year 1, 10 year plan to review regulations pursuant to § 610 Regulatory Flexibility Act (5 U.S.C. 610)	See: 46 CFR Part 507	do	James K. Cooper, Managing Director (202) 523-5800.
Foreign tariff provisions	Green hide weighing practices.	Review of 46 CFR Part 534, effective May 5, 1964, which was designed to provide a uniform method of declaring weight of green salted hides. See Year 1, supra.	See: 46 CFR Part 534	do	Daniel J. Connors Director, Bureau of Tariffs (202) 523-5796.
Regulations to implement Economic Stabilization Act, 1970.		Review of 46 CFR Part 548, effective April 13, 1972. See Year 1, supra.	See: 46 CFR Part 548	do	C. Jonathan Benner General Counsel (202) 523-5740.

I. UNPUBLISHED RULES—Continued

Title	Subject	Summary and Objective	Legal basis	Impact	Staff contact
Carrier compliance with wage and price standards.	.....	Review 46 CFR Part 530.11. See Year 1, supra.	See: 46 CFR Part 530.11	....do	Do.

II. PUBLISHED RULES

Docket No. FRN	Title	Summary and objective	Status—Target date	Legal basis	Impact	Staff contact
76-63; Nov. 23, 1976, June 20, 1979.	Filing of Agreements by Common Carriers by Water.	Comprehensive rule dealing with filing, notice, justification, comments, protests, and Commission consideration of agreements (46 CFR 522).	Pending issuance of final rule; June 1, 1982.	Sections 15, 43 Shipping Act, 1916 (46 U.S.C. 814, 841a).	NA	Francis C. Hurney, Secretary (202) 523-5725.
80-13; July 14, 1981, Jan. 5, 1982.	Licensing of Independent Ocean Freight Forwarders.	Revision of 46 CFR 510.33q regarding payment of freight forwarder compensation to steamship carriers or agents.	Pending decision; June 1, 1982.	Sections 43, 44 Shipping Act, 1916 (46 U.S.C. 841a, 841b).	NA	Do.
80-54; Aug. 20, 1980, Nov. 2, 1981.	Time-Volume Rates in Foreign Commerce of the U.S..	To provide uniform rules for filing of time/volume rates and insure compliance with 46 U.S.C. 817b.	Pending Bureau recommendation; June 30, 1982.	Sections 18b, 43 Shipping Act, 1916 (46 U.S.C. 817b, 841a).	Exempt under 5 U.S.C. 601(2).	Do.
80-56; Sept. 3, 1980. July 7, 1981, Sept. 3, 1981, Dec. 28, 1981.	Temporary Tariff Filings in Foreign Commerce of U.S..	To prohibit the publication of temporary tariff filings and to expand hours for acceptance of tariff matter.	.....do	.....do	Cert. of no sign. econ. impact of a substan. no. of small entities.	Do.
81-40; June 23, 1981	Exemption of Exclusive Equipment Interchange Agrmts.	Exemption of routine equipment interchange agrmts from an unnecessary regulatory burden to provide better and more flexible service.	Pending issuance of Final Rule; May 12, 1982.	Sections 15, 53 Shipping Act, 1916 (46 U.S.C. 814, 841a).	No impact reduction of present regulation.	Do.
81-50; Aug. 28, 1981	Per Container Rates Tariff Requirements.	Specification of form and manner of filing per container and per trailer rates. Amendment of 46 CFR Part 536.	Pending Commission action; June 20, 1982.	Sections 18b, 43 Shipping Act, 1916 (46 U.S.C. 817b, 841a).	Exempt under 5 U.S.C. 601(2).	Do.
81-51; Aug. 28, 1981	Time Limits on Filing Overcharge Claims.	Abolition of conference and carrier rules prohibiting settlement more than 6 months after shipment.	Pending General Counsel recommendation; June 4, 1982.	Sections 14 Fourth 15, 17, 18b, Shipping Act, 1916 (46 U.S.C. 812, 814, 816, 817b).	.....do	Do.
81-54; Sept. 9, 1981	Dual Rate Contract Systems.	To provide a rebuttable presumption that merchant paying freight charges has legal right to select the carrier.	Pending Bureau Recommendation.	Sections 14b, 43 Shipping Act, 1916 46 U.S.C. 813a, 841a).	No sign. econ. impact on a substan. no. of small entities.	Do.
81-76; Dec. 28, 1981	Licensing of Independent Ocean Freight Forwarders.	Revision to comport with Pub. L. 97-35 permitting shipper affiliation.	Pending decision; May 25, 1982.	Sections 43, 44 Shipping Act, 1916 (46 U.S.C. 841a, 841b).	Cert. of no sign. econ. impact on substan. no. of small entities.	Do.
82-13; Mar. 12, 1982	Exemption of Bulk Cargo Moving in Containers.	Exemption of movements of bulk commodities carried in containers from tariff filing requirements in 46 CFR Part 536.	Comments due May 12, 1982; Aug. 1, 1982.	Sections 18b, 35 Shipping Act, 1916 (46 U.S.C. 817b, 833a).	No foreseeable impact reduction in present requirements.	Do.
82-16; Mar. 23, 1982	Removal of Regulations on Rate for Military Cargo.	Determination whether to repeal 46 CFR 549. See year 1, Ten Year Plan to Review Regulations pursuant to §610 Regulatory Flexibility Act (5 U.S.C. 610).	Comments due Apr. 22, 1982.	.....do	Cert. of no sign. econ. impact on substan. no. of small entities.	Do.
82-21; Apr. 6, 1982	Improvements in Prehearing and Discovery Procedures.	To provide for more prompt commencement and completion of discovery in formal proceedings.	Comments due June 7, 1982; Sept. 19, 1982.	See: 46 CFR Part 502.	.....do	Do

III. FINAL RULES

Docket No.	Title	Summary and Objective	Status	Legal Basis	Impact	Staff Contact
80-13	Licensing of Independent Ocean Freight Forwarders.	Provision for handling cargo for charitable organizations at free or reduced rates.	Final Rule served April 8, 1982, 47 FR 16030 (Apr. 14, 1982).	See: 46 CFR 510.32j	Cert. of no sign. econ. impact on a substan. no. of small entites.	Jeremiah D. Hospital Chief, Office of Freight Forwarders. Bureau of Certification and Licensing (202) 523-5843.
80-70	Status of Bulk Commodities.	Statement of applicability of section 18b, Shipping Act, 1916 (46 U.S.C. 817b) to bulk commodities loaded into containers.	Interpretative Rule served March 8, 1982; 47 FR 10851, (Mar. 12, 1982); effect. date stayed until further order.	Section 18b, Shipping Act, 1916 (46 U.S.C. 817b). See: 46 CFR 530.15.	NA	Daniel J. Connors Director, Bureau of Tariffs (202) 523-5796.
81-18	Exemption of Agreements Covering the Collection, Compilation, and Exchange of Credit Information.	Elimination of Unnecessary Filing and approval requirements.	Final Rule served March 3, 1982; 47 FR 10217 (Mar. 10, 1982).	Sections 15, 35 Shipping Act, 1916 (46 U.S.C. 814, 833a). See: 46 CFR 524.2(e) and 524.3.	Cert. of no sign. econ. impact on a substan. no. of small entites.	Robert G. Drew Director, Bureau of Agreements (202) 523-5787.
81-36	Procedures for Environmental Policy Analysis.	Clarification of categorical exemptions and addition of new exemptions to environmental rules (46 CFR 547).	Final Rule served January 20, 1982, 47 FR 3359 (Jan. 25, 1982).	See: 46 CFR Part 547	Diminution of requirements. No impact.	Edward R. Meyer Director, Office of Energy and Environmental Impact (202) 523-5835.

[FR Doc. 82-13306 Filed 5-14-82; 8:45 am]
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Notices

Federal Register
Vol. 47, No. 95
Monday, May 17, 1982

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

Federal Grain Inspection Service

Request for Comments on Applicant for Designation in the Area Currently Assigned to the Kansas State Grain Inspection Department (KS)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicant for designation as the official agency in the area currently assigned to the Kansas State Grain Inspection Department (Kansas). The designation terminates August 31, 1982.

DATE: Comments to be postmarked on or before July 1, 1982.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management Staff, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 1642, South Building, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 382–0231. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–0231.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore the Executive Order and Secretary's Memorandum do not apply to this action.

The March 1, 1982, issue of the **Federal Register** (47 FR 8730) contained a notice from the Federal Grain Inspection Service requesting applications for designation to perform official inspection services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), in the area currently assigned to Kansas. Applications were to be postmarked by March 31, 1982.

One applicant requested designation for all of the geographic area currently assigned to Kansas. That applicant is Kansas State Grain Inspection Department, Topeka, Kansas, which applied for a renewal of designation for an additional 3-year period.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their views and comments concerning the applicant for designation. All comments must be submitted to the Regulations and Directives Management Staff, specified in the address section of this notice, and postmarked not later than July 1, 1982.

Consideration will be given to comments filed and to other information available before a final decision is made with respect to this matter. Notice of the final decision will be published in the **Federal Register** and the applicant will be informed of the decision in writing.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Date: May 12, 1982.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 82–13330 Filed 5–14–82; 8:45 am]

BILLING CODE 3410-EN-M

Forest Service

Availability; Legal Descriptions and Maps for National Forest Wildernesses in Alaska

The Alaska National Interest Lands Conservation Act (ANILCA), Public Law 96–487, designated 14 wildernesses on the Tongass National Forest, Alaska, and placed the following areas in the National Wilderness Preservation System:

Admiralty Island Wilderness[1]
Coronation Island Wilderness[2]
Endicott River Wilderness[1]
Maurelle Islands Wilderness[2]
Misty Fiords National Monument Wilderness[2]
Petersburg Creek-Duncan Salt Chuck Wilderness[3]
Russell Fiord Wilderness[1]
South Baranof Wilderness[1]
South Prince of Wales Wilderness[2]
Stikine-LeConte Wilderness[3]
Tebenkof Bay Wilderness[3]
Tracy Arms-Fords Terror Wilderness[1]
Warren Island Wilderness[2]
West Chichagof-Yakobi Wilderness[1]

Section 103(b) of ANILCA provides that a legal description and map(s) of each wilderness shall be published in the **Federal Register** and filed with the President of the Senate, and the Speaker of the House of Representatives.

The legal description and maps for the involved units consist of about 88 single-spaced pages and 145 map sheets. Costs to publish this material in the **Federal Register** are estimated to be $73,400. In the interests of economy, this notice of availability is published to provide public notice that this material is on file for public inspection and may be reviewed by interested parties in the following offices:

Chief, Forest Service, USDA, South Agriculture Building, Room 4238, 12th and Independence Avenue, SW, Washington, DC 20013

Regional Forester, Alaska Region, Federal Office Building, Juneau, AK 99802 (all Wildernesses)

Forest Supervisor, Tongass-Chatham Area, Sitka, AK 99835 (Wildernesses with footnote 1)

Forest Supervisor, Tongass-Ketchikan Area, Federal Building, Ketchikan, AK 99901 (Wildernesses with footnote 2)

Forest Supervisor, Tongass-Stikine Area, Petersburg, AK 99833 (Wildernesses with footnote 3)

In compliance with ANILCA, the legal descriptions and maps have been sent to the President of the Senate and the Speaker of the House of Representatives.

Further information is available from Charles R. Joy, Forest Service, USDA, Recreation Management Staff, P.O. Box 2417, Washington, DC 20013, telephone (202) 447–2422.

Dated: May 7, 1982.

R. M. Housley,

Deputy Chief.

[FR Doc. 82–13294 Filed 5–14–82; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Docket 40603]

Air Niagara Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to him.

Dated at Washington, D.C., May 12, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82-13318 Filed 5-14-82; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Week Ended May 7, 1982

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Dated filed	Docket No.	Description
May 5, 1982	40662	Aero West Airlines, Inc. c/o David P. Cimo, 12075 E. 45th Avenue, Suite 503, Denver, Colorado 80239. Application of Aero West Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity to provide scheduled interstate air transportation in the following markets: Chicago, Illinois, Denver, Colorado, Las Vegas, Nevada, Burbank, California. Conforming Applications, motions to modify scope, and Answers may be filed by June 2, 1982.
May 5, 1982	40663	Lone Star Airways, Inc., c/o George T. Volsky, 1522 K Street, N.W. Suite 1030, Washington, D.C. 20005. Application of Lone Star Airways, Inc. pursuant to Section 401(h) of the Act and Subpart Q of the Board's Procedural Regulations requests that the Board approve (1) the transfer of Lone Star's certificate authorizing domestic scheduled operations to Lone Star Domestic, Ltd., d/b/a Lone Star Airways, Inc.; (2) the transfer to Lone Star Overseas, Ltd. d/b/a Lone Star Airways, Inc. of Lone Star's certificates authorizing foreign scheduled air transportation as well as those authorizing foreign overseas and domestic charter operations. Answers may be filed by June 2, 1982.
May 6, 1982	40668	The Flying Line Inc., 7401 World Way West International Airport, Los Angeles, California 90009. Application of The Flying Tiger Line Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests that its certificate of public convenience and necessity for Route 119 be amended to add Iceland as an additional point on its transatlantic route authority. Conforming Applications, motions to modify scope, and Answers may be filed by June 3, 1982.
May 6, 1982	40669	Airborne Express, Inc., c/o V. Michael Straus, Suite 401, 1001 Connecticut Avenue, N.W., Washington, D.C. 20036. Application of Airborn Express, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations for a certificate of public convenience and necessity authorizing scheduled and charter all-cargo service between points in the United States, on the one hand and points in Canada, Mexico and Puerto Rico, on the other hand. Conforming Applications, motions to modify scope, and Answers may be filed by June 3, 1982.
May 7, 1982	40675	Northwest Airlines, Inc., Minneapolis/St. Paul Int'l Airport, St. Paul, Minnesota 55111. Application of Northwest Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a new certificate of public convenience and necessity for Route 3F permanently or temporarily authorizing Northwest to engage in the scheduled air transportation of persons, property and mail on an unrestricted basis between Billings, Montana and Calgary, Alberta, Canada. Conforming Applications, motions to modify scope, and Answers may be filed by June 4, 1982.
May 7, 1982	40674	Air Polynesia, Inc. t/a DHL Cargo, c/o Herbert A. Rosenthal, Housman and Rosenthal, 2020 K Street, N.W. #350, Washington, D.C. 20006. Application of Air Polynesia, Inc. T/A DHL Cargo, pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests a certificate authorizing it to engage in the transportation of property and mail between the terminal point Honolulu, the intermediate points Kona, Maui (Kahului), Lanai, Lihue, Molokai, Kamuela, and Upolu, and the terminal point Hilo. Conforming Applications, motions to modify scope, and Answers may be filed by June 4, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-13317 Filed 5-14-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Prestressed Concrete Steel Wire Strand From France; Postponement of Countervailing Duty Preliminary Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of countervailing duty preliminary determination.

SUMMARY: The countervailing duty preliminary determination involving prestressed concrete steel wire strand ("PC strand") from France is being postponed because we have determined the investigation to be extraordinarily complicated. We intend to issue the preliminary countervailing duty determination not later than August 2, 1982.

EFFECTIVE DATE: May 17, 1982.

FOR FURTHER INFORMATION CONTACT: Mary A. Martin, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, (202) 377-3534.

SUPPLEMENTARY INFORMATION: On March 24, 1982, we announced our initiation of the countervailing duty investigation to determine whether producers, manufacturers, or exporters of PC strand in France receive any benefits that are subsidies within the meaning of the countervailing duty law (47 FR 13397). The notice stated that we would issue a preliminary determination by May 28, 1982.

As detailed in the notice of initiation of the countervailing duty investigation, the petition alleges that the government of France and the European Communities provide various programs which constitute subsidies to producers, manufacturers, or exporters of PC strand. The alleged subsidy practices are numerous and raise complex issues. Moreover, it is difficult to determine the extent of utilization of the programs by the manufacturers, producers, or exporters. We have determined that the government of France, the European Communities, and the other parties concerned are cooperating and that additional time is necessary to make the countervailing duty preliminary determination. For these reasons we determine that this case is extraordinarily complicated in accordance with section 703(c)(1)(B) of the Tariff Act of 1930, as amended ("the Act"), and we intend to issue a countervailing duty preliminary

determination not later than August 2, 1982.

This notice is published pursuant to section 703(c)(2) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 10, 1982.

[FR Doc. 82-13347 Filed 5-14-82; 8:45 am]

BILLING CODE 3510-25-M

Massachusetts Institute of Technology; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number 81-00389. Applicant: Massachusetts Institute of Technology, National Magnet Laboratory, 150 Albany Street, Cambridge, MA 02139. Article: Polarizing Dispersive, Phase Modulated Fourier Transformed Spectrometer. Manufacturer: National Physical Laboratory, United Kindom. Intended use of article: See Notice on Page 56631 in the **Federal Register** of November 18, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The article permits measurement of refractive index and absorption coeffecient of low-loss ceramic and crystalling materials in the millimeter and sub-millimeter wavelength range. The National Bureau of Standards advises in its memorandum dated march 2, 1982 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-13348 Filed 5-14-82; 8:45 am]

BILLING CODE 3510-25-M

University of Maine at Orono; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entery of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number 81-00381. Applicant: University of Maine at Orono, Department of Zoology, Murry Hall, Orono, Maine 04469. Article: Flow Meter-4 Digital #2536-B. Manufacturer: Rigosha & Co., Ltd., Japan. Intended use of article: See Notice on page 51627 in the **Federal Register** of October 21, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket No. 81-00086, which was denied without prejudice to resubmission for informational deficiencies (August 5, 1981). The foreign article provides high sensitivity at low flow rates (threshold velocity is 5-8 centimeters/second and linear response is 8-12 centimeters/second). The National Bureau of Standards advises in its memorandum dated March 26, 1982 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign articles for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 82-13349 Filed 5-14-82; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Public Meeting on Reorganization of Office of Product Standards Policy

Notice is hereby given that there will be a public briefing on the reorganization of the Commerce Department's Office of Product Standards Policy (OPSP) and the transfer of that office to the National Bureau of Standards (NBS). Details on the meeting are as follows:

Date: June 16, 1982.

Place: Green Auditorium of the NBS Administration Building, Gaithersburg, Maryland (off Interstate 270 at Quince Orchard Road).

Time: 1:30-5:00 p.m.

Agenda:

1:30—Opening Remarks—Dr. Ernest Ambler, Director, NBS

1:50—OPSP Overview—Dr. Stanley Warshall, Director, OPSP

2:00—Laboratory Accreditation—Mr. John Locke, Program Manager

2:15—Standards Code and Information—Mr. Walter Leight, Program Manager

2:30—Standards Coordination and Management—Mr. Donald Mackay, Program Manager

2:45—Weights and Measures—Mr. Albert Tholen, Program Manager

3:00—International Legal Metrology—Mr. David Edgerly, Program Manager

3:15—Discussion

4:30—Closing Summary—Dr. Stanley Warshaw

Purpose of Meeting: Secretary of Commerce Malcolm Baldrige recently approved the transfer of OPSP to NBS. Secretary Baldrige has assigned to the Bureau OPSP's responsibility for management of standards policy and coordination of government involvement in voluntary standards activities and has added to these existing NBS responsibilities for national and international legal metrology. The purpose of the meeting is to outline the policy directions the standards community can expect to see NBS pursue, to describe the organization and programs of OPSP, and to allow for comments and discussion with attendees.

Contact for Further Information: Mr. Donald R. Mackay, Manager, Standards Coordination and Mangement, Office of Product Standards Policy, National Bureau of Standards, Room A-168 Technology Building, Washington, DC 20234. Telephone (301) 921-2587.

Dated: May 12, 1982.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 82-13300 Filed 5-14-82; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council's Surf Claim and Ocean Quahog Subpanel; Public Meeting

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established a Surf Clam and Ocean Quahog Subpanel which will meet to discuss limited entry provisions of the Surf Clam/Ocean Quahog Fishery Management Plan.

DATE: The public meeting will convene on Friday, June 25, 1982, at 10 a.m., and will adjourn at approximately 4 p.m. The meeting may be lengthened or shortened or agenda items rearranged depending upon progress on the agenda.

ADDRESS: The meeting will take place at the Sheraton, Route 13, Dover, Delaware.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901, Telephone: (302) 674-2331.

Dated: May 12, 1982.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 82-13357 Filed 5-14-82; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council, Public Meeting With a Partially Closed Session and Public Meeting of its Scientific and Statistical Committee

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public meetings with a partially closed session.

SUMMARY: As required by the Federal Advisory Committee Act, this notice sets forth the schedule and proposed agendas of the forthcoming separate public meetings of the Pacific Fishery Management Council and its Scientific and Statistical Committee. The Pacific Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), and the Council has established a Scientific and Statistical Committee to assist it in carrying out its responsibilities.

DATES: July 13-15, 1982.

ADDRESS: The meetings will take place at the Hacienda Airport Hotel, 525 Sepulveda Boulevard, El Segundao, California.

FOR FURTHER INFORMATION: Pacific Fishery Management Council, 526 SW., Mill Street, Second Floor, Portland, Oregon 97201, Telephone (503) 221-6352.

Agendas

Council (open meetings) July 14-15, 1982 (10 a.m. to 5 p.m. on July 14; 8 a.m. to 5 p.m., on July 15)—consideration of the FY 1983 Council budget matters, status of 1982 salmon fisheries and enchovy fishery management plan (FMP), and conduct a public comment period beginning at 3 p.m., on July 14.

Council (closed session) July 14, 1982 (8 a.m. to 10 a.m.)—discussion of the status of maritime boundary and resource negotiations between the U.S. and Canada. Only those Council members and selected staff having security clearances will be allowed to attend this closed session.

Scientific and Statistical Committee (open meetings) July 13-14, 1982 (1 p.m. to 5 p.m., on July 13; 8 a.m. to 5 p.m. on July 14)—consideration of anchovy management issues; evaluate and develop recommendations on issues referred to the Committee by the Council; conduct a public comment period beginning at 3:30 p.m. on July 14.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of the General Counsel, formally determined on February 10, 1982, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda item covered in the closed session is exempt from the provisions of the Act relating to open meetings and public participation therein, because the meeting will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1), as information which will disclose matters that are (A) specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such executive order. (A copy of the determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce.) All other portions of the Council's meeting will be open to the public.

Dated: May 12, 1982.

Jack L. Falls,

Chief, Administrator Support Staff, National Marine Fisheries Service.

[FR Doc. 82-13358 Filed 5-14-82; 8:45 am]

BILLING CODE 3510-22-M

Application for Approval To Transfer Ownership of a U.S. Vessel to a U.S. Corporation More Than 25 Percent Foreign Owned

AGENCY: National Marine Fisheries Service, National Oceanic and Atomospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: Anthony Carri, 27 Maplewood Drive, Clinton, Connecticut 06413 has applied to the Maritime Administration (MarAd), Department of Trasportation, for approval to transfer ownership of the vessel Mollie B ex Canonicus (O.N. 584176, built 1977, reg. length 43.8') to Steel Pipe Repairs, Inc., 180 Locust Avenue, Bronx, New York 10455. The contemplated transfer would subject the vessel to ownership of a U.S. Corporation more than 25 percent foreign owned. Reportedly, the vessel would be transferred to Dominican Republic registry and operated in the fisheries of that country.

Request for comments: Interested persons are invited to send written comments to Michael L. Grable, Financial Services Division, Attention: John A. Kelly, Jr., National Marine Fisheries Service, National Oceanic and Atomospheric Administration, Washington, D.C. 20235. All comments must be postmarked no later than June 16, 1982.

SUPPLEMENTARY INFORMATION: Application for approval of the transfer was received by MarAd April 7, 1982. Approval is required by Section 9 of the Shipping Act, 1916, as amended (46 U.S.C. 808) because *Moille B* is a documented vessel and because Steel Pipe Repairs, Inc., a U.S. Corporation, is not a citizen of the United States within the meaning of Section 2 of the Act (46 U.S.C. 802). Where a foreign transfer involves a fishing vessel, MarAd customarily requests the National Marine Fisheries Service (NMFS) to review the application and give clearance. Clearance has been requested from NMFS in this case. Accordingly we are soliciting the views of interested persons in regard to this application and will convey them to MarAd with our recommendation. Generally our recommendation will be favorable unless it si concluded that the

transfer will adversely affect the particular segment(s) of the U.S. commercial fishery involved. In this case an important consideration is that the purchaser meets Coast Guard eligibility requirements for documenting the vessel in the fisheries of the United States and does not need MarAd approval to later return her to U.S. registry. The signifiance of this possibility is diminished, however, by the fact that a U.S. Corporation under foreign control may contract for the construction within the United States of a fishing vessel for documentation in the fisheries of the United States. No public hearing is comtemplated at this time.

FOR FURTHER INFORMATION CONTACT: John A. Kelly, Jr., (202) 634–7496 (this number is not a toll-free number).

Dated: May 11, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82–13355 Filed 5–14–82; 8:45 am]

BILLING CODE 3510–22–M

Applications for Approval To Transfer Ownerships of Two U.S. Vessels to a U.S. Corporation Under Foreign Control

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: Applications have been received by the Maritime Administration (MarAd), Department of Transportation, for approval to transfer to Whitney-Fidalgo Seafoods, Inc., 2360 Commodore Way, Seattle, Washington 98199, ownership of the vessels *Katherine M* (O.N. 227723, built 1928, reg. length 60.6') and *Luxor* (O.N. 226736, built 1927, reg. length 59.4') owned by Sea Fisheries, Inc. and M/V Viking, Inc., respectively. Address of both companies is 2336 Magnolia Bvlvd. West, Seattle, Washington 98199. The contemplated transfers would subject the vessels to foreign control since Kyokuyo Company, Ltd., a Japanese corporation, owns 99.26 percent of the stock of Whitney Fidalgo Seafoods, Inc. Both vessels would be operated by Whitney-Fidalgo Seafoods in the fishery for salmon in Puget Sound.

Request for Comments: Interested persons are invited to send written comments to Michael L. Grable, Financial Services Division, Attention John A. Kelly, Jr., National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235. All comments must be postmarked no later than 30 days after the date this notice is published.

SUPPLEMENTARY INFORMATION: Applications for approval of the transfers were received by MarAd March 30, 1982. Approvals are required by Section 9 of the shipping Act, 1916, as amended (46 U.S.C. 808) because Whitney Fidalgo Seafoods, Inc., a U.S. corporation, is not a citizen of the United States within the meaning of Section 2 of the Act (46 U.S.C. 802). The Maritime Administration is the Federal agency responsible for the approval or disapproval of applications submitted pursuant to the Shipping Act. Where a foreign transfer involves a fishing vessel, MarAd customarily requests the National Marine Fisheries Service (NMFS) to review the application and give clearance. Clearance has been requested from NMFS for these applications. Accordingly we are soliciting the views of interested persons in this regard and will convey them to MarAd with our recommendations. Generally a recommendation will be favorable unless it is concluded that the transfer will adversely affect the particular segment(s) of the U.S. commercial fishery industry involved. No public hearing is contemplated at this time.

FOR FURTHER INFORMATION CONTACT: John A. Kelly, Jr., (202) 634–7496 or Phillip M. Bohr (206) 527–6122 (these numbers are not toll free numbers).

Dated: May 11, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82–13356 Filed 5–14–82; 8:45 am]

BILLING CODE 3520–22–M

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: The Durov Zoo Animals World (P295), 129090 Moscow, U.S.S.R.
2. Type of Permit: Public Display
3. Name and Number of Animals: California sea lions (*Zalophus californianus*)—2
4. Type of Take: To obtain rehabilitated beached/stranded animals from the United States
5. Location of Activity: Marineland of the Pacific, Rancho Palos Verdes, California
6. Period of Activity: 2 years

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before June 16, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) It includes:

(i) A certification from such appropriate government agency verifying the information set forth in the application;

(ii) A certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

(iii) A statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Ministry of Culture of the U.S.S.R.

and the Veterinary Commission of the City of Moscow have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: May 11, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-13352 Filed 5-14-82; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: Mr. Michael Graybill (P304), Oregon Institute of Marine Biology, University of Oregon, Charleston, Oregon 97420
2. Type of Permit: Scientific Research
3. Name and Number of Animals: Harbor seals (Phoca vitulina)—up to 200
4. Type of Take: Potential harassment while observing and censusing.
5. Location of Activity: Pigeon Pt., Oregon
6. Period of Activity: 2 years

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before June 16, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices.

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115.

Dated: May 11, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-13353 Filed 5-14-82; 8:45 am]

BILLING CODE 3510-22-M

Proposed Modification of Permit No. 317 (P6C)

On February 23, 1981, Notice was published in the **Federal Register** (46 FR 13541) that a permit had been issued to the National Zoological Park, Smithsonian Institution, Washington, D.C. 20008, authorizing the importation of specimen material of gray seals taken in Canada. The Permit Holder has submitted a request to modify the Permit as follows:

Section A-2 be changed to read as follows:

A. 2. Specimen material from up to 100 gray seals (*Halichoerus grypus*) which are taken by the Government of the United Kingdom may be imported.

Section B-1 is changed to read as follows:

B. 1. The authorized activities shall be conducted by the means and for the purposes set forth in the application and documents submitted in the modification.

The Permit as modified and documentation pertaining to the proposed modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., D.C.; and

Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: May 11, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-13354 Filed 5-14-82; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

May 6, 1982.

The dates for the meeting of the USAF Scientific Advisory Board Ad Hoc Committee on Turbine Engine Monitoring Systems as published in the **Federal Register**, Volume 47, No. 73, Page 16, Thursday, April 15, 1982 have been changed. The new meeting dates are August 10 and 11, 1982. All other information remains the same.

For further information contact the SAB Secretariat at (202) 697-8845.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-13308 Filed 5-14-82; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

May 5, 1982.

The USAF Scientific Advisory Board Ad Hoc Committee on Air-to-Air Missile Requirements will meet at Los Angeles Air Force Station, California, on 21 and 22 June 1982. The purpose of the meeting will be to review air-to-air missile requirements for air defense of the United States. The meeting will convene at 0900 and adjourn at 1700 on the 21st and will convene at 0900 and adjourn at 1700 on the 22nd.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697-4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 82-13309 Filed 5-14-82; 8:45 am]

BILLING CODE 3910-01-M

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a panel of the DIA Advisory Committee has been scheduled as follows: Monday, 14 June 1982, Plaza West, Rosslyn, Virginia.

The entire meeting, commencing at 0900 hours is devoted to the discussion

of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on the Department of Defense Intelligence Information System.

Dated: May 11, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82-13291 Filed 5-14-82; 8:45 am]

BILLING CODE 3810-01-M

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a panel of the DIA Advisory Committee has been scheduled as follows: Wednesday, 30 June 1982, Plaza West, Rosslyn, Virginia.

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on Soviet naval trends.

Dated: May 11, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82-13292 Filed 5-14-82; 8:45 am]

BILLING CODE 3810-01-M

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows:

Thursday, 1 July 1982, Plaza West, Rosslyn, Virginia.

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on the REIS program.

Dated: May 11, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82-13293 Filed 5-14-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume No. 59]

Availability of Federal Power Commission Reports

Notice is hereby given that Volume No. 59 of the Federal Power Commission Reports, the last of the FPC series, is available for purchase at the United States Government Printing Office Bookstore. These volumes contain Federal Power Commission (Federal Energy Regulatory Commission's predecessor) opinions, orders, and precedential procedural orders.

Persons interested in purchasing Volume 59 covering the period July 1 through September 30, 1977, may remit $35.00 for GPO Stock #061-002-000-77-4 to the following address:

Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13278 Filed 5-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. DP81-188-001]

Consolidated Gas Supply Corp.; Petition To Amend

May 11, 1982.

That notice that on April 23, 1982, Consolidated Gas Supply Corporation (Petitioner), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP81-188-001 a petition to amend the order issued August 1, 1981, in Docket No. CP81-188 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas to Niagara Mohawk Power Corporation (Niagara) until October 31, 1983, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued August 19, 1981, Petitioner was authorized to transport and deliver up to 65,000 dekatherms equivalent of natural gas per day to Niagara for use in the generation of electric power at Niagara's Albany steam plant. It is asserted that the authorization was for a limited term expiring July 31, 1982. Petitioner proposes herein to continue the transportation of natural gas to Niagara until October 31, 1983.

Petitioner further requests that the gas sold in the nonjurisdictional direct sale to Niagara not be considered in designing Petitioner's jurisdictional rates and that it be permitted to retain all revenues from the direct sale of natural gas to Niagara.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13283 Filed 5-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-54-000]

Kansas City Power & Light Co.; Notice of Application

May 10, 1982.

Take notice that on May 3, 1982, Kansas City Power and Light Company (Applicant) filed an application seeking authority pursuant to Section 204 of the Federal Power Act to issue up to $200,000,000 principal amount of short-term debt to be issued prior to June 30, 1984, with maturities not later than June 30, 1985.

Any person desiring to be heard or to make any protest with reference to the application should, on or before June 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13284 Filed 5-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. G-2602-001, et al.]

Marathon Oil Company, et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

May 10, 1982.

Take notice that each of the Applicants listed herein has filed an application or petition to pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 26, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed with the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000[3]	Pressure base
G-2602-001, D, Apr. 26, 1982	Marathon Oil Company, 539 South Main Street, Findlay, Ohio 45840.	Natural Gas Pipeline Company of America Rooke, Plymouth and Portilla Fields, San Patricio and Refugio Counties, Texas.	[1]	
G-11630-000, D, Apr. 26, 1982	do	Natural Pipeline Company of America Rooke, Plymouth and Portilla Fields, San Patricio and Refugio Counties, Texas.	[1]	
G-13363-000, D, Apr. 30, 1982	Shell Oil Company, One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	Northern Natural Gas Company, Rosston Field, Beaver County, Oklahoma.	[2]	
G-19788-000, D, Apr. 29, 1982	do	Northern Natural Gas Company, Crossett Plant, Upton County, Texas.	[2]	
CI60-502-000, D, Apr. 29, 1982	do	Northern Natural Gas Company, Wilburton Field, Morton County, Kansas.	[2]	
CI63-181-000, D, May 3, 1982	do	Ringwood Gathering Co. (formerly Oklahoma Natural Gas Gathering Co.), Ringwood Field, Major County, Oklahoma.	[2]	
CI63-479-000, D, May 3, 1982	do	Cities Service Gas Company, Hobart Ranch Field, Hemphill County, Texas.	[2]	
CI68-923-000, D, Apr. 30, 1982	do	Northern Natural Gas Company, N. E. Oates Field, Pecos County, Texas.	[2]	
CI63-1041-000, D, May 30, 1982	do	Northern Natural Gas Company, Tippett Gas Plant, Pecos and Crockett Counties, Texas.	[2]	
CI66-1283-001, D, May 3, 1982	do	Cities Service Gas Company, South Bishop Field, Ellis County, Oklahoma.	[2]	
CI75-227-001, D, Apr. 30, 1982	Cities Service Company, P.O. Box 300, Tulsa, Oklahoma 74102.	Kansas-Nebraska Natural Gas Company, Bradshaw Field, Hamilton county, Kansas.	[3]	
CI76-189-001, D, Apr. 30, 1982	Sun Exploration and Production Company, (formerly Sun Oil Company), P.O. Box 20, Dallas, Texas 75221.	El Paso Natural Gas Company, Lahuerta and Golden Lane Fields, Eddy County, New Mexico.	[4]	
CI76-688-001, Apr. 21, 1982	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Tennessee Gas Pipeline Company, Grand Isle Area Field, Offshore Louisiana.	[5]	15.025
CI78-884-002, C, Apr. 30, 1982	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	United Gas Pipe Line Company, High Island Blocks A-302, A-303, and A-318, Offshore Texas, Federal Domain.	[6]	14.73
CI81-111-001, C, May 3, 1982	American Petrofina Company of Texas, P.O. Box 2159, Dallas, Texas 75221.	United Gas Pipe Line Company, Henderson Field, Rusk County, Texas.	[7]	14.65
CI81-195-001, C, Apr. 28, 1982	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, Post Office Box 2819, Dallas, Texas 75221.	Northern Natural Gas Company, West Cameron Block 238, Offshore Louisiana.	[8]	15.025
CI82-215-001, Apr. 30, 1982	Aminoil USA, Inc., Golden Center One, 2800 North Loop West, P.O. Box 94193, Houston, Texas 77018.	Natural Gas Pipeline Company of America, Block A-499 Field, High Island Area, South Addition, Offshore Texas.	[9]	14.73
CI82-240-000 (CI64-1077), B, Apr. 27, 1982.	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, Palacios Field, Matagorda County, Texas.	[10]	
CI82-241-000, A, Apr. 29, 1982	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001.	United Gas Pipe Line Company, West Cameron Block 637, X-70 Reservoir, Offshore Louisiana.	[11]	15.025
CI82-242-000, (CI67-110), B, Apr. 29, 1982.	Grace Petroleum Corporation, Broadway Executive Park, 6501 North Broadway, Oklahoma City, Oklahoma 73116.	Cities Service Gas Company, Redrock Field, Noble County, Oklahoma.	[12]	
CI82-243-000, A, Apr. 4, 1982	Texasgulf Inc., 1100 Milam Building, Suite 3000, Houston, Texas 77002.	Southern Natural Gas Company, Eugene Island Block 108, OCS-G-3811, Offshore Louisiana.	[13]	15.025
CI82-244-000, A, Apr. 30, 1982	The Superior Oil Company, P.O. Box 1521, Houston, Texas 77001.	Michigan Wisconsin Pipe Line Company, High Island Blocks A-351 and A-368 Field, Offshore Texas.	[14]	14.73
CI82-245-000, A, Apr. 30, 1982	Natresco Incorporated, P.O. Box 1521, Houston, TExas 77001.	Michigan Wisconsin Pipe Line Company, High Island Blocks A-351 and A-368 Field, Offshore Texas.	[14]	14.73
CI82-247-000, A, May 4, 1982	Ashland Exploration, Inc., P.O. Box 391, Ashland, Kentucky, 41114.	Texas Gas Transmission Corporation, Oak Hill West Field, Hopkins County, Kentucky.	[15]	14.73

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000[3]	Pressure base
CI82-248-000, B, May 3, 1982	Delta Corporation, 2820 Liberty Tower, Oklahoma City, Oklahoma 73102.	Cities Service Gas Company, Eureka Field, Grant County, Oklahoma.	([16])	

[1] By Partial Release and Designations of Retained Acreage dated December 15, 1954, Plymouth Oil Company released to the Lessors all rights, title and interest in certain non-productive acreage. Marathon Oil Company is successor in interest to Plymouth Oil Company.
[2] Shell Oil Company is no longer able to render service from the acreage involved in this application because it has no interest in the acreage.
[3] Cities Service Company, by a Release of Oil and Gas Lease dated May 17, 1979 and a Release of Oil and Gas Leases dated December 9, 1980, has released all of its right, title and interest in the leases set out therein. Those leases were beyond their primary term and were not held by any other production, therefore, said leases have terminated and have reverted back to the owners.
[4] Sun released rights to this property because all economically recoverable reserves had been depleted.
[5] Applicant is filing under Gas Contract dated June 7, 1976, amended by amendatory agreement dated April 2, 1982, requesting to change the depth limitation to cover sands from the surface of the earth to the base of the LQ Sand
[6] Applicant is filing under Gas Sales Agreement dated June 8, 1978, as amended, amended by amendment dated March 29, 1982.
[7] Applicant is filing under Gas Purchase Contract dated October 15, 1980, amended by Supplemental Gas Purchase Contract dated November 18, 1980, and February 27, 1982.
[8] Applicant is filing under Gas Purchase Contract dated December 1, 1980, amended by Amendment dated March 29, 1982.
[9] Applicant is filing under Gas Purchase Contract dated February 3, 1982, amended by Amendment dated April 16, 1982, requesting to change delivery point.
[10] Leases dedicated to contract expired when production ceased.
[11] Applicant agrees to accept a permanent Certificate of Public Convenience and Necessity covering the subject sale conditioned in accordance with the Natural Gas Policy Act of 1978 and the Commission's Regulations under said Act.
[12] Production from Section 7-23N-1W was dedicated to a Cities Service gas gathering system with 800 to 900 lb. linepressure, for which Cities Service terminated the gas purchase contract on April 16, 1970 due to the property no longer producing gas in commercial quantities.
[13] Applicant is filing under Gas Purchase Contract dated June 4, 1981.
[14] Applicant agrees to accept an initial rate consistent with that prescribed by the Natural Gas Policy Act of 1978.
[15] Applicant is filing under Gas Sales Contract dated October 2, 1979.
[16] Gas production lost—well dry—reserves depleted.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 82-13265 Filed 5-14-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-288-000]

Michigan Wiconsin Pipe Line Co. and Michigan Consolidated Gas Co.; Notice of Application

May 11, 1982.

Take notice that on April 16,,1982, Michigan Wisconsin Pipe Line Company (Mich Wis), One Woodward Avenue, Detroit, Michigan 48226, and Michigan Consolidated Gas Company (Consolidated), 500 Griswold Avenue, Detroit, Michigan 48226, filed in Docket No. CP82-288-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of lateral pipeline and associated measurement facilities necessary to establish a new delivery point for Wisconsin Public Service Company (Public Service), the displacement of various quantities of gas for Consolidated, and incident to the establishment of the delivery point for Consolidated, the exchange of supplies of nautral gas with Consolidated, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that Public Service purchases natural gas supplies from Mich Wis. pursuant to Rate Schedule CD-1 of Mich Wis' FERC Gas Tariff, Original Volume No. 1 and Public Service has requested Mich Wis to establish a new delivery point in Niagara Township, Marinette County, Wisconsin, to enable Public Service to provide natural gas service to GAF Corporation's Kremlin plant in the town of Pembine, Marinette County, Wisconsin. As the location of the proposed delivery point is proximate to Consolidated's mainline transmission system in the Upper Penninsula of Michigan, Mich Wis states that it has solicited Consolidated's assistance in establishing such point. In accordance with Mich Wis' proposal, it would construct a lateral pipeline connecting Consolidated's mainline to the proposed new delivery point for Public Service and would construct and operate the following facilities necessary to effectuate deliveries of gas to such point:

(1) 4.6 miles of 4½-inch O.D. pipeline in Dickinson County, Michigan, and Marinette County, Wisconsin; and

(2) Associated gas measurement facilities located proximate to the interconnection of the lateral pipeline with the facilities of Consolidated in Dickinson County, Michigan.

Applicants estimate the total cost of the above-described facilities to be $726,310 which would be financed by Mich Wis with funds on hand.

Mich Wis further proposes to exchange a daily quantity of up to 2,650 dekatherms (dt) equivalent of gas pursuant to the terms of a gas displacement and exchange agreement dated April 5, 1982. It is stated that Consolidated would make deliveries to Mich Wis for exchange service at its Vulcan city gate station Dickinson County, Michigan, where Mich Wis' lateral pipeline would be connected. It is further stated the that Mich Wis would concurrently redeliver equivalent quantities of gas to Consolidated at any one of all of the following existing points of interconnection between the facilities of Consolidated and Mich Wis:

(1) The Menominee No. 2 meter station, Menominee Township, Menominee County, Michigan;

(2) The Crystal Falls meter station, Crystal Falls Township, Iron County, Michigan; and

(3) The Willow Run meter station, Ypsilanti Township, Washtenaw County, Michigan.

Applicants assert that as consideration for Consolidated participating in the exchange service and as further provided in the agreement Mich Wis has agreed to assist Consolidated in displacing from Consolidated's River Rouge Station to Consolidated's Willow Run Station a quantity of natural gas of up to 25,000 dt equivalent per day during the months of July, August, and September. It is stated that Consolidated would cause supplies of natural gas to be delivered to Mich Wis for displacement service at Mich Wis' Definance compressor station, Definance County, Ohio, and Mich Wis would redeliver equivalent quantities of gas to Consolidated at the Willow Run meter station. It is further asserted that Consolidated would be solely responsible for making suitable arrangements to effectuate the deliveries of gas to Mich Wis at the Definance delivery point.

Consolidated also requests that the Commission issue a declaratory order to the effect that Consolidated's Utility Division, notwithstanding the exchange of natural gas with Mich Wis, remains exempt from the provisions of the Natural Gas Act under Section 1(c) thereof.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the

requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13266 Filed 5-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-53-000]

Montana-Dakota Utilities Co., Application

May 10, 1982.

Take notice that on April 30, 1982, Montana-Dakota Utilities Company (Applicant) filed an Application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an Order authorizing the issuance of up to $45,000,000 principal amount of its First Mortgage bonds, via negotiated placement.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before May 27, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The Application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13267 Filed 5-14-82; 8:45 am]

BILLING CODE 717-01-M

[Docket No. CP80-274-001]

Mountain Fuel Supply Co. and Mountain Fuel Resources, Inc.; Amendment to Application

May 11, 1982.

Take notice that on April 2, 1982, Mountain Fuel Supply Company (Mountain Fuel), 180 East First South Street, Salt Lake City, Utah 84139, and Mountain Fuel Resources, Inc., (Resources), Suite 1540, 36 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP80-274-001 an amendment to their application in the instant docket filed pursuant to Section 7 of the Natural Gas Act so as to reflect the impact of stipulations and an agreement executed by Applicants and certain Utah and Wyoming interveners herein and filed and approved in proceedings before Utah and Wyoming state public service commissions, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicants submit that in their application they requested permission and approval for Mountain Fuel to abandon by transfer to Resources certain interstate transmission facilities and appurtenances, gas purchase agreements, sales and other transmission services as well as authorization for the acquisition by Resources of the transmission facilities and gas purchase agreements to be abandoned by Mountain Fuel, the operation by Resources of the transmission facilities to be abandoned, and the continuation by Resources of the interstate sales and other interstate transmission services to be abandoned by Mountain Fuel.

Applicants state that a settlement agreement has been reached at the state level concerning the ownership of certain properties and products, the allocation of benefits and obligations, and the manner in which the exploration and production operations of Mountain Fuel and its affiliates would be conducted. It is further stated that pursuant to such agreement Mountain Fuel would retain ownership of natural gas produced from defined productive gas reservoirs and would purchase natural gas produced from defined productive oil reservoirs from Wexpro Company (Wexpro). Accordingly, Applicants submit that is is no longer proposed that Resources purchase natural gas from either productive gas or productive oil reservoirs as those terms are used in the aforementioned settlement agreement.

It is asserted that in order to conform to the stipulations and agreement it is necessary to amend the instant application so as to delete from Exhibit P all costs attributable to such formerly proposed purchases by Resources and further to revise Exhibit P so as to reflect that Resources would be providing transportation service for that gas which under the settlement agreement Mountain Fuel owns in productive gas reservoirs or would purchase from certain productive oil reservoirs owned by Wexpro.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 1, 1982 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13268 filed 5-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-297-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

May 11, 1982.

Take notice that on April 23, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82-297-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 24 small volume sales measuring stations for the sale and delivery of additional volumes of natural gas in the states of Minnesota, Kansas, South Dakota, Iowa, Nebraska, Montana, Wisconsin, Colorado and

Texas, all as more fully set forth in the application which is on file with the Commission and open to public.

Applicant proposes to provide natural gas service to persons who have granted Applicant right-of-way easements to construct and operate pipeline facilities across their property. It is stated that such service would be made to small volume [1] industrial, commercial and residential customers.

Applicant proposes to install and operate 21 small volume measuring stations in Minnesota, Colorado, South Dakota, Iowa, Nebraska, Kansas and Texas which are required to make the sale of natural gas to customers through Peoples Natural Gas Company, Division of InterNorth, Inc. (Peoples). It is stated that the volumes to be delivered would be provided from People's presently authorized contract demand.

Applicant further proposes to construct and operate one small volume measuring station in Wisconsin which is required to make sales of natural gas to a customer through St. Croix Valley Natural Gas (St. Croix). It is submitted that the firm volumes to be delivered would be provided from St. Croix's presently authorized contract demand.

Moreover, Applicant proposes to provide natural gas service to two right-of-way grantors in Hill County, Montana. Applicant proposes to construct and operate the delivery stations required to make direct sales and deliveries of natural gas volumes to these new Montana customers. It is explained that the proposed service would be rendered pursuant to the terms of farm tap service contracts between Applicant and the new customers.

Applicant more fully describes the 24 proposed small volume sales measuring stations as follows:

Right-of-Way grantor	Location
Peoples:	
Abbott, C. W.	Dodge, NE.
Boone Park, Inc	Boone, IA.
Cemensky, Joseph	LeSueur, MN.
Eckhoff, Elroy	Rennile, MN.
Fisher, Curtis	Blue Earth, MN.
Flor, John	Freeborn, MN.
Hahn, Joe	Saline, NE.
Jagush, George	Todd, MN.
Kastle, Tom	Dodge, NE.
Kosman-Garten, Inc	Mesa, CO.
Nizzi, Lloyd	Dallas, IA.
Ranbdazzo, James V	Mesa, CO.
Schierling, Eldon	Stafford, KS.
Seath, Merlin	Freeborn, MN.
Severson, Derald	Olmstead, MN.
Sims, Randy	Seward, KS.
Sisters, Guse	Hamilin, SD.
Stark, Robert	Moffat, CO.
Sutton, Tom	Ochiltree, TX.
Tietjen, Kim	Saline, NE.
Tonn, Allan	Stevens, MN.
St. Croix: Most, William	Pierce, WI.
Applicant:	
Boyum, Kermit V.	Hill, MT.
Wilkins, David	Hill MT.

[1] As defined in Applicant's Gas Tariff, customers with maximum daily gas requirements under 200 Mcf are considered small volume customers.

Applicant estimates the cost of the proposed facilities to be $47,537 which would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission of its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13269 Filed 5-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-298-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Application

May 11, 1982.

Take notice that on April 23, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2233 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82-298-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the relocation of certain compressor facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to remove one 9,100 horsepower compressor unit from its Beatrice, Nebraska, compressor station and relocate and operate the 9,100 horsepower compressor unit and appurtenant facilities at its Plainview, Texas, compressor station. Applicant asserts that the relocation of the Beatrice unit is warranted by the reduced flow into Applicant's primary market area caused by the input of gas from Northern Border Pipeline Company at Ventura, Iowa, Welcome, Minnesota, and Aberdeen, South Dakota.

Applicant explains that a fire damaged the 9,100 horsepower compresor unit at its Clifton compressor station which compressor was replaced with the one from Plainview. It is further submitted that Applicant's need to deliver volumes to others in the south end of its system has increased in the recent past necessitating reinstallation of a 9,100 horsepower unit at Plainview.

Applicant asserts that the cost of the proposed activities is estimated at $1,263,684 which would be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 of 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the

Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13270 Filed 5-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-10699-000]

Panhandle Eastern Pipe Line Co.; Petition to Amend

May 11, 1981.

Take notice that on April 28, 1982, Panhandle Eastern Pipe Line Company (Petitioner), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. G-10699-000 a petition to amend the order issued July 9, 1959,[1] in Docket No. G-10699 pursuant to Section 7(c) of the Natural Gas Act so as to authorize an increase in deliveries of natural gas to Lebanon Chemical Corporation (Lebanon), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is asserted that Lebanon uses natural gas to dry granulated fertilizer during the production of chemical fertilizer at its plant in Danville, Illinois. It is further stated that the plant is currently planning to increase production in anticipation of greater demand for its product due to improving economic conditions. In order to facilitate this increased production, it is stated that Lebanon has requested an increase in the volumes of gas delivered by Petitioner from 200 Mcf per day to 275 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 1, 1982, file with the Federal Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13271 Filed 5-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP78-491-002]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Petition To Amend

May 11, 1982.

Take notice that on April 26, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP78-491-002 a petition to amend the order issued November 20, 1978, in Docket No. CP78-491 pursuant to Section 7(c) of the Natural Gas Act so as to authorize a reduction in the maximum daily volume of natural gas transported for Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued November 20, 1978, Petitioner was authorized to transport up to 25,000 Mcf of natural gas per day which Alabama-Tennessee had agreed to purchase from Sunmark Exploration Company (Sunmark). It is asserted that the maximum daily volume was reduced to 19,835 Mcf per day effective November 1, 1980, as purchases fell below a level of 96 percent of Alabama-Tennessee's purchase entitlement for a given 12-month period.

Petitioner states that by letter dated January 1, 1981, the transportation contract was amended by reducing the maximum daily volume of the contract from 19,835 Mcf per day to 13,000 Mcf per day effective January 1, 1981. Petitioner proposes herein to reduce the maximum daily volume of gas transported from 19,835 Mcf per day to 13,000 Mcf per day effective January 1, 1981. Such reduction, it is asserted, has become necessary due to lower than anticipated production of the reserves purchased from Sunmark.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13272 Filed 5-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-83-001]

Transcontinental Gas Pipe Line Corp.; Petition To Amend

May 11, 1982.

Take notice that on April 21, 1982, Transcontinental Gas Pipe Line Corporation (Petitioner), P. O. Box 1396, Houston, Texas 77251, filed in Docket No. CP81-83.001 a petition to amend the order issued February 8, 1982, in Docket No. CP81-83 pursuant to Section 7(c) Natural Gas Act so as to authorize an increase in the contract demand quantity of natural gas to be transported for Southern Natural Gas Company (Southern), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued February 8, 1982, it is stated that Petitioner was authorized to transport on a firm basis up to 6,000 Mcf of natural gas per day for Southern. Petitioner asserts that for such service Southern agreed to pay a monthly demand charge of $18,720 with Petitioner initially retaining 1.2 percent of the quantities transported as compressor fuel and line loss make-up.

It is stated that by amendatory agreement dated March 4, 1981, Petitioner and Southern agreed to increase the contract demand quantity to 9,000 Mcf per day and as a result to increase the monthly demand charge to $28,080. It is further asserted that in the amendment Petitioner and Southern also clarified the agreement in that the transportation to be rendered by Petitioner would be for Southern both individually and as agent for Amoco Production Company.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13273 Filed 5-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-93-001]

Transcontinental Gas Pipe Line Corp.; Petition To Amend

May 11, 1982.

Take notice that on April 28, 1982, Transcontinental Gas Pipe Line Corporation (Petitioner), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP81-93-001 a petition to amend the order issued February 8, 1982, in Docket No. CP81-93 pursuant to Section 7(c) of the Natural Gas Act so as to authorize a decrease in the contract demand quantity transported for United Gas Pipe Line Company, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued February 8, 1982, Petitioner states that it was authorized to transport up to 13,300 Mcf of natural gas per day for United both individually and as agent for Amoco Production Company. It is stated that United agreed to pay Petitioner a monthly demand charge of $41,496 with Petitioner initially retaining 1.2 percent of the quantities transported as compressor fuel and line loss make-up for the proposed service.

It is asserted that by amendatory agreement dated March 7, 1981, Petitioner and United agreed to decrease the contract demand quantity to 9,000 Mcf per day and as a result to decrease correspondingly the monthly demand charge to $28,080. Petitioner requests herein authorization for such changes.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13274 Filed 5-14-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP76-469-004]

United Gas Pipe Line Co.; Petition To Amend

May 11, 1982.

Take notice that on April 20, 1982, United Gas Pipe Line Company (Petitioner), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP76-469-004 a petition to amend the order issued September 13, 1979, as amended, in Docket No. CP76-469 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas for the account of Southern Natural Gas Company (Southern) from an additional point of receipt, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued September 13, 1979, as amended, it was authorized to transport up to 4,550 Mcf of natural gas per day from Southern's reserves in West Cameron Block 586, offshore Louisiana, which gas Southern delivers to Stringray Pipeline Company (Stingray) at a point on Stringray's line in West Cameron Block 595 and Petitioner redelivers such gas in Vermilion Parish, Louisiana.

Pursuant to an amendatory transportation agreement dated August 28, 1981, it is stated, Southern requests the transportation of recent purchases of gas in West Cameron Blocks 537, 551, 552, and 560, offshore Louisiana. Such gas, it is submitted, would be delivered to Petitioner through a previously authorized point in West Cameron Block 537, offshore Louisiana.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it is determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13275 Filed 5-14-82; 8:45 am]

BILLING CODE 6717-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 10, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-AMERADA HESS CORPORATION			RECEIVED:	04/19/82		JA: LA			
8228337	81-2807	1709900664	108			S L 411 #6 NRA SUA	LAKE CHICOT	19.6	FLORIDA GAS TRANS
-ART MACHIN & ASSOCIATES INC			RECEIVED:	04/19/82		JA: LA			
8228313	81-2697	1711920282	103			S R CRAFT #1 PET RA SUNN	NORTH SHONGALOO - RED	18.0	UNITED GAS PIPE L
-FRANKS & PETROFUNDS INC			RECEIVED:	04/19/82		JA: LA			
8228326	81-2698	1701320482	103			CRAWFORD #1 HOSS B SUJ	SAILES	110.0	LOUISIANA GAS PUR
-GAS RESOURCES INC			RECEIVED:	04/19/82		JA: LA			
8228323	81-2891	1706720627	108			LEVEQUE HEIRS #3	MONROE GAS	3.5	CENTRAL TRANSMISS
-GLENDA PETROLEUM CORP			RECEIVED:	04/19/82		JA: LA			
8228343	81-2706	1711123104	103			GLENDA P 12 #8 S/N 174154	MONROE	16.0	MID LOUISIANA GAS
8228315	81-2707	1711123105	103			GLENDA P 12 #9 S/N 174155	MONROE	16.0	MID LOUISIANA GAS
8228328	81-2899	1707321539	103			PENNZOIL 28 #7 S/N 170766	MONROE	16.0	UNITED GAS PIPELI
8228317	81-2709	1707321519	103			PENNZOIL 29 #1 S/N 177224	MONROE	16.0	UNITED GAS PIPELI
8228329	81-2900	1707321588	103			PENNZOIL 29 #17 S/N 171101	MONROE	16.0	UNITED GAS PIPELI
8228330	81-2901	1707321589	103			PENNZOIL 29 #18 S/N 171102	MONROE	16.0	UNITED GAS PIPELI
8228331	81-2902	1707321590	103			PENNZOIL 29 #19 S/N 171103	MONROE	16.0	UNITED GAS PIPELI
8228319	81-2710	1707321550	103			PENNZOIL 29 #8 S/N 177225	MONROE	16.0	UNITED GAS PIPELI
8228316	81-2708	1707321485	103			PENNZOIL 4 #1 S/N 177003	MONROE	16.0	UNITED GAS PIPELI
8228318	81-2711	1707321826	103			PENNZOIL 4 #15 S/N 177301	MONROE	16.0	UNITED GAS PIPELI
8228332	81-2903	1707321486	103			PENNZOIL 4 #2 S/N 170603	MONROE	16.0	UNITED GAS PIPELI
8228333	81-2904	1707321487	103			PENNZOIL 4 #3 S/N 170604	MONROE	16.0	UNITED GAS PIPELI
8228334	81-2905	1707321491	103			PENNZOIL 4 #7 S/N 170608	MONROE	16.0	UNITED GAS PIPELI
8228335	81-2906	1707321492	103			PENNZOIL 4 #8 S/N 170609	MONROE	15.0	UNITED GAS PIPELI
8228349	81-2907	1707321493	103			PENNZOIL 4 #9 S/N 170610	MONROE	15.0	UNITED GAS PIPELI
-HERBST RESOURCES INC			RECEIVED:	04/19/82		JA: LA			
8228324	81-2701	1707326010	108			FAIRBANKS #1	MONROE GAS ROCK	2.4	MID LOUISIANA GAS
8228325	81-2702	1707320718	108			FAIRBANKS #4	MONROE GAS ROCK	2.4	MID LOUISIANA GAS
8228314	81-2703	1707320719	108			FAIRBANKS #5	MONROE GAS ROCK	2.4	MID LOUISIANA GAS
8228342	81-2704	1707320720	108			FAIRBANKS #6	MONROE GAS ROCK	2.4	MID LOUISIANA GAS
8228339	81-2705	1707320721	108			FAIRBANKS #7	MONROE GAS ROCK	2.4	MID LOUISIANA GAS
-J J J PARTNERSHIP			RECEIVED:	04/19/82		JA: LA			
8228347	81-2910	1711121738	108			J J J #1	MONROE	2.0	IMC PIPELINE CO
8228348	81-2911	1711121737	108			J J J #2	MONROE	2.0	IMC PIPELINE CO
-L&N DRILLING CO & K D LANKFORD JR			RECEIVED:	04/19/82		JA: LA			
8228338	81-2913	1711101016	108			K D LANKFORD #1	MONROE	4.0	IMC PIPELINE CO I
-LANKFORD & NANCE			RECEIVED:	04/19/82		JA: LA			
8228310	81-2657	1711123331	103			EXXON #1	MONROE	0.0	MID-LOUISIANA GAS
-LOUISIANA CRUDE OIL & GAS CO INC			RECEIVED:	04/19/82		JA: LA			
8228312	81-2689	1711120303	108			HUMBLE ARCO #8	MONROE GAS	9.0	MID LOUISIANA CO
-MID LOUISIANA GAS COMPANY			RECEIVED:	04/19/82		JA: LA			
8228351	81-2645	1711123072	108			MLGC FEE GAS #1024	MONROE GAS FIELD	10.3	MID LOUISIANA GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8228352	81-2646	1711123080		108		MLGC FEE GAS #1026	MONROE GAS FIELD	15.9	MID LOUISIANA GAS
8228341	81-2648	1711123089		108		MLGC FEE GAS #1035	MONROE GAS FIELD	4.0	MID LOUISIANA GAS
8228302	81-2649	1711123090		108		MLGC FEE GAS #1036	MONROE GAS FIELD	7.7	MID LOUISIANA GAS
8228303	81-2650	1711123091		108		MLGC FEE GAS #1037	MONROE GAS FIELD	17.6	MID LOUISIANA GAS
8228320	81-2712	1711121481		108		MLGC FEE GAS #705	MONROE GAS FIELD	15.7	MID LOUISIANA GAS
8228321	81-2713	1711121529		108		MLGC FEE GAS #712	MONROE GAS FIELD	21.2	MID LOUISIANA GAS
8228344	81-2714	1711121531		108		MLGC FEE GAS #714	MONROE GAS FIELD	21.1	MID LOUISIANA GAS
8228336	81-2715	1711121532		108		MLGC FEE GAS #715	MONROE GAS FIELD	18.4	MID LOUISIANA GAS
8228322	81-2716	1711121654		108		MLGC FEE GAS #756	MONROE GAS FIELD	19.8	MID LOUISIANA GAS
8228304	81-2651	1711121967		108		MLGC FEE GAS #837	MONROE GAS FIELD	19.2	MID LOUISIANA GAS
8228305	81-2652	1711122055		108		MLGC FEE GAS #857	MONROE GAS FIELD	18.8	MID LOUISIANA GAS
8228306	81-2653	1711122415		108		MLGC FEE GAS #879	MONROE GAS FIELD	16.7	MID LOUISIANA GAS
8228307	81-2654	1711122493		108		MLGC FEE GAS #899	MONROE GAS FIELD	9.8	MID LOUISIANA GAS
8228308	81-2655	1711122518		108		MLGC FEE GAS #906	MONROE GAS FIELD	14.8	MID LOUISIANA GAS
8228309	81-2656	1711122535		108		MLGC FEE GAS #907	MONROE GAS FIELD	18.2	MID LOUISIANA GAS
-R M R OIL CO				RECEIVED:	04/19/82	JA: LA			
8228345	81-2908	1711102309		108		RABUN #1	MONROE	2.0	IMC PIPELINE CO
8228346	81-2909	1711102310		108		RABUN #2	MONROE	2.0	IMC PIPELINE CO
-TEXACO INC				RECEIVED:	04/19/82	JA: LA			
8228311	81-2691	1705120576		103		BDC UA #122 VUA	BAY DE CHENE	119.0	KAISER ALUMINUM &
8228340	81-2700	1710922305		103		BSE U8 #15 VU8	BAY ST ELAINE	540.0	KAISER ALUMINUM &
8228350	81-2692	1710922321		103		DGL U12 #65 VUL	DOG LAKE	4.0	TEXAS GAS TRANSMI
8228327	81-2699	1710921911		103		SL 301 TERREBONNE BAY #342	CAILLOU ISLAND	255.0	KAISER ALUMINUM &
-VANGUARD PETROLEUM CORP				RECEIVED:	04/19/82	JA: LA			
8228353	81-2647	1711120322		108		ARMSTRONG #1	MONROE GAS	7.5	IMC EXPLORATION C
**********									
MONTANA BOARD OF OIL & GAS CONSERVATION									
**********									
-FALCON-COLORADO EXPLORATION INC				RECEIVED:	04/20/82	JA: MT			
8228375	8-81-151	2507121675		108		1-25 YANCHEK	SWANSON CREEK	14.4	MONTANA-DAKOTA UT
**********									
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
**********									
-BOUNTY OIL & GAS INC				RECEIVED:	04/21/82	JA: NY			
8228367	2181	3101316015		107-TF		SEITZ/KOZAK #1	WILDCAT	0.0	NATIONAL FUEL GAS
-ECLIPSE MANAGEMENT ASSOCIATES INC				RECEIVED:	04/21/82	JA: NY			
8228364	1773	3101314770		108		BALLING #1 #3156	LAKE SHORE	13.0	NATIONAL FUEL GAS
8228363	1774	3101314669		108		BALLING #2 #3157	LAKE SHORE	15.0	NATIONAL FUEL GAS
8228365	1791	3101315029		108		SMITH #1 #3146	MINA - RIPLEY	6.0	NATIONAL FUEL GAS
8228366	1792	3101315030		108		SMITH #2 #3147	MINA - RIPLEY	0.0	NATIONAL FUEL GAS
-TRAHAN PETROLEUM INC				RECEIVED:	04/21/82	JA: NY			
8228368	1703	3101315284		107-TF		C STRATTON - NY #79 31-013-15284	PANAMA	36.0	COLUMBIA GAS TRAN
8228370	1707	3101315373		107-TF		CHARLES LEFFINGWELL - CRONER #1	PANAMA	36.0	COLUMBIA GAS TRAN
8228371	1740	3101315578		107-TF		F & J DELAHOY #1 31-013-15578	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8228372	1738	3101315579		107-TF		F & J DELAHOY #2 31-013-15579	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8228373	1692	3101315996		107-TF		G & L DARLING #1 31-013-15996	ELLINGTON	36.0	COLUMBIA GAS TRAN
8228374	1705	3101315997		107-TF		J & J HORTON - NY #20 31-013-15997	ELLINGTON	36.0	COLUMBIA GAS TRAN
8228361	1665	3101314499		107-TF		KLINE N Y #61 31-013-14499	PANAMA	8.0	COLUMBIA GAS TRAN
8228358	1699	3101312535		107-TF		M & D LENT - N Y #18 31-013-12535	CHERRY CREEK	37.0	COLUMBIA GAS TRAN
8228369	1698	3101314819		107-TF		M & D LENT - NY #17 31-013-14819	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8228360	1667	3101312536		107-TF		M & D LENT N Y #19 31-013-12536	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8228356	1708	3101312539		107-TF		M MAZIAR - N Y #22 31-013-12539	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8228359	1674	3101315525		107-TF		MARVIN WELLMAN #1 31-013-15525	ELLINGTON	1.2	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8228362	1702	3101315053		107-TF		T WELLER - N Y #78 31-013-15053	PANAMA	36.0	COLUMBIA GAS TRAN
8228357	1675	3101312546		107-TF		WELLSVILLE TIMBER - NY #15	ELLINGTON	1.0	COLUMBIA GAS TRAN
8228354	1670	3101314796		107-TF		WIDRIG N Y #67	PANAMA	8.0	COLUMBIA GAS TRAN
8228355	1734	3101316032		107-TF		WULFFRAAT #1 31-013-16032	CHERRY CREEK	36.0	COLUMBIA GAS TRAN

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OHIO DEPARTMENT OF NATURAL RESOURCES

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-ATLAS ENERGY GROUP INC			RECEIVED: 04/22/82		JA: OH				
8228379		3415521827		102-2	107-TF	BENNETT #1	KINSMAN	18.0	COLUMBIA GAS TRAN
8228383		3415521878		102-2	107-TF	D D TRICKER #1	KINSMAN	18.0	COLUMBIA GAS TRAN
8228382		3415521868		102-2	107-TF	HUFFMAN #3	GUSTAVUS	22.0	COLUMBIA GAS TRAN
8228378		3415521749		102-2	107-TF	HYDE #1	GUSTAVUS	27.0	COLUMBIA GAS TRAN
8228385		3415521980		102-2	107-TF	JONES UNIT #1	VERNON	26.0	COLUMBIA GAS TRAN
8228384		3415521963		102-2	107-TF	KUCK #1	KINSMAN	22.0	COLUMBIA GAS TRAN
8228376		3415521560		102-2	107-TF	KUZMICK #1	JOHNSTON	22.0	COLUMBIA GAS TRAN
8228381		3415521854		102-2	107-TF	LIEBERT UNIT #3	KINSMAN	26.0	COLUMBIA GAS TRAN
8228377		3415521696		102-2	107-TF	LOGAN #4	GUSTAVUS	23.0	COLUMBIA GAS TRAN
8228380		3415521836		102-2	107-TF	MCLAUGHLIN #1	KINSMEN	24.0	COLUMBIA GAS TRAN
-AUSTIN DEVELOPMENT CO			RECEIVED: 04/22/82		JA: OH				
8228388A		3408323026		103		CENTURY #5	UNION	50.0	EAST OHIO GAS CO
8228388B		3408323026	D	107-TF		CENTURY #5	UNION	50.0	EAST OHIO GAS CO
8228386A		3403124507		103		HOFSTETLER-BACHNA #6	MONROE	50.0	COLUMBIA GAS TRAN
8228386B		3403124507	D	107-TF		HOFSTETLER-BACHNA #6	MONROE	50.0	COLUMBIA GAS TRAN
8228387A		3407523595		103		N GALLION #2	RICHLAND	50.0	POI ENERGY INC
8228387B		3407523595	D	107-TF		N GALLION #2	RICHLAND	50.0	POI ENERGY INC
-BANDS COMPANY INC			RECEIVED: 04/22/82		JA: OH				
8228390		3407523351		107-TF		BIGLER #3	HARDY	1.8	COLUMBIA GAS TRAN
8228393		3407523403		107-TF		BIGLER #4	HARDY	1.5	COLUMBIA GAS TRAN
8228397		3407523606		107-TF		BIGLER #5	MILLERSBURG	2.0	COLUMBIA GAS TRAN
8228399		3407523634		107-TF		BIGLER #6	MILLERSBURG	1.0	COLUMBIA GAS TRAN
8228400		3407523669		107-TF		BURKEY #1	MILLERSBURG	1.0	COLUMBIA GAS TRAN
8228396		3407523564		103		EVERT & ZELMA FOX #1	KILLBUCK	1.5	COLUMBIA GAS TRAN
8228395		3407523459		107-TF		JOSEPH MILLER #1	MILLERSBURG	2.0	COLUMBIA GAS TRAN
8228398		3407523633		107-TF		KURTZ #1	MILLERSBURG	1.7	COLUMBIA GAS TRAN
8228394		3407523404		107-TF		L HERSHBERGER #3	HARDY	1.5	COLUMBIA GAS TRAN
8228389		3407522758		107-TF		LOWER #1	NEW BEDFORD	2.0	COLUMBIA GAS TRAN
8228391		3407523352		107-TF		MAST #2	HARDY	2.0	COLUMBIA GAS TRAN
8228392		3407523354		107-TF		MAST #4	HARDY	1.5	COLUMBIA GAS TRAN
-BB ENERGY CORP			RECEIVED: 04/22/82		JA: OH				
8228401		3412122733		107-DV		ULLMAN #2	HARRETTSVILLE	12.0	COLUMBIA GAS TRAN
8228402		3412122734		107-DV		ULLMAN #3	HARRETTSVILLE	12.0	COLUMBIA GAS TRAN
8228403		3412122735		107-DV		ULLMAN #4	HARRETTSVILLE	12.0	COLUMBIA GAS TRAN
-BEREA OIL AND GAS CORPORATION			RECEIVED: 04/22/82		JA: OH				
8228409		3415520632		108		CREED-GIFFORD UNIT #1	LIBERTY	4.2	EAST OHIO GAS CO
8228408		3415520630		108		CREED-GIFFORD UNIT #2	LIBERTY	11.5	EAST OHIO GAS CO
8228406		3415520628		108		CREED-GIFFORD UNIT #3	LIBERTY	11.5	EAST OHIO GAS CO
8228407		3415520629		108		CREED-GIFFORD UNIT #4	LIBERTY	11.5	EAST OHIO GAS CO
8228404		3411924404		108		H & K BRILL #1	RICH HILL	9.4	COLUMBIA GAS TRAN
8228411		3415520766		108		H SCHLACT #2	FARMINGTON	1.6	EAST OHIO GAS CO
8228412		3415520781		108		H SCHLACT #3	FARMINGTON	4.3	EAST OHIO GAS CO
8228410		3415520735		108		H SCHLACT #4	FARMINGTON	1.6	EAST OHIO GAS CO
8228414		3415520792		108		R A STILLWAGON #1	LIBERTY	11.1	EAST OHIO GAS CO
8228413		3415520791		108		R A STILLWAGON #2	WEATHERSFIELD	18.4	EAST OHIO GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8228405		3413321172		108		W & H MANGOLD #1
				RECEIVED: 04/22/82		JA: OH
-BLAUSER WELL SERVICE INC						
8228415		3410522239		103	107-DV	RUTH TAYLOR #1
				RECEIVED: 04/22/82		JA: OH
-BROWN PETROLEUM CORP						
8228416		3407522533		103		CARPENTER #2
				RECEIVED: 04/22/82		JA: OH
-CALLANDER & KIMBREL INC						
8228417		3403124509		103		BARCUS #1
				RECEIVED: 04/22/82		JA: OH
-CHANSE PETROLEUM CORPORATION						
8228418		3400721876		107-TF		CARNEY #1
8228419		3400721910		107-TF		J & J MCINTOSH #2
				RECEIVED: 04/22/82		JA: OH
-CLINTON OIL CO						
8228423		3411926170		103	107-TF	CLYTA YOUNG #1-705
8228421		3411926056		103	107-TF	DAWSON #1-576
8228422		3411926062		103	107-TF	J HICKMAN #1-674
8228424		3416723812		108		L LANG #1
8228420		3403124266		103	107-TF	R MCCONNELL #2-569
				RECEIVED: 04/22/82		JA: OH
-COLLINS-MCGREGOR OPERATING COMPANY						
8228425		3415721438		108		CRIM #1
				RECEIVED: 04/22/82		JA: OH
-CYCLOPS CORP						
8228427		3413920576		103		D H & K E CULLER #3
8228428		3413920584		103		M E AND E E MOWRY #1
				RECEIVED: 04/22/82		JA: OH
-DERBY OIL & GAS CORP						
8228429		3407523408		103	107-TF	ELMER COBLENTZ #1
8228430		3412725539		103	107-TF	KENNETH SEARCH #1
				RECEIVED: 04/22/82		JA: OH
-EDCO DRILLING & PRODUCING INC						
8228431		3407522145		107-RT		MILLER MO-1C
				RECEIVED: 04/22/82		JA: OH
-ENSERCH EXPLORATION INC						
8228437		3400720795		108		GOLEMBIOWSKI-REED UNIT 1 #1
8228436		3400720793		108		GOLEMBIOWSKI-REED UNIT 1 #2
8228435		3400720777		108		J J PEPIN UNIT 1 #1
8228440		3400720961		108		J J PEPIN UNIT 1 #2
8228438		3400720897		108		SZAJKOWSKI UNIT #2
8228439		3400720905		108		WAYNE-KELLER UNIT 1 #2
				RECEIVED: 04/22/82		JA: OH
-ENTERPRISE ENERGY CORP						
8228432		3400922524		103	107-TF	DRYDOCK COAL #6Y
8228434		3416320700		103	107-TF	HEWITT #1
8228433		3416320688		103	107-TF	WOODGEARD #2
				RECEIVED: 04/22/82		JA: OH
-FRANK A CSAPO JR						
8228426		3416923150		103	107-TF	NORMA LANCE #1
				RECEIVED: 04/22/82		JA: OH
-GASEARCH INC						
8228442		3415522105		103	107-TF	KESSLER UNIT #1
8228441		3415521760		103	107-TF	SHOFF #2
				RECEIVED: 04/22/82		JA: OH
-HOFFMAN & KUHN INC						
8228443		3412725411		103		SWEENEY-FORSYTHE #1
				RECEIVED: 04/22/82		JA: OH
-HOPCO RESOURCES INC						
8228444		3403124177		103	107-TF	BRUSHWOOD #1
8228445		3403124486		103	107-TF	BURRELL #1
8228446		3403124725		103	107-TF	FINTON #1
8228447		3411926096		103	107-TF	MCGINNIS #A2
				RECEIVED: 04/22/82		JA: OH
-JAMES P NOLL						
8228462		3412725119		103		GROVER-WAUGH #1
				RECEIVED: 04/22/82		JA: OH
-K S T OIL & GAS CO INC						
8228448		3413322501		103	107-TF	CHAPPELL #1

FIELD NAME	PROD	PURCHASER
RANDOLPH	3.1	EAST OHIO GAS CO
CHESTER	17.5	COLUMBIA GAS TRAN
KILLBUCK	250.0	COLUMBIA GAS TRAN
COPPERDALE	3.0	
NEW LYME	2.0	
NEW LYME	3.1	
BLOOMFIELD	10.0	
DRESDEN	10.0	
OTSEGO	10.0	
	10.0	GAS TRANSPORT INC
TRINWAY	10.0	
	19.0	EAST OHIO GAS CO
MONROE	15.0	
MIFFLIN	30.0	
SALT CREEK	12.0	COLUMBIA GAS TRAN
HARRISON	12.0	COLUMBIA GAS TRAN
PAINT	18.0	COLUMBIA GAS TRAN
LENOX	5.0	JONES & LAUGHLIN
LENOX	5.0	JONES & LAUGHLIN
LENOX	6.0	JONES & LAUGHLIN
LENOX	3.0	JONES & LAUGHLIN
LENOX	2.0	JONES & LAUGHLIN
LENOX	6.0	JONES & LAUGHLIN
YORK	18.2	COLUMBIA GAS TRAN
SWAN	18.2	COLUMBIA GAS TRAN
SWAN	27.3	COLUMBIA GAS TRAN
MILTON	12.0	COLUMBIA GAS TRAN
CORTLAND	0.0	
VIENNA	20.0	EAST OHIO GAS CO
JACKSON	15.0	
KEENE	12.0	COLUMBIA GAS TRAN
KEENE	12.0	COLUMBIA GAS TRAN
KEENE	12.0	COLUMBIA GAS TRAN
DRESDEN	12.0	COLUMBIA GAS TRAN
READING	300.0	COLUMBIA-GAS-TRAN
FREEDOM	0.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8228449		3415320920		103	107-TF	DEVAN VALE ACRES INC #2	NORTHAMPTON	0.0	
8228452		3415320991		103	107-TF	JOSS #2	BATH	0.0	
8228450		3415320942		103	107-TF	REVERE SCHOOL #1	BATH	0.0	EAST OHIO GAS CO
8228451		3415320973		103	107-TF	THOMPSON #1	NORTHAMPTON	0.0	
-KRAMER EXPLORATION CO				RECEIVED:	04/22/82	JA: OH			
8228453		3405320722		103		O JOHNSON #1	ADDISON	12.0	COLUMBIA GAS TRAN
-M B OPERATING CO INC				RECEIVED:	04/22/82	JA: OH			
8228457		3401921485		103		C JONES #1-A	HARRISON	8.0	REPUBLIC STEEL CO
8228458		3407523237		103	107-TF	COBLENTZ #1	PAINT	36.5	REPUBLIC STEEL CO
8228456		3401921484		103	107-TF	GEIGER #1	BROWN	14.6	REPUBLIC STEEL CO
8228460		3415123553		103	107-TF	GREER #1	PLAIN	12.8	REPUBLIC STEEL CO
8228455		3401921474		103	107-TF	MILLIGAN UNIT #1	BROWN	9.1	REPUBLIC STEEL CO
8228454		3401921446		103	107-TF	Y M C A UNIT #1	BROWN	14.6	REPUBLIC STEEL CO
8228459		3415123545		103	107-TF	YODER #1-A	NEMISHILLEN	7.3	REPUBLIC STEEL CO
-NORTHEASTERN ENERGY				RECEIVED:	04/22/82	JA: OH			
8228463		3410322647		103	107-TF	REEDY #1	WADSWORTH	21.0	EAST OHIO GAS CO
-OHIO NATURAL FUEL CO				RECEIVED:	04/22/82	JA: OH			
8228469		3403124523		107-TF		DUNCAN #1	BETHLEHEM	7.0	COLUMBIA GAS TRAN
8228468		3403124504		107-TF		FINLAY #1	BETHLEHEM	12.0	COLUMBIA GAS TRAN
8228465		3403123977		107-TF		LAPP #5	BETHLEHEM	12.0	COLUMBIA GAS TRAN
8228467		3403124503		107-TF		LAPP #6	BETHLEHEM	12.0	COLUMBIA GAS TRAN
8228466		3403124250		107-TF		OLINGER #3	JACKSON	12.0	COLUMBIA GAS TRAN
-OXFORD OIL CO				RECEIVED:	04/22/82	JA: OH			
8228470	2993	3407522162		108		CLARENCE SNYDER UNIT #1		15.0	COLUMBIA GAS TRAN
8228471		3412725387		103	107-TF	RICHARD STEELE #2-A	MILLERSBURG	12.0	
-PAUL J OBERMILLER				RECEIVED:	04/22/82	JA: OH			
8228464		3416923073		103	107-TF	SANDY OBERMILLER #1	CRESTON	12.0	COLUMBIA GAS TRAN
-PENN-OHIO ENERGY CORP				RECEIVED:	04/22/82	JA: OH			
8228472		3407523003		107-TF		JACOB J BEACHY B-13-1	BERLIN TOWNSHIP	75.0	COLUMBIA GAS TRAN
8228473		3407523007		107-TF		RAYMOND & MARY MILLER B-3-1	BERLIN TOWNSHIP	83.0	COLUMBIA GAS TRAN
-POI ENERGY INC				RECEIVED:	04/22/82	JA: OH			
8228478		3413320763		108		BURKE #1		1.5	
8228474		3400721633		103	107-TF	CHEBRA #1	ORWELL	40.0	
8228475		3413320319		108		JECKEL #1		17.3	
8228479		3415320522		108		KREJCI #1		1.0	
8228482		3415320537		108		KREJCI #2		1.0	
8228480		3415320535		108		REID FARMS #4		0.9	
8228481		3415320536		108		RIED FARMS #2		0.9	
8228476		3413320717		108		SARGENT-PULSFORD #1		7.9	
8228477		3413320739		108		STADTLANDU #1		3.3	
-PONDEROSA OIL COMPANY				RECEIVED:	04/22/82	JA: OH			
8228483		3407523248		107-TF		EZRA SCHMUCKER #1	HOLMES	11.0	COLUMBIA GAS TRAN
-PYRAMID OIL OF AMERICA				RECEIVED:	04/22/82	JA: OH			
8228484		3410322479		103	107-TF	JONES #1	LAYFAYETTE	15.0	
-REPUBLIC OIL CO				RECEIVED:	04/22/82	JA: OH			
8228485		3408322973		103		JOHNSON/HINKLE DOWNS #1	JACKSON	12.0	COLUMBIA GAS TRAN
-RICHARD W ULLMAN				RECEIVED:	04/22/82	JA: OH			
8228513		3411522690		103		JANES #1	CHESTERHILL	18.0	COLUMBIA GAS TRAN
-RIMCO OPERATING INC				RECEIVED:	04/22/82	JA: OH			
8228486		3416922411		103	107-TF	BOWERS #1	CHESTER	12.0	COLUMBIA GAS TRAN
8228493		3416922685		103	107-TF	BRICKER #3	FRANKLIN	12.0	COLUMBIA GAS TRAN
8228488		3416922468		103	107-TF	COCHRELL #3	CANAAN	12.0	COLUMBIA GAS TRAN
8228498A		3416923086		103		CROWNER #1	WAYNE	12.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8228488		3416923086	D	107-TF		CROWNER #1	WAYNE	12.0	COLUMBIA GAS TRAN
8228489		3416922573		103	107-TF	DAVEY TREE #1	CHESTER	12.0	COLUMBIA GAS TRAN
8228497		3416922950		103	107-TF	GEORGE #2	WAYNE	12.0	COLUMBIA GAS TRAN
8228490		3416922608		103	107-TF	HOFF #1	CHESTER	12.0	COLUMBIA GAS TRAN
8228496		3416922710		103	107-TF	KACHMAR #1	CHESTER	12.0	COLUMBIA GAS TRAN
8228494		3416922692		103	107-TF	LADRACH #2	CHESTER	12.0	COLUMBIA GAS TRAN
8228499		3416923196		103	107-TF	REHM #2	GREEN	12.0	COLUMBIA GAS TRAN
8228491		3416922616		103	107-TF	RICE #4	FRANKLIN	12.0	COLUMBIA GAS TRAN
8228487		3416922529		103	107-TF	ROMAN #1	CHESTER	12.0	COLUMBIA GAS TRAN
8228495		3416922707		103	107-TF	SILVER #2	PLAIN	12.0	COLUMBIA GAS TRAN
8228492		3416922640		103	107-TF	SPECK #2	CHESTER	12.0	COLUMBIA GAS TRAN
-ROBERT WOODYARD				RECEIVED:	04/22/82	JA: OH			
8228519		3411522642	D	107-DV		J NEWTON #1	STOCKPORT	10.0	COLUMBIA GAS TRAN
-RONALD F MORAN				RECEIVED:	04/22/82	JA: OH			
8228461		3408924182		103		JOHN L BAUGHMAN #1	PERRY	0.0	
-SANTA FE DRILLING CO INC				RECEIVED:	04/22/82	JA: OH			
8228502		3416726309		107-DV		CHARLES & DIANE LANTRY #1	LIBERTY	50.0	
8228503		3416726319		107-DV		DONALD O HESLOP #1	LIBERTY	50.0	
8228504		3416726533		107-DV		DONALD O HESLOP #2	LIBERTY	50.0	
8228501		3416725561		107-DV		FRANK J GALLAGHER #2	LIBERTY	50.0	
8228500		3416724852		103		ORPHA AND MYRL VESS #1	SALEM	50.0	
-TOWNER PETROLEUM CO				RECEIVED:	04/22/82	JA: OH			
8228508		3405923203		103	107-TF	BULLIONS #1	EAST GUERNSEY	0.0	TENNESSEE GAS PIP
8228510		3405923276		103	107-TF	C TAYLOR #1	EAST GUERNSEY	0.0	TENNESSEE GAS PIP
8228507		3405923071		103	107-TF	C TROYER #1	EAST GUERNSEY	0.0	TENNESSEE GAS PIP
8228505		3405922432		103	107-TF	DEAN #2	GUERNSEY	0.0	TENNESSEE GAS PIP
8228512		3405923285		103	107-TF	J CRISLIP #4-B	GUERNSEY	0.0	TENNESSEE GAS PIP
8228509		3405923274		103	107-TF	NEUHART #1	EAST GUERNSEY	0.0	TENNESSEE GAS PIP
8228506		3405922886		103	107-TF	R BOND #1	EAST GUERNSEY	0.0	TENNESSEE GAS PIP
8228511		3405923284		103	107-TF	W REPIK #1	EAST GUERNSEY	0.0	TENNESSEE GAS PIP
-UNITED PETROLEUM CORP				RECEIVED:	04/22/82	JA: OH			
8228517		3413320879		108		BLACK #1	SHALERSVILLE	10.0	AMERICAN ENERGY S
8228518		3413320881		108		BLACK #2	SHALERSVILLE	5.0	AMERICAN ENERGY S
8228515		3413320673		108		KLOHN #1	RAVENNA	9.0	AMERICAN ENERGY S
8228516		3413320674		108		KLOHN #2	RAVENNA	0.0	AMERICAN ENERGY S
8228514		3409921008		108		LIBB BLACK #1	CANFIELD	7.0	AMERICAN ENERGY S
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PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
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-ADOBE OIL & GAS CORPORATION				RECEIVED:	04/22/82	JA: PA			
8228521	11240	3703321181		103		FRANK BELLELLA #1	BURNSIDE	22.0	
8228545	11242	3703321159		103		GERALD LOCKARD #1	BURNSIDE	22.0	
8228546	11243	3706522288		103		LITTLE LEO CORPORATION #1-B	PUNXSUTAWNEY	24.0	T W PHILLIPS GAS
8228547	11244	3706522289		103		LITTLE LEO CORPORATION #1-C	PUNXSUTAWNEY	25.0	T W PHILLIPS GAS
8228548	11245	3706326527		103		THOMAS COLLIER #1	BURNSIDE	25.0	CONSOLIDATED GAS
8228520	11239	3706325745		103		VERA WALACH #1-B	MCINTYRE	20.0	T W PHILLIPS GAS
8228522	11241	3706522409		103		WILLIAM HENNEMAN #1	PUNXSY	23.0	T W PHILLIPS GAS
-ANGERMAN ASSOCIATES INC				RECEIVED:	04/22/82	JA: PA			
8228523	11201	3712921916		103		LATROBE BREWING CO #4 - WES-21916	W PA - UPPER DEVONIAN	45.0	PEOPLES NATURAL G
8228524	11202	3712921919		103		NORA B RICHEY #1 - WES-21919	W PA - UPPER DEVONIAN	45.0	PEOPLES NATURAL G
8228525	11203	3706326404		103		SHEFFIELD OIL & GAS #3 - IND-26404	W PA - UPPER DEVONIAN	45.0	PEOPLES NATURAL G
-C & C TROYER BROTHERS				RECEIVED:	04/22/82	JA: PA			
8228601	11221	3704921425		102-2		E STAFFORD #1 (#43)	EDINBORO	10.0	NATIONAL FUEL GAS

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8228599	10715	3704921372		102-2		HALMI #1	EDINBORO	20.0	NATIONAL FUEL GAS
8228600	11003	3704921490		102-2		L KRZYWIEKI #1 (#47)	EDINBORO	30.0	NATIONAL FUEL GAS
-C & N CO				RECEIVED:	04/22/82	JA: PA			
8228527	7667	3706325211		108		ST BERNARD'S CHURCH #2	WHITE	19.4	COLUMBIA GAS TRAN
-CARDINAL OIL CO				RECEIVED:	04/22/82	JA: PA			
8228549	10757	3704900000		107-TF		RAYMOND T LYONS #81-35 PA ERI-21510	CONNEAUT	0.0	COLUMBIA GAS TRAN
-CLARENCE K TUSSEL JR				RECEIVED:	04/22/82	JA: PA			
8228602	11151	3704921479		103		E HUSTON #1		30.0	
8228603	11152	3704921479		107-TF		E HUSTON #1		30.0	
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	04/22/82	JA: PA			
8228551	8455	3706324527		108		AUDREY S TANNER WN-1744	CANOE	12.7	GENERAL SYSTEM PU
8228553	9331	3706521928		108		B L HEITZENRATER WN-1778	MCCALMONT TOWNSHIP	3.0	GENERAL SYSTEM PU
8228552	8457	3706323963		108		J LON WINEBARK WN-1443	CANOE	12.7	GENERAL SYSTEM PU
8228554	10555	3703320903		108		JOHN E HAYES/LABORDE UNIT WN-1763	BRADY	11.4	GENERAL SYSTEM PU
8228550	10842	3702120140	D	102-2		ROY D LEAMER WN-1869	SUSQUEHANNA	29.0	GENERAL SYSTEM PU
-DORAN & ASSOCIATES INC				RECEIVED:	04/22/82	JA: PA			
8228556	10115	3706325167		108		HELEN STOUT #2 KA-57	UPPER DEVONIAN SANDS	8.8	CONSOLIDATED GAS
8228555	10114	3706325830		108		HELEN STOUT #3 KA-58	UPPER DEVONIAN SANDS	16.4	CONSOLIDATED GAS
-ENVIROGAS INC				RECEIVED:	04/22/82	JA: PA			
8228557	10745	3704921462		107-TF		M KOVACH #1	NORTH EAST DEEP	18.0	NATIONAL FUEL GAS
-FOX OIL & GAS INC				RECEIVED:	04/22/82	JA: PA			
8228536	10962	3712500000		108		ANDREW NOSAL #26	UNION TOWNSHIP	14.4	PEOPLES NATURAL G
8228537	10963	3712500000		108		CHILDS WELL	GLASSPORT	14.4	PEOPLES NATURAL G
8228533	10959	3712500000		108		DAVID SWICKARD #28	UNION	14.4	PEOPLES NATURAL G
8228538	10964	3700500000		108		ELKHORN	FORWARD TOWNSHIP	14.4	PEOPLES NATURAL G
8228528	7469	3712920758		108		IRMA WEYANDT #1	HEMPFIELD TOWNSHIP	20.5	PEOPLES NATURAL G
8228534	10960	3712500000		108		JENNIE BEBOUT	PETERS TOWNSHIP	14.4	PEOPLES NATURAL G
8228529	10955	3700300000		108		JOHN SNYDER/BROWN	WILKINS	14.4	PEOPLES NATURAL G
8228535	10961	3712500000		108		JOHN ZIPPAY 48	UNION TOWNSHIP	14.4	PEOPLES NATURAL G
8228530	10956	3700300000		108		MCDONALD	FORWARD	14.4	PEOPLES NATURAL G
8228531	10957	3700300000		108		MCDOWELL	PLUM	14.4	PEOPLES NATURAL G
8228532	10958	3700300000		108		YOUNG/PIONEER PARK	PATTON TOWNSHIP	14.4	PEOPLES NATURAL G
-GOE PRO INC				RECEIVED:	04/22/82	JA: PA			
8228559	10768	3704921465		103		NED BISHOP #1	ALBION WEST	0.0	NATIONAL FUEL GAS
8228561	10769	3704921465		107-TF		NED BISHOP #1	ALBION WEST	0.0	NATIONAL FUEL GAS
8228558	10766	3704921554		103		ROSE LANG #1	ALBION-WEST	0.0	NATIONAL FUEL GAS
8228560	10767	3704921554		107-TF		ROSE LANG #1	ALBION-WEST	0.0	NATIONAL FUEL GAS
-HILTON MINICH				RECEIVED:	04/22/82	JA: PA			
8228585	10871	3703100000		108		EVANS WELL	ALLEGHENY PLATEAU	3.5	APOLLO GAS CO
8228586	10872	3703100000		108		J B BOWERSOX #496	ALLEGHENY PLATEAU	1.2	APOLLO GAS CO
-J & J ENTERPRISES INC				RECEIVED:	04/22/82	JA: PA			
8228540	9214	3706325359		108		FRED A MUSSER #2 (129A)	WHITE	0.0	COLUMBIA GAS TRAN
8228539	7749	3706324282		108		ST BERNARDS CHURCH #1	WHITE	9.7	COLUMBIA GAS TRAN
-KALTSAS OIL CO				RECEIVED:	04/22/82	JA: PA			
8228562	10651	3704921404		103		EDWARD CHYLINSKI #1	NORTH EAST FIELD HORN	14.0	COLUMBIA GAS TRAN
8228576	10650	3704921404		107-TF		EDWARD CHYLINSKI #1	NORTH EAST FIELD HORN	14.0	COLUMBIA GAS TRAN
8228566	10655	3704921406		103		EDWARD CHYLINSKI #3	NORTH EAST FIELD HORN	13.0	COLUMBIA GAS TRAN
8228573	10647	3704921406		107-TF		EDWARD CHYLINSKI #3	NORTH EAST FIELD HORN	13.0	COLUMBIA GAS TRAN
8228564	10653	3704921412		103		EDWARD ZAJAC #1	NORTH EAST FIELD HORN	12.0	COLUMBIA GAS TRAN
8228575	10649	3704921412		107-TF		EDWARD ZAJAC #1	NORTH EAST FIELD HORN	12.0	COLUMBIA GAS TRAN
8228565	10654	3704921413		103		EDWARD ZAJAC #2	NORTH EAST FIELD HORN	22.0	COLUMBIA GAS TRAN
8228574	10648	3704921413		107-TF		EDWARD ZAJAC #2	NORTH EAST FIELD HORN	22.0	COLUMBIA GAS TRAN
8228563	10652	3704921504		103		F S PATALON #1	NORTH EAST FIELD HORN	18.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8228581	11607	3704921504		107-TF		F S PATALON #1	NORTH EAST FIELD HORN	18.0	COLUMBIA GAS TRAN
8228568	11031	3704921600		103		FRANK GULCZYNSKI #1	NORTH EAST FIELD HORN	16.0	COLUMBIA GAS TRAN
8228578	11056	3704921600		107-TF		FRANK GULCZYNSKI #1	NORTH EAST FIELD HORN	16.0	COLUMBIA GAS TRAN
8228569	11032	3704921601		103		FRANK GULCZYNSKI #2	NORTH EAST FIELD HORN	24.0	COLUMBIA GAS TRAN
8228579	11057	3704921601		107-TF		FRANK GULCZYNSKI #2	NORTH EAST FIELD HORN	24.0	COLUMBIA GAS TRAN
8228567	10656	3704921410		103		GERALD ORTON #2	NORTH EAST FIELD HORN	23.0	COLUMBIA GAS TRAN
8228572	10646	3704921440		107-TF		GERALD ORTON #2	NORTH EAST FIELD HORN	23.0	COLUMBIA GAS TRAN
8228571	11034	3704921603		103		SEVERINA ORTON #1	NORTH EAST FIELD HORN	20.0	COLUMBIA GAS TRAN
8228577	11055	3704921603		107-TF		SEVERINA ORTON #1	NORTH EAST FIELD HORN	20.0	COLUMBIA GAS TRAN
8228570	11033	3704921626		103		WALLACE MAY #1	NORTH EAST FIELD HORN	30.0	COLUMBIA GAS TRAN
8228580	11058	3704900000		107-TF		WALLACE MAY #1	NORTH EAST FIELD HORN	30.0	COLUMBIA GAS TRAN
-KEYSTONE ENERGY OIL & GAS PRODUCTIO			RECEIVED:	04/22/82	JA: PA				
8228582	11107	3706326394		103		PATZ #1	WAYNE C PATZ	53.4	COLUMBIA GAS TRAN
-LONDON OIL & GAS CO INC			RECEIVED:	04/22/82	JA: PA				
8228583	10882	3703120809		103		DAVIS BOYD #1	PICKARD VALLEY	12.0	COLUMBIA GAS TRAN
8228584	10885	3703120831		103		DAVIS BOYD #6	PICKARD VALLEY	12.0	COLUMBIA GAS TRAN
-MONROE RESOURCES LTD			RECEIVED:	04/22/82	JA: PA				
8228587	10973	3712326998		102-2		NOAH MILLER #1	SUGAR GROVE	25.0	COLUMBIA GAS TRAN
-R E BARRETT			RECEIVED:	04/22/82	JA: PA				
8228526	11238	3706326662		103		LYLE D AND VERLE D BARRETT #1	W MAHONING	40.0	T W PHILLIPS GAS
-TAURUS OIL CORP			RECEIVED:	04/22/82	JA: PA				
8228590	11081	3704920935		107-TF		E GOLLMER #1	CONNEAUT	1.0	NATIONAL FUEL GAS
8228593	11084	3709920934		107-TF		G & V NEAL #1	CONNEAUT	2.0	NATIONAL FUEL GAS
8228588	11079	3704920938		107-TF		K & M RAYMOND #1	CONNEAUT	7.0	NATIONAL FUEL GAS
8228591	11082	3704920937		107-TF		L & E GOLLMER #1	CONNEAUT	1.0	NATIONAL FUEL GAS
8228597	11088	3704920824		107-TF		LAWRENCE #1	CONNEAUT	2.5	NATIONAL FUEL GAS
8228592	11083	3704920936		107-TF		M & A NEAL #1	CONNEAUT	12.0	NATIONAL FUEL GAS
8228589	11080	3704920939		107-TF		M TOZER #1	CONNEAUT	9.4	NATIONAL FUEL GAS
8228598	11089	3704900000		103		MERRITT #1 ERI-20871	CONNEAUT	36.5	NATIONAL FUEL GAS
8228594	11085	3704920861		107-TF		NASVYTIS #1	CONNEAUT	13.9	NATIONAL FUEL GAS
8228595	11086	3709920832		107-TF		PARKNOW #1	CONNEAUT	1.7	NATIONAL FUEL GAS
8228596	11087	3704920839		107-TF		PARKNOW #2	CONNEAUT	3.0	NATIONAL FUEL GAS
-WAINOCO OIL & GAS CO			RECEIVED:	04/22/82	JA: PA				
8228541	11229	3703921291		102-2		GEORGE W BANCROFT #3 (W-118)	ATHENS (ATHENS)	0.0	COLUMBIA GAS TRAN
8228543	11228	3703921291		107-TF		GEORGE W BANCROFT #3 (W-118)	ATHENS (ATHENS)	0.0	COLUMBIA GAS TRAN
8228542	11233	3703921224		102-2		JAMES L LOVE #1 (W-100)	ATHENS (SPARTA)	70.0	COLUMBIA GAS TRAN
8228544	11232	3703921224		107-TF		JAMES L LOVE #1 (W-100)	ATHENS (SPARTA)	70.0	COLUMBIA GAS TRAN
				-TF					

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-13276 Filed 5-14-82; 8:45 am]

BILLING CODE 6717-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 10, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-GATOR OIL CO				RECEIVED:	04/19/82	JA: KS			
8228098	K-82-0026	1512522273		108		MCCONNELL EAST #1	JEFFERSON-SYCAMORE	3.7	UNION GAS SYSTEMS
8228097	K82-0024	1512522275		108		MCCONNELL EAST #3	JEFFERSON-SYCAMORE	3.7	UNION GAS SYSTEMS
-KANEX OIL, INC.				RECEIVED:	04/19/82	JA: KS			
8228099	K-81-1138	1505320701		102-4		CANNON #1	ELLSWORTH	36.5	COMANCHE PRODUCTI
LOUISIANA OFFICE OF CONSERVATION									
-AMOCO PRODUCTION CO				RECEIVED:	04/19/82	JA: LA			
8228112	81-2506	1705721599		103		DUCOS-ABRIBAT #14	VALENTINE	25.0	COLUMBIA GAS TRAN
-CHEVRON U S A INC				RECEIVED:	04/19/82	JA: LA			
8228111	81-2504	1707522690		103		I R PRICE ET AL #28	COQUILLE BAY	1255.0	SOUTHERN NATURAL
-GAS RESOURCES INC				RECEIVED:	04/19/82	JA: LA			
8228132	81-2631	1711123413		103		MEEKS #1	MONROE GAS	26.0	MID LOUISIANA GAS
8228134	81-2632	1711123415		103		MEEKS #2	MONROE GAS	27.0	MID LOUISIANA GAS
8228133	81-2633	1711123416		103		MEEKS #3	MONROE GAS	29.0	MID LOUISIANA GAS
-GETTY OIL COMPANY				RECEIVED:	04/19/82	JA: LA			
8228106	81-2518	1703100000		103		W H NUNLEY #2	LOGANSPORT	13.0	TENNESSEE GAS PIP
-GLENDA PETROLEUM CORP				RECEIVED:	04/19/82	JA: LA			
8228120	81-2516	1707321545		103		PENNZOIL 28 #13 S/N 176976	MONROE	16.0	UNITED GAS PIPELI
8228114	81-2517	1707321547		103		PENNZOIL 28 #15 S/N 176978	MONROE	16.0	UNITED GAS PIPE L
8228118	81-2514	1707321516		103		PENNZOIL 28 #4 S/N 176969	MONROE	16.0	UNITED GAS PIPELI
8228119	81-2515	1707321518		103		PENNZOIL 28 #6 S/N 176971	MONROE	16.0	UNITED GAS PIPELI
-HOGAN EXPLORATION INC				RECEIVED:	04/19/82	JA: LA			
8228108	81-1646	1702120686		102-4		BURNS #1	SOUTH GRAYSON	75.0	LOUISIANA INTRAST
-IMC EXPLORATION COMPANY				RECEIVED:	04/19/82	JA: LA			
8228110	81-2502	1707321273		103		COLE HEIRS A #16	MONROE	73.0	IMC PIPELINE CO I
-MID LOUISIANA GAS COMPANY				RECEIVED:	04/19/82	JA: LA			
8228124	81-2641	1711123061		108		MLGC FEE GAS #1015	MONROE GAS FIELD	9.8	MID LOUISIANA GAS
8228125	81-2642	1711123062		108		MLGC FEE GAS #1016	MONROE GAS FIELD	4.1	MID LOUISIANA GAS
8228126	81-2643	1711123063		108		MLGC FEE GAS #1017	MONROE GAS FIELD	15.5	MID LOUISIANA GAS
8228127	81-2644	1711123071		108		MLGC FEE GAS #1023	MONROE GAS FIELD	8.4	MID LOUISIANA GAS
8228115	81-2511	1711123298		103		MLGC FEE GAS #1081	MONROE GAS FIELD	18.2	MID LOUISIANA GAS
8228116	81-2512	1711123299		103		MLGC FEE GAS #1082	MONROE GAS FIELD	20.1	MID LOUISIANA GAS
-MIDWAY PRODUCTION CO				RECEIVED:	04/19/82	JA: LA			
8228137	81-2636	1707321730		108		NORTH MONROE LAND CO #2	MONROE	7.7	IMC PIPELINE CO I
-MIDWAY PRODUCTION CO VIII				RECEIVED:	04/19/82	JA: LA			
8228135	81-2634	1707321723		108		LEDOUX #1	MONROE	9.8	IMC PIPELINE CO I
-MIDWAY PRODUCTION CO XI				RECEIVED:	04/19/82	JA: LA			
8228136	81-2635	1707321724		108		NORTH MONROE LAND CO #1	MONROE	7.7	IMC PIPELINE CO I
-PELICAN DRILLING				RECEIVED:	04/19/82	JA: LA			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8228113	81-2507	1707321710		103		CULPEPPER #2	MONROE	10.3	IMC PIPELINE CO I
8228128	81-2508	1707321711		103		CULPEPPER #3	MONROE	5.1	IMC PIPELINE CO I
8228129	81-2509	1707321823		103		CULPEPPER #4	MONROE	9.2	IMC PIPELINE CO I
8228130	81-2510	1707321824		103		CULPEPPER #5	MONROE	8.2	IMC PIPELINE CO I
				RECEIVED:	04/19/82	JA: LA			
-PETROFUNDS INC									
8228107	81-2520	1701320510		103		CONTINENTAL CAN CO #3 HOSS A SU V	WEST BRYCELAND	1500.0	LOUISIANA GAS PUR
				RECEIVED:	04/19/82	JA: LA			
-PRIMOS PRODUCTION CO									
8228117	81-2513	1711123357		103		PETRO LEWIS HOLLIS #5	MONROE	18.5	PETRO LEWIS FUNDS
				RECEIVED:	04/19/82	JA: LA			
-SHADRACK PRODUCTION CO									
8228123	81-2640	1711123412		103	107-TF	EMMETT TAYLOR #1	MONROE	13.0	WEST MONROE GAS G
8228138	81-2637	1711123401		103	107-TF	ROBERT ABERCROMBIE #1	MONROE	13.0	WEST MONROE GAS G
8228121	81-2638	1711123410		103	107-TF	S L PATRICK #1	MONROE	13.0	WEST MONROE GAS G
8228122	81-2639	1711123411		103	107-TF	S L PATRICK #2	MONROE	13.0	WEST MONROE GAS G
				RECEIVED:	04/19/82	JA: LA			
-SINGER-FLEISCHAKER OIL OPR CO									
8228131	81-2526	1701921027		103		WILLIE BREAUX #1	COULEE HYPPOLITE 2960	0.0	CONOCO INC
				RECEIVED:	04/19/82	JA: LA			
-TENNECO OIL COMPANY									
8228105	81-2519	1702720891		103		BAMMA BAUCUM #1 SMK "C" SU E	HAYNESVILLE	900.0	ARKANSAS LOUISIAN
				RECEIVED:	04/19/82	JA: LA			
-TEXACO INC									
8228109	81-2501	1704520539		103		SL 334 VERMILION BAY B-71	VERMILION BAY	438.0	COLUMBIA GAS TRAN

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NEW MEXICO DEPARTMENT OF ENERGY & MINERALS

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				RECEIVED:	04/19/82	JA: NM			
-AMOCO PRODUCTION CO									
8228141		3004507926		108		ARMENTA GAS COM "A" #1			
8228155	C#100924	3001523462		102-4		STATE IZ #1			
				RECEIVED:	04/19/82	JA: NM			
-ARCO OIL AND GAS COMPANY									
8228143		3002508866		108		D D HARRINGTON (OIL) WN #3	AZTEC - PICTURED CLIF	20.0	EL PASO NATURAL G
8228142		3002521878		108		ELMER C HILL #2	UND DARK CANYON PENN	264.6	EL PASO NATURAL G
8228147		3002527548		103		LEA 407 STATE #7	EUNICE (7 RV QN S)	2.0	PHILLIPS PETROLEU
8228160		3002500000		103		STATE 731 #3	WANTZ (ABO)	1.0	WARREN PETROLEUM
8228159		3002527647		103		STATE 731 #4	SAN SIMON YATES NORTH	114.0	PHILLIPS PETROLEU
				RECEIVED:	04/19/82	JA: NM	JALMAT	0.0	PHILLIPS PETROLEU
-BLACKWOOD & NICHOLS CO LTD							JALMAT YATES 7 RIVERS	17.0	PHILLIPS PETROLEU
8228169		3004523480		107-TF		NORTHEAST BLANCO UNIT #204			
				RECEIVED:	04/19/82	JA: NM	SOUTH LOS PINOS FRUIT	200.0	EL PASO NATURAL G
-DUGAN PRODUCTION CORP									
8228162		3004522003		108		STERLING #1-Y			
8228153		3004522253		108		STERLING #2	WILDCAT PICTURED CLIF	12.0	GAS CO OF NEW MEX
				RECEIVED:	04/19/82	JA: NM	WILDCAT PICTURED CLIF	6.0	GAS CO OF NEW MEX
-HOMER J KYLE									
8228163		3001500000		108		STATE B #1	SQUARE LAKE	1.5	CONOCO INC
				RECEIVED:	04/19/82	JA: NM			
-HUNT OIL COMPANY									
8228146		3002527135		103		STATE 4 #1	NORTH GRAMA RIDGE-BON	58.0	PHILLIPS PETROLEU
				RECEIVED:	04/19/82	JA: NM			
-J M HUBER CORPORATION									
8228152		3001520843		108		MOORE COM #1	SOUTH CARLSBAD (MORRO	15.0	LLANO INC
				RECEIVED:	04/19/82	JA: NM			
-LEWIS B BURLESON									
8228150		3002523575		108		COOK #1	JALMAT GAS	21.0	EL PASO NATURAL G
8228151		3002526319		108		HORNER #3	JALMAT	0.5	EL PASO NATURAL G
8228149		3002511693		108		STUART #2	LANGLIE - MATTIX	7.5	EL PASO NATURAL G
				RECEIVED:	04/19/82	JA: NM			
-M C & DALE GANDY									
8228148		3002526178		103		WISER STATE #1	EAST CROSSROADS SAN A	10.2	WARREN PETROLEUM
				RECEIVED:	04/19/82	JA: NM			
-MERRION OIL & GAS CORP									
8228166		3003922884		103		RITA #1	LYBROOK GALLUP	73.0	
				RECEIVED:	04/19/82	JA: NM			
-MWJ PRODUCING CO									
8228168		3001500000		102-2		DOG CANYON 35 G #1	WILDCAT - MORROW	1767.0	EL PASO NATURAL G
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	04/19/82	JA: NM			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8228139		3004576899		108		BLANCO COM #5	BLANCO MESAVERDE	21.5	NORTHWEST PIPELIN
8228161		3003907933		108		ROSA UNIT 24	BLANCO MESAVERDE	25.0	NORTHWEST PIPELIN
8228154		3003922679		103		SAN JUAN 30-5 UNIT 77	BASIN DAKOTA	73.6	PHILLIPS PACIFIC
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/19/82	JA: NM			
8228170		3002527650		103		LEAMEX #31	MALJAMAR GB/SA	0.0	EL PASO NATURAL G
-PIONEER PRODUCTION CORPORATION				RECEIVED:	04/19/82	JA: NM			
8228158		3004500000		103		SCOTT #1-E	BASIN DAKOTA	0.0	PIONEER CORP
-SOUTHLAND ROYALTY CO				RECEIVED:	04/19/82	JA: NM			
8228167		3001523425		103		PARKWAY "B" STATE #1	WILDCAT	10.0	CONOCO INC
8228156		3001522985		103		STATE "25" COMM #1	PARKWAY (STRAWN)	23.0	CONOCO INC
-TAHOE OIL & CATTLE CO				RECEIVED:	04/19/82	JA: NM			
8228140		3002500000		108		ROY WHITTEN #1	JALMAT YATES SEVEN RI	0.0	EL PASO NATURAL G
-TEXACO INC				RECEIVED:	04/19/82	JA: NM			
8228157		3002527194		103		CENTRAL VACUUM UNIT #153	VACUUM GRAYBURG (SAN	0.1	PHILLIPS PETROLEU
8228164		3002500000		108		DOLLIE BALLENGER #2	DRINKARD	5.8	GETTY OIL CO
-THE HARLOW CORP				RECEIVED:	04/19/82	JA: NM			
8228144		3000500000		103		O'BRIEN FEE "18" #6	TWIN LAKES - SAN ANDR	1.1	MAPCO PRODUCTION
8228145		3000500000		103		O'BRIEN FEE "24" #2	TWIN LAKES - SAN ANDR	4.0	MAPCO PRODUCTION
-THRESHOLD DEVELOPMENT CO				RECEIVED:	04/19/82	JA: NM			
8228165		3001523933		103		CONOCO "7" STATE #10	UNDES TURKEY TRACK MO	10.0	CONOCO INC
**********									
OKLAHOMA CORPORATION COMMISSION									
**********									
-AMERICAN NAT GAS PROD CO				RECEIVED:	04/19/82	JA: OK			
8228270	17805	3514920119		107-DP		CROWDER #1-29	NW COLONY	821.0	MICHIGAN WISCONSI
-AMOCO PRODUCTION CO				RECEIVED:	04/16/82	JA: OK			
8228265	16472	3503920485		102-2		SWOSU NO 1	WEATHERFORD	750.0	SOUTHERN NATURAL
-AMOCO PRODUCTION CO				RECEIVED:	04/19/82	JA: OK			
8228288	09560	3501121453		103		EDSALL GAS UNIT #1	NORTHWEST WATONGA	730.0	DELHI GAS PIPE LI
8228269	17826	3501521259		107-DP		GLADYS TETER NICHOLS UNIT #1	WILDCAT	1206.7	SOUTHERN NATURAL
-AN-SON CORPORATION				RECEIVED:	04/16/82	JA: OK			
8228264	16494	3512920690		102-4		SPROWLS #2-28	S CHEYENNE	284.7	
-ANDOVER OIL COMPANY				RECEIVED:	04/19/82	JA: OK			
8228295	16388	3501722196		102-2		BOMHOFF #20-4		180.0	DELHI GAS PIPELIN
-ARCO OIL AND GAS COMPANY				RECEIVED:	04/16/82	JA: OK			
8228260	13503	3502520460		103		SMALTS UNIT #7	MIDWELL	18.3	PHILLIPS PETROLEU
-B & H EXPLORATION CO				RECEIVED:	04/19/82	JA: OK			
8228300	13568	3514321637		103		MCGUIRE #2	UNNAMED	3.5	DIAMOND S GAS SYS
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	04/16/82	JA: OK			
8228254	13516	3507323163		103		INEZ JONES B-2	DOVER HENNESSEY	73.0	MUSTANG FUEL CORP
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	04/19/82	JA: OK			
8228287	07398	3504721845		103		EWALD MILLER #2	N E ENID	43.0	CHAMPLIN PETROLEU
-CLARK RESOURCES INC				RECEIVED:	04/19/82	JA: OK			
8228301	13566	3509322270		103		MALONE 28-1	SOONER TREND	70.0	CITIES SERVICE GA
-CUMA OIL CO INC				RECEIVED:	04/16/82	JA: OK			
8228252	12874	3506321099		103		TREECE 1-A	S WETUMKA	15.0	OKLAHOMA NATURAL
-DAMSON OIL CORPORATION				RECEIVED:	04/16/82	JA: OK			
8228250	13230	3509322069		103		NICKEL #2	ORIENTA	240.0	UNION TEXAS PETRO
-DAVIS OIL COMPANY				RECEIVED:	04/19/82	JA: OK			
8228279	16214	3504722767		103		RIFFEL #1	ITUNA	0.0	PANHANDLE EASTERN
-DYCO PETROLEUM CORPORATION				RECEIVED:	04/19/82	JA: OK			
8228289	17766	3512920699		107-DP		YOWELL #1-26		300.0	PANHANDLE EASTERN
-EAGLE MINERALS INC.				RECEIVED:	04/19/82	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8228277	16462	3511921869		102-4		HADLEY #1
-EL PASO NATURAL GAS COMPANY				RECEIVED:	04/19/82	JA: OK
8228285	11789	3503906778		108		MCFANN WEBSTER #1
-FOREST OIL CORPORATION				RECEIVED:	04/19/82	JA: OK
8228268	17828	3592018800		107-DP		REIMER #1
-FUNK EXPLORATION INC				RECEIVED:	04/19/82	JA: OK
8228272	16832	3513921576		102-4		G MYERS #1
-GMC OIL AND GAS CORP				RECEIVED:	04/16/82	JA: OK
8228261	13502	3511921741		103		SHEPARD "A"-2
-GULF OIL CORPORATION				RECEIVED:	04/19/82	JA: OK
8228284	12079	3500700000		108		KORAN "A" #1
-IREX CORP				RECEIVED:	04/19/82	JA: OK
8228274	16559	3505921109		102-4		BRIZZOLARA #1
-JCCO INC				RECEIVED:	04/16/82	JA: OK
8228248	13269	3503120612		108		SCHOOLLAND #20-2
8228247	13270	3503120646		108		SCHOOLLAND #20-3
8228249	13268	3503120647		108		SCHOOLLAND #20-4
-KEPCO INC				RECEIVED:	04/16/82	JA: OK
8228258	13507	3501722023		103		BLEVINS #2-23
8228257	13508	3501721958		103		YANDA #1-33
-N-T DRILLING CO				RECEIVED:	04/19/82	JA: OK
8228298	13987	3508321624		102-2		FAUST #1
-NATOMAS NORTH AMERICA INC				RECEIVED:	04/19/82	JA: OK
8228280	15781	3504321278		102-4	103	SMITH 1-13
-NATURAL GAS ANADARKO INC				RECEIVED:	04/19/82	JA: OK
8228278	16365	3500720864		102-4		POTTER 1-33
-NOBLE OPERATING INC				RECEIVED:	04/19/82	JA: OK
8228286	11446	3508121224		103		TISLOW #1
-OKLAHOMA CONVEYANCE CORP				RECEIVED:	04/19/82	JA: OK
8228282	13413	3507121632		108		R N MURET #1-19
-P-T LTD 81				RECEIVED:	04/19/82	JA: OK
*8228283	13033	3504722606		103		TEFET 13-2
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/16/82	JA: OK
8228259	13504	3505121101		103		CHILES "A" #1
8228245	13320	3501121501		103		MATLI "A" #1
8228246	13311	3501721976		103		TRUITT "A" #1
-POTTS-STEPHENSON EXPLORATION CO				RECEIVED:	04/16/82	JA: OK
8228251	13213	3512120838		103		BENNIGHT #2-28
-RAY LONDON				RECEIVED:	04/16/82	JA: OK
8228256	13512	3501922440		103		RAY LONDON #1 DILLARD
8228255	13513	3501922335		103		RAY LONDON #2 DILLARD
-READING & BATES PETROLEUM CO				RECEIVED:	04/19/82	JA: OK
8228273	16623	3503920429		102-2		REDMOON #1-29
-REH INDUSTRIES				RECEIVED:	04/16/82	JA: OK
8228267	14317	3510524444		102-2		MILLIGAN #7
8228266	14318	3510524432		102-2		MILLIGAN #9
-SABINE PRODUCTION COMPANY				RECEIVED:	04/19/82	JA: OK
8228275	16521	3507920441		102-4	103	GAMBLE 1-36
-SAMEDAN OIL CORPORATION				RECEIVED:	04/19/82	JA: OK
8228292	16549	3501922227		102-4		TAYLOR TRUST #1
8228293	16550	3508520428		102-2		W J BANKS #1-6
-SAMSON RESOURCES COMPANY				RECEIVED:	04/19/82	JA: OK
8228296	15469	3512120885		102-2	103	DOBBS #1

FIELD NAME	PROD	PURCHASER
	0.0	COLORADO GAS COMP
ERICK SOUTH (BROWN DO	6.0	EL PASO NATURAL G
WILDCAT	1400.0	EL PASO NATURAL G
DOMBEY	0.0	PANHANDLE EASTERN
WEST YALE	100.0	PHILLIPS PETROLEU
LAVERNE	16.0	TRANSWESTERN PIPE
S E SELMAN SECTION 3-	0.0	DELHI GAS PIPELIN
LAWTON DIST	7.0	MANN INDUSTRIES I
LAWTON DIST	7.0	MANN INDUSTRIES I
LAWTON DIST	7.0	MANN INDUSTRIES I
	275.0	CONOCO INC
	140.0	CONOCO INC
MULHALL	0.0	
CHESTER	191.0	PANHANDLE EASTERN
	400.0	TRANSWESTERN PIPE
W DAVENPORT DIST	0.0	MERIDIAN ENERGY I
PERMEAN BASIN	2.2	CITIES SERVICE GA
SOONER TREND	250.0	PANHANDLE EASTERN
NE VERDEN	0.0	MOBIL OIL CORP
WATONGA	41.0	ONG WESTERN INC
WATONGA	146.0	ONG WESTERN INC
NW FEATHERSTON	0.0	SOUTHEAST TRANSMI
NE HEWITT	13.0	AMINOIL USA INC
NE HEWITT	42.0	AMINOIL USA INC
N E HAMMON PROSPECT	1152.0	PANHANDLE EASTERN
	6.0	CITIES SERVICE GA
	8.0	CITIES SERVICE GA
	330.4	
NO NAME	37.0	AMINOIL USA INC
NO NAME	10.0	AMINOIL USA INC
KIOWA	1186.2	ARKANSAS LOUISIAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SENECA OIL COMPANY				RECEIVED:	04/19/82	JA: OK			
8228276	16540	3513921248		102-2		WALL #1-8		73.0	PANHANDLE EASTERN
-SENTRY PETROLEUM CORP				RECEIVED:	04/19/82	JA: OK			
8228281	13522	3511921528		102-4		CAESAR #1	YALE-QUAY	14.0	PHILLIPS PETROLEU
8228294	15658	3592178300		102-4		MARCO #3	YALE-QUAY	16.0	PHILLIPS PETROLEU
-STEPHENS PRODUCTION COMPANY				RECEIVED:	04/19/82	JA: OK			
8228291	16552	3502920285		102-2		WARREN JONES #1-29	CENTRAHOMA	100.0	EL PASO NATURAL G
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	04/19/82	JA: OK			
8228271	17790	3512920700		107-DP		WRIGHT #2	REYDON	209.0	KANSAS NEBRASKA N
-TEXOMA RESOURCES INC				RECEIVED:	04/16/82	JA: OK			
8228262	13473	3507323219		103		EMMERICH "A" #1-19	SOONER TREND	75.0	EXXON CO USA
-THE WIL-MC OIL CORP				RECEIVED:	04/19/82	JA: OK			
8228299	13589	3505320701		103		RILEY #1	WAKITA	160.6	EL GRANDE PIPELIN
-TOMLINSON OIL CO INC				RECEIVED:	04/16/82	JA: OK			
8228263	13448	3500722061		103		JENNINGS 1-12	MOCANE-LAVERNE	1095.0	EL PASO NATURAL G
-UNIVERSAL RESOURCES CORPORATION				RECEIVED:	04/16/82	JA: OK			
8228253	11057	3507322640		103		CLUCK #1-21	SOONER TREND	385.8	CITIES SERVICE GA
-WHITMAR EXPLORATION CO				RECEIVED:	04/19/82	JA: OK			
8228297	15500	3509204370		102-4		THARP #1-16	S E ANTON	300.0	ARKANSAS LOUISIAN
-WOODS PETROLEUM CORPORATION				RECEIVED:	04/19/82	JA: OK			
8228290	17064	3503920539		102-2	103	WHITE SHIELD #31-1	ARAPAHO	1003.0	DELHI GAS PIPELIN

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UTAH DIVISION OF OIL,GAS, & MINING

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-FRANK B ADAMS				RECEIVED:	04/14/82	JA: UT			
8228244	K-104-4	4301930808		103		MILLIGAN #7			
-PAGE PETROLEUM INC				RECEIVED:	04/14/82	JA: UT			
8228243	K-140-1	4304730881		103		FEE 1-10-B1E	GREATER CISCO AREA	0.0	NORTHWEST PIPELIN
-TRIGG DRILLING COMPANY INC				RECEIVED:	04/14/82	JA: UT			
8228242	K-143-1	4300705080		102-2		KEEL RANCH UNIT #1-16	EAST BLUEBELL EXT	60.0	GARY OPERATING CO
							(WILDCAT)	0.0	MOUNTAIN FUEL SUP

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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM

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-AMOCO PRODUCTION CO				RECEIVED:	04/19/82	JA: NM 4			
8228184	NM 1907-81	3002527406		102-4		FEDERAL "AF" COM #1	WILDCAT BONE SPRINGS	129.2	CONOCO INC
8228212	NM-0170-82	3004525213		103		GALLEGOS CANYON UNIT #96E	BASIN DAKOTA	0.0	AMOCO GAS CO
8228194	NM-2026-81	3004507276		108		J C DAVIDSON "E" #1	FULCHER KUTZ - PICTUR	17.0	SOUTHERN UNION GA
8228224	NM-0201-82-B	3004524100		103		J C GORDON "D" #2E (DAKOTA)	BASIN DAKOTA	55.0	EL PASO NATURAL G
8228218	NM-0194-82	3004524356		103		JACK FROST "B" 1E	BASIN DAKOTA	50.0	EL PASO NATURAL G
8228217	NM-0193-82	3003922482		103		JICARILLA CONTRACT 146 #31	GONZALES-MESAVERDE	30.0	EL PASO NATURAL G
8228213	NM-0171-82	3004524888		103		PAN AM FEDERAL "C" #3	FLORA VISTA	12.0	EL PASO NATURAL G
8228223	NM-0199-82	3004524149		103		STANOLIND GAS COM "B" #1	BLANCO-MESAVERDE	30.0	EL PASO NATURAL G
-ANADARKO PRODUCTION COMPANY				RECEIVED:	04/19/82	JA: NM 4			
8228197	NM-2034-81	3001522623		102-4		POWER FED COMM #1-Y	UNDESIGNATED	300.0	GAS CO OF NEW MEX
-BRAZOS PETROLEUM CO				RECEIVED:	04/19/82	JA: NM 4			
8228208	NM-0038-82	3002527560		103		KRINGEL FEDERAL #1	SAWYER (SAN ANDRES)	10.0	WARREN PETROLEUM
8228210	NM 0041-82	3002527561		103		KRINGEL FEDERAL #2	SAWYER (SAN ANDRES)	65.0	WARREN PETROLEUM
8228207	NM-0037-82	3002527562		103		KRINGEL FEDERAL #3	SAWYER (SAN ANDRES)	70.0	WARREN PETROLEUM
8228209	NM-0039-82	3002527563		103		KRINGEL FEDERAL #4	SAWYER (SAN ANDRES)	50.0	WARREN PETROLEUM
-CONOCO INC				RECEIVED:	04/19/82	JA: NM 4			
8228235	NM0237-82	3003922744		103		JICARILLA 22 #12	WEST LINDRITH	56.0	EL PASO NATURAL G
8228236	NM0238-82	3002527141		103		STEVENS A-35 #3	NMFU-LANGLIE MATTIX	25.0	
8228234	NM0236-82	3002527105		103		WARREN UNIT NO 84	NMFU-BLINEBRY	22.0	GETTY OIL CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-CURTIS J LITTLE				RECEIVED:	04/19/82	JA: NM 4
8228241	NM0243-82	3003970239		103		FOSTER #1
-DAVID FASKEN				RECEIVED:	04/19/82	JA: NM 4
8228178	NM 1707-81	3001523847		103		EL PASO FEDERAL #6
-DELTA DRILLING CO				RECEIVED:	04/19/82	JA: NM 4
8228187	NM-1930-81	3001500000		102-2		SOUTH CULEBRA BLUFF #7
-DEPCO INC				RECEIVED:	04/19/82	JA: NM 4
8228199	NM-2041-81	3001523744		103		COQUINA FEDERAL #1
8228240	NM0242-82	3004524964		103		FEDERAL 31 #21
8228239	NM0241-82	3004524963		103		FEDERAL 31 #31
8228238	NM0240-82	3004524965		103		FEDERAL 31 #43
8228229	NM-0206-82	3001522336		103		FEDERAL 632 #1
-DOME PETROLEUM CORP				RECEIVED:	04/19/82	JA: NM 4
8228195	NM-2029-81	3004320492		102-2		DOME NAVAJO 22-22-7 #1
-DUGAN PRODUCTION CORP				RECEIVED:	04/19/82	JA: NM 4
8228204	NM-0028-82	3004500000		107-TF		APRIL SURPISE #2
8228205	NM-0029-82	3004524905		107-TF		ELWOOD P DOWD #2
8228206	NM-0030-82	3004524420		107-TF		HARVEY #2
-EL PASO NATURAL GAS COMPANY				RECEIVED:	04/19/82	JA: NM 4
8228175	NM-1296-81	3004520740		108		HUERFANO UNIT #131
8228180	NM-1794-81	3003906362		108		JICARILLA G #1
8228192	NM-1968-81	3003905797		108		JICARILLA 67 #5
8228214	NM-0189-82-A	3003922644		103		RINCON UNIT #223A
8228215	NM-0189-82-B	3003922644		103		RINCON UNIT #223A
8228216	NM-0190-82	3003922645		103		RINCON UNIT #229
8228171	NM0027-81-ER	3003920435		108-ER		SAN JUAN 25-7 UNIT #154
8228176	NM-1399-81	3003920902		108		SAN JUAN 27-4 UNIT #86
8228232	NM0228-82-A	3003922677		103		SAN JUAN 28-6 UNIT #29A
8228233	NM0228-82-B	3003922677		103		SAN JUAN 28-6 UNIT #29A
8228177	NM-1681-81	3003920697		108		SAN JUAN 28-7 UNIT #173 PC & CH
8228174	NM-0621-81	3003907642		108		SAN JUAN 29-7 UNIT #4
8228191	NM-1963-81	3004520322		108		TAPP #7
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:	04/19/82	JA: NM 4
8228193	NM-2006-81	3001523836		103		BURCH "B" #34
-GETTY OIL COMPANY				RECEIVED:	04/19/82	JA: NM 4
8228201	NM-0018-82	3002527153		102-2		GETTY 15 FEDERAL #1
8228202	NM-0024-82	3004505921		108		NAVAJO "G" #1
-HARVEY E YATES COMPANY				RECEIVED:	04/19/82	JA: NM 4
8228188	NM-1947-81	3002527535		102-4		YOUNG DEEP UNIT #8
-HOLLY ENERGY INC				RECEIVED:	04/19/82	JA: NM 4
8228200	NM-0002-82	3001523780		103		BEESON "D" #2
8228182	NM-1837-81	3001523444		102-4		CANADIAN KENWOOD 18 FEDERAL #1
8228183	NM-1849-81	3001523536		102-4		ROCHE FEDERAL #2
-JACK A COLE				RECEIVED:	04/19/82	JA: NM 4
8228173	NM-0305-81	3003921602		108		APACHE HILLS #1
-KEN BLACKFORD				RECEIVED:	04/19/82	JA: NM 4
8228211	NM-0061-82	3003922504		103		WELL 13 #3 LEASE NO 09-000013
-LIVELY EXPLORATION COMPANY				RECEIVED:	04/19/82	JA: NM 4
8228221	NM-0197-82	3004525046		103		LIVELY #10E
8228222	NM-0198-82	3004525045		103		LIVELY #11E
8228220	NM-0196-82	3004525180		103		LIVELY #7E
-MCCLELLAN OIL CORPORATION				RECEIVED:	04/19/82	JA: NM 4
8228185	NM1911-81107	3000561042		102-4	107-TF	"BO" FEDERAL #1 NM-14120

FIELD NAME	PROD	PURCHASER
SO BLANCO PC	25.0	EL PASO NATURAL G
AVALON (MORROW)	1440.0	EL PASO NATURAL G
SCB (BONE SPRINGS)	0.0	EL PASO NATURAL G
WILDCAT MISS	292.0	NORTHERN NATURAL
WEST KUTZ PICTURED CL	78.0	
WEST KUTZ PICTURED CL	180.0	
WEST KUTZ PICTURED CL	320.0	
LOCO HILLS	21.0	PHILLIPS PETROLEU
WILDCAT	16.1	SOUTHWEST GAS COR
BASIN DAKOTA	80.0	EL PASO NATURAL G
WHITEWASH MANCOS DAKO	11.0	EL PASO NATURAL G
BASIN DAKOTA	17.5	EL PASO NATURAL G
BASIN-DAKOTA	21.0	EL PASO NATURAL G
SOUTH BLANCO - PICTUR	22.0	EL PASO NATURAL G
BASIN - DAKOTA	22.0	EL PASO NATURAL G
LARGO CHACRA	25.0	EL PASO NATURAL G
BLANCO MESAVERDE	50.0	EL PASO NATURAL G
BASIN DAKOTA	100.0	EL PASO NATURAL G
BASIN - DAKOTA GAS	21.2	EL PASO NATURAL G
TAPACITO-PICTURED CLI	20.0	EL PASO NATURAL G
BLANCO MESAVERDE	190.0	EL PASO NATURAL G
SOUTH BLANCO PICTURED	90.0	EL PASO NATURAL G
SOUTH BLANCO - PICTUR	23.0	EL PASO NATURAL G
BLANCO - MESAVERDE	22.0	EL PASO NATURAL G
SOUTH BLANCO - PICTUR	22.0	EL PASO NATURAL G
GRAYBURG-JACKSON	6.0	PHILLIPS PETROLEU
UNDESIGNATED MORROW	383.3	UNITED GAS PIPELI
SOUTH GALLEGOS FRUITL	15.0	EL PASO NATURAL G
N YOUNG BONE SPRING	0.0	EL PASO NATURAL G
GRAYBURG-JACKSON	35.0	
NORTH SHUGART	332.5	TRANSWESTERN PIPE
NORTH SHUGART	1642.0	TRANSWESTERN PIPE
BALLARD PICTURED CLIF	14.4	EL PASO NATURAL G
BALLARD PICTURED CLIF	224.0	EL PASO NATURAL G
BASIN DAKOTA	136.0	EL PASO NATURAL G
BASIN DAKOTA	80.0	EL PASO NATURAL G
BASIN DAKOTA	39.0	EL PASO NATURAL G
WILDCAT (ABO)	65.0	TRANSWESTERN PIPE

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MERRION OIL & GAS CORP				RECEIVED:	04/19/82	JA: NM 4			
8228237	NM0239-82	3003922821		103		SALAZAR G 34-1	DEVILS FORK GALLUP	23.0	EL PASO NATURAL G
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:	04/19/82	JA: NM 4			
8228196	NM-2033-81	3001521051		108-SA		FEDERAL RR COM #1	SOUTH CARLSBAD MORROW	180.2	LLANO INC
8228172	NM0100-81-PB	3001521425		108-PB		SECTION 22 FEDERAL #2	CORRAL DRAW (MORROW)	8.1	EL PASO NATURAL G
-MTS LTD PARTNERSHIP				RECEIVED:	04/19/82	JA: NM 4			
8228228	NM-0205-82	3004525220		103		SOUTH BLANCO FEDERAL 26 #7	LYBROOK GALLUP EXTENS	15.0	GAS CO OF NEW MEX
-NORTHWEST PIPELINE CORPORATION				RECEIVED:	04/19/82	JA: NM 4			
8228186	NM 1918-81	3003907246		108		INDIAN I #1	GAVILAN - BLANCO	20.8	NORTHWEST PIPELIN
-STEVENS OIL COMPANY				RECEIVED:	04/19/82	JA: NM 4			
8228181	NM1835-81107	3000561140		102-4	107-TF	EDMONDSON FEDERAL #1 (NM-43524)	UNDESIGNATED ABO	785.0	TRANSWESTERN PIPE
8228189	NM1950-81107	3000570383		102-4	107-TF	EDMONDSON FEDERAL #2 (NM-43524)	UNDESIGNATED ABO	620.0	TRANSWESTERN PIPE
8228179	NM1781-81107	3000561041		102-4	107-TF	HANAGAN FEDERAL #1 (NM-27634)	WILDCAT	267.0	TRANSWESTERN PIPE
8228190	NM1951-81107	3000561101		102-4	107-TF	SLAYTON FEDERAL #1 (NM-14293)	WILDCAT	64.0	TRANSWESTERN PIPE
-TENNECO OIL COMPANY				RECEIVED:	04/19/82	JA: NM 4			
8228219	NM-0195-82	3004524989		103		BOLACK #1E	BASIN DAKOTA	500.0	EL PASO NATURAL G
8228230	NM-0207-82	3004524910		103		BOLACK #2E	BASIN DAKOTA	500.0	EL PASO NATURAL G
8228227	NM-0204-82	3004525124		103		BOLACK B8	BASIN DAKOTA	500.0	EL PASO NATURAL G
8228226	NM-0203-82	3004524639		103		HUGHES COM 5	BASIN DAKOTA	500.0	EL PASO NATURAL G
8228225	NM-0202-82	3004524712		103		NEAL 20E	BASIN DAKOTA	500.0	EL PASO NATURAL G
8228231	NM-0208-82	3004525017		103		RIDDLE COM 9	BASIN DAKOTA	500.0	EL PASO NATURAL G
-URIAH EXPLORATION INC				RECEIVED:	04/19/82	JA: NM 4			
8228198	NM-2040-81	3001520769		102-4		STEIN FEDERAL #1	WILDCAT	438.4	EL PASO NATURAL G
-YATES PETROLEUM CORPORATION				RECEIVED:	04/19/82	JA: NM 4			
8228203	NM-002682103	3000561123		103		ENGWALL "RL" FEDERAL #1	UND ABO	0.0	TRANSWESTERN PIPE
** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK									
-GULF OIL CORPORATION				RECEIVED:	04/16/82	JA: OK 8			
8228102		3513321391		108		DYCO /C/ #1	LANDON NW	7.0	PHILLIPS PETROLEU
-J M GRAVES				RECEIVED:	04/16/82	JA: OK 8			
8228100		3511300000		103		MULLENDORE #1-B	HICKORY CREEK	100.0	AJAX OIL & GAS CO
8228101		3511300000		103		MULLENDORE #3-B	HICKORY CREEK	144.0	AJAX OIL & GAS CO
-TAURUS OIL CORP				RECEIVED:	04/16/82	JA: OK 8			
8228103		3511300000		103		EAST ADAMS RANCH 1A	WILDCAT	365.0	
8228104		3511300000		103		SAND CREEK #1A	WILDCAT	109.0	

OTHER PURCHASERS VOLUME NO :646

8228283 UNION TEXAS PETROLEUM CORP

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-13277 Filed 5-14-82; 8:45 am]
BILLING CODE 6717-01-C

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51384A; PH-FRL 2125-6]

Polyhalogenated Aromatic Alkylated Hydrocarbon; Premanufacture Notice Extension of Review Periods.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the review period for an additional 90 days for premanufacture notice (PMN) P-82-23 under the authority of section 5(c) of the Toxic Substances Control Act (TSCA). The review period will now expire on August 9, 1982. The PMN was submitted by a company which has claimed its identity to be confidential. The submitter has also claimed confidential the specific chemical identity and the specific intended use of the substance.

FOR FURTHER INFORMATION CONTACT: Richard Green, Chemical Control Division (TS-794), Environmental Protection Agency, Rm. E-208, 401 M St. SW., Washington, DC 20460, (202-382-3740).

SUPPLEMENTARY INFORMATION:

Background

Under section 5 of TSCA anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a premanufacture notice (PMN) to EPA 90 days prior to commencement of manufacture or import. Under section 5(c) EPA may extend the notice period for good cause for additional periods, not to exceed an aggregate of 180 days from the date of receipt. EPA issued proposed rules to implement the premanufacture notification program in the Federal Register of January 10, 1979 (44 FR 2263). Section 720.35 of the proposed rules addressed the section 5(c) extension authority and provided examples of situations in which the Agency believe there would be good cause to extend the notice period.

Review to Date

On January 13, 1982, EPA received a PMN from a confidential submitter who intends to import a chemical substance with the following generic identity: Polyhaolgenated aromatic alkylated hydrocarbon. Notice of receipt of this PMN was published in the Federal Register of January 26, 1982 (47 FR 3592).

The submitter claimed the specific use confidential but provided the generic use description of "contained use". The submitter claims that the maximum volume to be imported will be one million kilograms during the third year. The original 90-day review period was scheduled to expire on May 11, 1982.

In its evaluation of the substance described in PMN P-82-23, EPA reviewed information provided by the submitter, as well as information obtained from the relevant technical literature. Data available on substances similar in chemical structure of the PMN substance were also collected and examined.

EPA's detailed anlaysis addressed the following: process chemistry, environmental fate, dermal absorption, metabolic pathways, effects on human health, human exposure, ecological effects, release to the environment, degree of risk relative to available commercial substitutes, and testing required to resolve any outstanding issues.

As a result of this analysis, EPA has reason to believe the following:

1. The substance described in P-82-23 may cause effects of concern to human health. EPA is concerned that the chemical may cause central nervous system effects, liver effects, and reproductive effects;

2. Significant occupational exposure to this chemical may occur during processing of this chemical. Significant exposure to the general population may occur during use of the chemical;

3. The substance may be toxic to fish, avians, and mammals; and

4. Processing, use, and disposal of the chemical may result in significant release to the environment.

EPA's market analysis also indicates that the chemical is a good candidate for uses in addition to those listed in the PMN. EPA also has information which indicates a greater potential market penetration than that predicted by the submitter.

Extension of the Review Period

Based on its analysis to date, EPA finds that there is a signficant possibility that the substance submitted for review in P-82-23 may be regulated under section 5(e) of TSCA. The Agency requires an extension of the review period to evaluate the need for additional data on the substance, to examine its regulatory control options (including the possibility of negotiation with the submitter), and to prepare the necessary documents should formal regulatory action be required. An administrative order under section 5(e), if such action becomes appropriate, must be issued no later than 45 days prior to expiration of the review period. Therefore, EPA has determined that good cause exists to extend the review period for an additional 90 days, to August 9, 1982.

Public Record

PMN P-82-23 is available for public inspection in Room E-106, at the EPA Headquarters, address given above, from 8 a.m. to 4 p.m., Monday through Friday. The identity of the submitter and all information claimed confidential by the submitter have been deleted from the documents in the public record.

Dated: May 10, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82-13290 Filed 5-14-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. CC 81-351, Transmittal No. 13663 (5-5-82, 47 FR 19447)]

American Telegraph and Telephone Company; Order

Adopted: May 7, 1982.

Released: May 11, 1982.

1. On April 23, 1982, American Broadcasting Companies, Inc., CBS Inc., and National Broadcasting Company, Inc. jointly requested an extension of 75 days in which to file comments in this investigation.[1] Currently these comments are due on May 10, 1982. In support, the networks argue that this investigation raises complex questions, and that AT&T has submitted new data in its comments filed April 9, 1982, which require lengthy study. Under 47 CFR 1.46(a) of the Commission's Rules, extensions of time are not routinely granted. We, however, agree with the networks that, because of the new data submitted by AT&T, the parties should have some additional time in which to prepare their comments. Based on our own review of the record, we have

[1] Also before the Bureau are an opposition filed by the Association of Independent Television Stations, Inc. in which the Commissioner of Baseball joined. Hughes Television Network filed comments on the television network's motion as well as a counterproposal for extension of time. Hughes asks the Commission to order AT&T to supplement its comments and to afford parties an opportunity to comment on the supplemental information. Should we reject this proposal, Hughes requests an additional 25 days to prepare comments. Midwestern Relay Company filed comments in support of Hughes' pleading. We will defer action on Hughes' proposal to require AT&T to supplement its April 9, 1982 comments until parties have an opportunity to comment on the request.

decided to allow interested parties until June 1, 1982, to file comments. This extension should afford parties sufficient time to comment without delaying unduly proceeding.

2. Accordingly, it is ordered that interested parties shall file comments on or before June 1, 1982.

3. It is further ordered that this Order take effect upon adoption.

4. It is further ordered that the Secretary shall cause this Order to be published in the **Federal Register.**

Federal Communications Commission.

Leon M. Kestenbaum,

Deputy Bureau Chief (Policy).

[FR Doc. 82-13261 Filed 5-14-82; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 82-250, File No. 21235-CD-P-81; CC Docket No. 82-251, File No. 21943-CD-P-81]

Mobile Phone of Texas, Inc. and Rogers L. Dennis d.b.a. Dennis Mobilfone; Designating Applications for Consolidated Hearing on Stated Issues

Adopted: May 4, 1982.

Released: May 7, 1982.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, are the applications of Mobile Phone of Texas, Inc. (Mobile), File No. 21235-CD-P-81 proposing to add frequency 158.70 NHz to its Station KLB716 at Abiline, Texas, and Rogers L. Dennis d.b.a. Dennis Mobilfone (Dennis), File No. 21943-CD-P-81, proposing to construct a new one-way station to operate on frequency 158.70 at Abilene, Texas.[1] Dennis filed a petition to deny the application and responsive pleadings were filed.[2]

2. These proposals to use frequency 158.70 MHz in the same general area are electrically mutually exclusive; therefore, a comparative hearing will be held to determine which applicant would better serve the public interest. We find the applicants to be otherwise qualified.

3. Accordingly, it is ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of Mobile Phone of Texas, Inc., File No. 21235-CD-P-81, and Rogers L. Dennis d.b.a Dennis Mobilfone, File No. 21943-CD-P-81, are designated for hearing in a consolidated proceeding on the following issues:

(a) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within the 43 dBu contours,[3] based upon the standards set forth in § 22.504(a) of the Commission's Rules,[4] and to determine the relative demand for the proposed service in said areas; and

(c) To determine, in light of the evidence adducted pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience, and necessity.

4. It is further ordered, that the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

5. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

6. It is further ordered, that the applicants shall file written notices of appearances under § 1.221(c) of the Commission's Rules within 20 days of the release date of this Order.

7. It is further ordered, that the petition to deny filed by Dennis is denied.

8. The Secretary shall cause a copy of this order to be published in the **Federal Register.**

William F. Adler,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 82-13262 Filed 5-14-82; 8:45 am]

BILLING CODE 6712-01-M

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[1] We note that while Dennis proposes to construct a new facility, Mobile seeks to add an additional frequency for Station KLB716. A grant of either application would preclude grant of the other.

[2] In its petition to deny, Dennis argues that Mobile's application was incomplete for failure to indicate whether it had other applications pending in the same area as required by § 22.15(i)(2) of the Commission's Rules. Dennis urged the Commission to return Mobile's application thereby freeing a previously filed Dennis application (File No. 20848-CD-P-81) from a mutually exclusive status. On May 21, 1981, the Commission returned as defective Dennis's previously filed application, File No. 20848-CD-P-81. Before the Commission acted on Mobile's application, Dennis filed the captioned application. It is unclear whether Dennis still seeks to pursue its petition to deny which it coupled with its subsequently dismissed application. Although Mobile should have included the information concerning its pending application, as a result of the information contained in the pleadings, the Commission is now aware of Mobile's pending applications in the Abilene area. We will, therefore, deny Dennis's petition to deny.

[3] For the purpose of this proceeding, the interference-free area is defined as the area within the 43 dBu contour as calculated from § 22.504, in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report No. R-6406, equation 8.

[4] Section 22.504(A) of the Commission's Rules and Regulations describes a field stength contour of 43 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in one-way communications service on frequencies in the 158.70 MHz band. Propagation data set forth in § 22.504(b) are the proper bases for establishing this location of service contours F(50, 50) for the facilities involved in this proceeding. (The applicants should consult with the Bureau consult with the goal of reaching joint technical exhibits.)

FEDERAL ELECTION COMMISSION

[Notice 1982-4]

Filing Dates for Ohio Special Primary and General Elections

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for Ohio special primary and general elections.

SUMMARY: Committees required to file reports in connection with the special primary election to be held in the 17th Congressional District of Ohio on June 8, 1982, must file the 12-day pre-primary report by May 27, 1982, and a quarterly report by July 15, 1982. Committees required to file reports in connection with *both* the special primary election *and* the special general election to be held on June 8, 1982, and June 29, 1982, respectively, must file the 12-day pre-primary report by May 27, 1982, the 12-day pre-general report by June 17, 1982, a quarterly report by July 15, 1982, and the 30-day post-election report due on July 29, 1982. After filing these reports, committees should resume filing reports on a quarterly basis.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office, 1325 K Street, NW., Washington, D.C. 20463, Tel: (202) 523-4068; Toll-free: (800) 424-9530.

Notice of Filing Dates for Special Primary and Special General Elections, 17th Congressional District, Ohio

All principal campaign committees of candidates in the special primary election and all other quarterly filing political committees supporting candidates in this special primary election shall file a 12-day pre-election report due on May 27, 1982, with coverage dates from date of candidacy, or last report, through May 19, 1982, and a quarterly report due on July 15, 1982, with coverage dates from May 20, 1982, through June 30, 1982.

All principal compaign committees of candidates in the special general election and all other quarterly filing political committees supporting candidates in this special general

election shall file a 12-day pre-election report due on June 17, 1982, with coverage dates from May 20, 1982, through June 9, 1982, a quarterly report due on July 15, 1982, with coverage dates from June 10, 1982, through June 30, 1982, and a 30-day post-election report due on July 29, 1982, with coverage dates from July 1, 1982, through July 19, 1982.

After filing these reports, committees should resume filing reports on a quarterly basis.

Dated: May 12, 1982.

Frank P. Reiche,

Chairman, Federal Election Commission.

[FR Doc. 82-13351 Filed 5-14-82; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL MARITIME COMMISSION

[Agreements Nos. 10441, 10440 and 8900-18

Availability of Finding of no Significant Impact

Upon completion of environmental assessments, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreements Nos. 10441, 10440 and 8900-18 will not constitute major Federal actions significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of environmental impact statements is not required. Agreement No. 10441 will associate certain common carriers in a conference, to be known as the North Atlantic Mediterranean Freight Conference, covering ocean commerce from U.S. North Atlantic ports to ports in the Mediterranean Sea, on the Sea of Marmara, the Black Sea, and on the Atlantic Coast of Morocco and to all points in countries bordering the Mediterranean Sea, except Spain and Israel. Agreement No. 10440 is a space charter arrangement between Lykes Bros. Steamship Company, Inc. and Lineas Navieras Bolivianas to provide transportation of Bolivian cargo via ports on the West Coast of South America to and from U.S. ports in the Gulf of Mexico. Agreement No. 8900-18, between Barber Blue Sea Lines and seven other lines, provides for alternate port service between loading ports within the geographic scope of the agreement. These Findings of No Significant Impact (FONSI) will become final within 20 days unless petitions for review are filed pursuant to 46 CFR 547.6(b).

Francis C. Hurney,

Secretary.

[FR Doc. 82-13331 Filed 5-14-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Company

The company listed in this notice 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 voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of governors, or at the Federal Reserve Bank indicated for the application. With respect to the application, interested persons may express their views in writing to the address indicated for that application. 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.

A. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *East—Tex Bancorp., Inc.*, Trinity, Texas; to acquire 50.001 percent of the voting shares of Mont Belvieu State Bank, Mont Belvieu, Texas. Comments on this application must be received not later than June 10, 1982.

Board of Governors of the Federal Reserve System, May 11, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-13252 Filed 5-14-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Company

The company listed in this notice 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 voting shares or assets of a 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 indicated for that application. With respect to the application, interested persons may express their views in writing to the address indicated for the application. 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.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Bancgroup—Alabama, Inc.*, Mobile, Alabama; to acquire 100 percent of the voting shares or assets of The First National Bank of Russellville, Russellville, Alabama. Comments on this application must be received not later than June 9, 1982.

Board of Governors of the Federal Reserve System, May 10, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-13254 Filed 5-14-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have 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 voting shares of assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. 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.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Crown Bancshares, Inc.*, Kansas City, Missouri; to acquire 22.5 percent of the voting shares or assets of Merchants Bancorporation, Topeka, Kansas. Comments on this application must be received not later than May 28, 1982.

B. Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551:

1. *Mercantile Texas corporation,* Dallas, Texas; to acquire 100 percent of the voting shares of Brazosport Bank of Texas, Freeport, Texas. Comments on this application must be received not later than June 6, 1982.

Board of Governors of the Federal Reserve System, May 7, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-13257 Filed 5-14-82 ;8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than June 7, 1982.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Manufacturers Hanover Corporations,* New York, New York (consumer finance and credit insurance activities; Pennsylvania): To engage through its indirect subsidiaries Finance One Consumer Discount, Inc. and Finance One Mortgage of Pennsylvania, Inc. (collectively "Finance One") in the making or acquiring of direct loans, secured or unsecured, such as would be made by a finance company; and acting as agent or broker for the sale of credit life insurance directly related to such lending activity. These activities would be conducted from a Finance One office located at Neshaminy Interplex, Route #1 and Old Lincoln Highway, Trevose, Pennsylvania. The service areas of the office would include the entire State of Pennsylvania. Manufacturers Hanover Corporation also wishes to expand the previously approved service area for other activities of Finance One at the above location to include the entire State of Pennsylvania. The previously approved activities include arranging, making or acquiring for its own account or for the account of others, loans and other extensions of credit secured by a homeowner's equity interest in a home such as would be made by a consumer finance company, servicing such loans and other extensions of credit for any person, and acting as an agent or broker for the sale of single and joint credit life insurance which is directly related to such loans and extensions of credit; purchasing installment sales finance contracts, and acting as agent or broker for the sale of single and joint credit life insurance and credit accident and health insurance which is directly related to such loans and extension of credit.

2. *Manufacturers Hanover Corporation,* New York, New York (consumer finance and credit insurance activities; Louisiana): To engage through its indirect susbsidary Finance One of Louisiana, Inc. ("Finance One"), in the making or acquiring of direct loans, secured or unsecured, such as would be made by a finance company; and acting as agent or broker for the sale of credit life insurance directly related to such lending activity. These activities would be conducted from a Finance One office located at 3636 Sherwood Forest Boulevard, Baton Rouge, Louisiana. The service area of the office would include the State of Louisiana. Manufacturers Hanover Corporation also wishes to expand the previously approved service area of the activities of Finance One at the above location to include the entire State of Louisiana. The previously approved activities include purchasing installment sales finance contracts, and acting as agent or broker for the sale of single and joint credit life insurance and credit accident and health insurance which is directly related to such loans and extensions of credit; purchasing motor vehicle sales finance contracts; acting as agent or broker for the sale of single and joint credit life insurance; arranging, making or acquiring for its own account or for the account of others, loans and other extensions of credit secured by a homeowner's equity interest in a home such as would be made by a consumer finance company, and servicing such loans and other extensions of credit for any person, and acting as an agent or broker for the sale of single and joint credit life insurance which is directly related to such loans and extensions of credit.

3. *Manufacturers Hanover Corporation,* New York, New York (consumer finance and credit insurance activities; Alabama): to engage through its indirect subsidiary Finance One of Alabama, Inc. ("Finance One") in the making or acquiring of direct loans, secured or unsecured, such as would be made by a finance company; and acting as agent or broker for the sale of credit life insurance directly related to such lending activity. These activities would be conducted from a Finance One office located at Two East Office Building, Suite #106, 400 East Boulevard, Montgomery, Alabama. The service area of the office would include the State of Alabama. Manufacturers Hanover Corporation also wishes to expand the previously approved service area for the activities of Finance One at the above location to include the entire State of Alabama. The previously approved activities include purchasing installment sales finance contracts, and acting as agent or broker for the sale of single credit life insurance and credit accident and health insurance which is directly related to such loans and extensions of credit; purchasing motor vehicle sales finance contracts, and the sale of credit life insurance directly related to such lending activity; arranging, making or acquiring for its own account or for the account of others, loans and other extensions of credit secured by a homeowner's equity interest in a home such as would be made by a consumer finance company, servicing such loans and other extensions of credit for any person, and acting as an agent or broker for the sale of single credit life insurance which is directly related to such loans and extensions of credit.

B. **Federal Reserve Bank of Minneapolis** (Lester G. Gable, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Northwest Bancorporation,* Minneapolis, Minnesota (financing, servicing, leasing activities; Illinois, Iowa, Kansas, Missouri, Nebraska, and South Dakota): To engage through its subsidiary, Banco Financial Corporation, in making or acquiring loans or other extensions of credit such as would be made by a commercial finance company, including commercial loans secured by borrower's inventory, accounts receivable, or other assets; servicing such loans for others; and making leases of personal property in accordance with the Board's Regulation Y. These activities would be conducted from an office at Seventh and Walnut Streets, Des Moines, Iowa 50304, serving Illinois, Iowa, Kansas, Missouri, Nebraska, and South Dakota.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Security Pacific Corporation,* Los Angeles, California (financing, leasing and servicing activities; New York): To engage through its subsidiary, Security Pacific Leasing Corporation, in financing, leasing and servicing activities with respect to personal property and equipment and real property. These activities would be conducted from an office of Security Pacific Leasing Corporation in Williamsville, New York, serving the State of New York.

2. *Security Pacific Corporation,* Los Angeles, California (financing, industrial loan, and insurance activities; California): To engage through its subsidiary, Security Pacific Finance Money Center, Inc., in financing an industrial loan corporation activities including making, acquiring and servicing loans and other extensions of credit; selling and issuing investment certificates; and acting as agent for the sale of credit-related life, credit-related accident and health, and credit-related property insurance, as authorized by California law. These activities will be conducted from offices in San Diego, Santa Ana, and Santa Maria, California, serving the State of California.

Board of Governors of the Federal Reserve System, May 10, 1982

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-13260 Filed 5-14-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*) directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than June 8, 1982.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Manufacturers Hanover Consumer Services, Inc.,* New York, New York, (financing and insurance activities; United States): To engage, through its subsidiaries, Ritter Life Insurance Company and Tempco Life Insurance Company, in the reinsurance of single and joint credit life insurance related to extensions of credit made by Applicant's subsidiaries in the State of Connecticut, credit accident and health insurance related to extensions of credit made by Applicant's subsidiaries in the State of Kentucky, and single and joint life insurance and credit accident and health insurance related to extensions of credit made by Applicant's subsidiaries in the States of Washington and Oregon.

2. *Societe Generale,* Paris, France (commercial lending and leasing activities; Texas, Louisiana, New Mexico, Oklahoma, Colorado and Wyoming): To engage through de novo office of Sogelease Corporation in making or acquiring, for its own account or for the account of others, commercial loans and other extensions of credit; and leasing personal or real property or acting as agent, broker or advisor in leasing such property and servicing such leases, subject to all the qualifications specified in 12 CFR 225.4 (a) and (b), where the leases serve as the functional equivalent of an extension of credit to the lessee of the property. Such activities would be conducted from an office in Houston, Texas serving the area identified in the caption above.

B. **Federal Reserve Bank of Minneapolis** (Lester G. Gable, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Northwest Bancorporation,* Minneapolis, Minnesota (venture capital investment and lending; continental United States, Alaska, Hawaii, Puerto Rico, any commonwealth, territory or possession of the United States, Canada or Mexico): To engage through a *de novo* subsidiary, Northwest Growth Capital, Inc. in venture capital investment, including secured and unsecured lending investment. These activities would be conducted from offices at 1730 Midwest Plaza Building, Minneapolis, Minnesota, 1300 S.W. Fifth Avenue, Suite 3018, Portland, Oregon, and 7625 West Fifth Avenue, Suite 202, Lakewood, Colorado. Comments on this aplication must be received not later than June 3, 1982.

Board of Governors of the Federal Reserve System, May 10, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-13253 Filed 5-14-82; 8:45 am]

BILLING CODE 6210-01-M

First Interstate Bancorp; Proposed Acquisition of Thomas L. Karsten Associates

First Interstate Bancorp, Los Angeles, California, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire indirectly through its wholly owned subsidiary, First Interstate Investment Services, Inc., all the voting shares of Thomas L. Karsten Associates, Los Angeles, California.

Applicant states that the proposed subsidiary would engage in the activities of acting as an investment advisor (real estate), as defined in Section 2(a)(20) of the Investment Company Act of 1940, to closed-end pooled real estate funds that are investment companies registered under

that act; providing portfolio investment advice (real estate) to any other person; providing financial advice to state and local governments with respect to real estate investments and development projects; providing real estate-related management consulting to nonaffiliated banks and other nonaffiliated depository institutions; performing appraisals of real property; and furnishing general economic information and advice and industry studies (real estate). These activities would be conducted from the current offices of Thomas L. Karsten in Los Angeles, California, and the geographic areas to be served are the states of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming and the Chicago, New York, Houson, Dallas and Pittsburgh metropolitan areas. Such activities have been specified by the Board in § 225.4(a)(5)(12) and (14) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or request for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 6, 1982.

Board of Governors of the Federal Reserve System, May 7, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-13258 Filed 5-14-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have 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 bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. 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.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Bethesda Bancorporation,* Bethesda, Maryland; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Bethesda, Bethesda, Maryland. Comments on this application must be received not later than June 10, 1982.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Four-D, Inc.,* Litchfield, Nebraska; to become a bank holding company by acquiring 83.3 percent of the voting shares of State Bank of Litchfield, Litchfield, Nebraska. Comments on this application must be received not later than June 10, 1982.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Morehouse Bancshares,* Bastrop, Louisiana; to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Morehouse, Bastrop, Louisiana. Comments on this application must be received not later than June 10, 1982.

2. *Troup Bancshares Inc.,* Troup, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Troup Bank & Trust Company, Troup, Texas. Comments on this application must be received not later than June 10, 1982.

D. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551:

1. *Western Indiana Bancorp,* Covington, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Western Indiana, Covington, Indiana. Comments on this application must be received not later than June 10, 1982.

Board of Governors of the Federal Reserve System, May 11, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-13251 Filed 5-14-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have 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 bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. 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.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Susquehanna Bancshares, Inc.,* Lititz, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers First Bank, Lititz, Pennsylvania. Comments on this application must be received not later than June 9, 1982.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *The Peoples National Bancorp., Inc.,* Shelbyville, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The Peoples National Bank of Shelbyville, Shelbyville, Tennessee. Comments on

this application must be received not later than June 9, 1982.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Highland Bancshares, Inc.*, Highlands, Texas; to become a bank holding company by acquiring 93.5 percent of the voting shares of Highlands State Bank, Highlands, Texas.

Board of Governors of the Federal Reserve System, May 10, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-13255 Filed 5-14-82; 8:45 am]

BILLING CODE 6210-01-M

International Bancshares of Oklahoma, Inc.; Proposed Acquisition of Citizens Mortgage Corporation

International Bancshares of Oklahoma, Inc., Yukon, Oklahoma, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Citizens Mortgage Corporation, Oklahoma City, Oklahoma.

Applicant states that the proposed subsidiary would engage in the mortgage company business, including making or acquiring, for its own account or the account of others, loans and other extensions of credit, and in servicing loans and other extensions of credit. These activities would be performed from offices of Applicant's subsidiary in Oklahoma City, Oklahoma, and the geographic area to be served is the State of Oklahoma. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than June 6, 1982.

Board of Governors of the Federal Reserve System, May 7, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-13259 Filed 5-14-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have 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 bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. 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.

A. **Federal Reserve Bank of Cleveland** (Harry W. Huning, Vice President) 1455 East Soxth Street, Cleveland, Ohio 44101:

1. *Bluegrass Bancshares, Inc.*, Lexington, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of the Bluegrass and Trust Company, Lexington, Kentucky. Comments on this application must be received not later than June 6, 1982.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *N.F.B. Corporation*, Madison, Florida; to become a bank holding company by acquiring at least 80 percent of the voting shares of Bank of Madison County, Madison, Florida. Comments on this application must be received not later than June 6, 1982.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Decorah State Bank Holding Co.*, Decorah, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Decorah State Bank, Decorah, Iowa. Comments on this application must be received not later than June 6, 1982.

2 *United Community Financial Corporation*, Wayland, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of United Community Bank, Wayland, Michigan. Comments on this application must be received not later than June 6, 1982.

Board of Governors of the Federal Reserve System, May 7, 1982.

Delores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-13256 Filed 5-14-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[F-82-14]

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 Kentucky Public Service Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority contained in 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 Federal executive agencies before the Kentucky Public Service Commission in Case No. 8389 involving the application of the South Central Bell Telephone Company to change its service offerings.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation

with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add the General Services Administration to its service list in this case so that GSA will receive copies of testimony, briefs and other Department of Defense filings.

Dated: May 6, 1982.

Francis A. McDonough,

Deputy Commissioner for Government-wide Management, Automated Data and Telecommunications Service.

[FR Doc. 82-13310 Filed 5-14-82; 8:45 am]

BILLING CODE 6820-25-M

[F-82-15]

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 Montana Public Service Commission involving intrastate telecommunications service rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority contained in 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 Federal executive agencies before the Montana Public Service Commission in Docket No. 82-28 involving the application of the Mountain States Telephone & Telegraph Company for an increase in rates for telecommunications services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add the General Services Administration to its service list in this case so that GSA will receive copies of testimony, briefs, and other Department of Defense filings.

Dated: May 6, 1982.

Francis A. McDonough,

Deputy Commissioner for Government-wide Management, Automated Data and Telecommunications Service.

[FR Doc. 82-13311 Filed 5-14-82; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Montana; Big Dry Vegetation Allocation Final Environmental Impact Statement Availability

April 26, 1982.

T2agency: Bureau of Land Management.

ACTION: Big Dry Vegetation Allocation Final Environmental Impact Statement Availability.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a Final Environmental Impact Statement (EIS) for vegetation allocation upon the public lands in eastern Montana. The EIS details four alternative vegetation allocations on nearly 1.18 million acres of public land within BLM's Miles City District.

DATE: Hearings were held: March 1, 1982, in Forsyth, Montana; March 2, 1982, in Terry, Montana; March 3, 1982, in Baker, Montana.

ADDRESSES: Requests for further information should be addressed to: Ray Brubaker, District Manager, Bureau of Land Management, Miles City District, P.O. Box 940, Miles City, Montana 59301.

SUPPLEMENTARY INFORMATION: The final EIS describes and analyzes environmental consequences for four alternative courses of action. The four alternatives are: (A) Continued development for Optimum Range Utilization, (BLM's Preferred Alternative); (B) Enhanced Watershed Value and Wildlife Habitat; (C) No Grazing and (D) No Action. Comments upon the Draft EIS analysis were considered and used to prepare the Final EIS. The Final EIS will be used to develop a Rangeland Program Summary for the area included in the EIS.

A limited number of copies of the Final EIS are available for review at the following locations:

Bureau of Land Management, Office of Public Affairs, Interior Building, 18th & C Streets NW., Washington, D.C. 20240

Bureau of Land Management, Montana State Office, P.O. Box 30157, 222 North 32nd Street, Billings, Montana 59107

Bureau of Land Management, Miles City District, P.O. Box 940, Miles City, Montana 59301.

Kannon Richards,

Acting State Director.

[FR Doc. 82-13319 Filed 5-14-82; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This Notice announces that Chevron U.S.A. Inc., Unit Operator of the South Bay Marchand Federal Unit Agreement No. 14-08-001-3915, submitted on May 6, 1982, a proposed supplemental plan of development/production describing the activities it proposes to conduct on the South Bay Marchand 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 Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, 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 Minerals Management Service 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 Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: May 10, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-13313 Filed 5-14-82; 8:45 am]

BILLING CODE 4310-31-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers Permanent Authority Decisions; Decision Notice

Correction

In FR Doc. 82-9449, appearing at page 15168, in the issue of Thursday, April 8, 1982, on page 15173, middle column, under "MC 146463 (Sub-4)", tenth line from top of page, on "MA, MN, * * *" should read, "MA, MI, MN, * * *".

BILLING CODE 1505-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under § 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-170

The following applications were filed in Region I: Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 161791 (Sub-1-1TTA), filed May 3, 1982. Applicant: H. W. ASHLINE & SONS, INC., Weston Street, Randolph, VT 05060. Representative: Albert J. Cirone, Jr., 23 Bank Street, Lebanon, NH 03766. *Contract carrier:* irregular routes: *Wood and coal stoves and accessories thereto which relate to the installation or use of the stoves, and raw materials used in the manufacture of wood and coal stoves,* under continuing contract(s) with Vermont Castings., Inc. between Bethel and Randolph, VT, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contracts with Vermont Castings, Inc., of Randolph, VT. Supporting shipper: Vermont Castings, Inc., Prince Street, Randolph, VT 05060.

MC 161791 (Sub-1-2TA), filed May 3, 1982. Applicant: H. W. ASHLINE & SONS, INC., Weston Street, Randolph, VT 05060. Representative: Albert J. Cirone, Jr., 23 Bank Street, Lebanon, NH 03766. *Contract carrier:* irregular routes: *Manufactured wood products* between Randolph, VT, on the one hand, and, on the other, points in Suffolk County, NY, Ocean County, NJ, Wayne County, IN, and Worcester County, MA, under continuing contact(s) with Branchwood, Inc., of Randolph, VT. Supporting shipper: Branchwood, Inc., Box 268 Randolph, VT 05060.

MC 37398 (Sub-1-4TA), filed May 3, 1982. Applicant: JOHN J. BOYCE TRANSPORTATION, INC., West End Ayenue, P.O. Box 663, Hammonton, NJ 08037. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. *Food and related products,* between points in MA, MD, NJ, NY and PA, on the one hand, and, on the other, points in FL, GA, NC, SC and VA. Supporting shipper(s): There are 11 statements in support of this application which may be examined at the Regional Office of the ICC in Boston, MA.

MC 146026 (Sub-1-8TA), filed April 30, 1982. Applicant: CROSS COUNTRY FARMING CO., INC., Pine Island Turnipke, P.O. Box 134, Pine Island, NY 10969. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Applicances and (2) Materials, equipment, and supplies used in the manufacture and sale of the commodities named in (1) above,* between Harriman and New York, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Indesit Manufacturing Crop., 101 Indesit Parkway, P.O. Box 364, Harriman, NY 10926.

MC 161758 (Sub-1-1TA), filed April 30, 1982. Applicant: INDUSTRYWIDE SERVICE, INC., Route 102, Londonderry Professional Park, Londonderry, NH 03053. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *General commodities (except classes A and B explosives, household goods, and hazardous materials)* between points in the US (except AK and HI). Supporting shipper(s): There are 25 statements in support of this application which may be examined at the Regional Office of the ICC in Boston, MA.

MC 161760 (Sub-1-1TA), filed April 30, 1982. Applicant: M. J. D. TRUCKING, INC., Coles Mill Road, P.O. Box 492, Williamstown, NJ 08094. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *(1) Frozen foodstuffs, and (2) Materials, equipment, and supplies used in the manufacture and sale of the commodities named in (1) above* between points in the U.S. (except AK and HI). Supporting shipper: Mrs. Smith's Frozen Foods Co., South & Charlotte Sts. P.O. Box 298, Pottstown, PA 19464.

MC 157109 (Sub-1-1TA), filed April 30, 1982. Applicant: MERRIT TRANSPORTATION, INC., 373 East Main Street, Somerville, NJ 08876. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *(1) Climate control equipment, and (2) Materials, equipment, and supplies used in the manufacture and sale of the commodities named in (1) above,* between the facilities used or utilized by Snyder General Corporation at Red Bud, IL, Wilmington, NC, Auburn, NY, and Carteret, NJ, on the one hand, and, on the other, points in the US. Supporting shipper(s): Snyder General Corporation, 401 Randolph St., Red Bud, IL 62278.

MC 161761 (Sub-1-1TA), filed April 30, 1982. Applicant: MONTCLAIR MOTOR EXPRESS, INC., 147 Eagle Rock Way, Montclair, NJ 07042. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10123. *General commodities (excluding classes A & B explosives and household goods)* between points in NY, NJ, PA, DE, MD, VA, CT, MA, RI, and DC. Supporting shipper(s): There are 19 statements in support of this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 161730 (Sub-1-1TA), filed April 29, 1982. Applicant: ROADEX TRANSPORT, LTD., 24 Jellicoe Crescent, Brampton, Ontario, CD L4S 3N8. Representative: John Tiano (same as applicant). *Contract carrier:* irregular routes: *Extruded plastic materials* from

the U.S./CD Border crossings at Queenston-Lewiston Bridge and Peace Bridge in NY to Indiana, PA, under continuing contract(s) with Royal Plastics Ltd., of Toronto, Ontario, CD. Supporting shipper: Royal Plastics Ltd., 4945 Steeles Avenue West, Weston, Ontario, CD M9L 1R4.

MC 156800 (Sub-1–5TA), filed May 4, 1982. Applicant: SEABOARD EXPRESS, INC., 565 Plank Road, Waterbury, CT 06705. Represen'/tive: Joseph A. Keating, Jr., 121 S. Main Street, Taylor, PA 18517. *Contract carrier:* irregular routes: *Air ducts and materials and supplies used in the manufacture and distribution of air ducts* between Mississippi County, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Wiremold Co., West Hartford, CT. Supporting shipper: Wiremold Company, West Hartford, CT 06110.

MC 98017 (Sub-1–1TA), filed April 29, 1982. Applicant: SHAY'S SERVICE, INC., Box 340, North Main Street, Dansville, NY 14437. Representative: Warren A. Goff, 109 Madison Avenue, Memphis, TN 38103. *General commodities, except classes A and B explosives, household goods and commodities in bulk,* between points in Allegany, Broome, Cattaraugus, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler, Steuben, Tioga, Wayne, Wyoming and Yates Counties, NY and Potter County, PA. Supporting shipper(s): Herbert Cooper Co., Inc., Box 256, Pennsylvania Route 449, Genesee, PA 16923; RMC Fabricating Co., Cooper Slide Co., School Street, Genesee, PA 16923.

MC 161507 (Sub-1–1TA), filed April 30, 1982. Applicant: SUNCOOK TAXI AND BUS LINES, INC., 7 Albin Avenue, Allenstown, NH 03275. Representative: Diversified Legal Services, 133 London Road, Concord, NH 03301. *Passengers and their baggage in special and charter operations,* between Manchester, Gilford, and Pembroke, NH, on the one hand, and, on the other, Boston, MA. Supporting shipper (s): There are five support statements which may be examined at the I.C.C. Regional Office in Boston, MA.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 161793 (Sub-II–1TA), filed May 3, 1982. Applicant: RALPH BLOOM, 6831 U.S. 50, Hillsboro, OH 45133. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *Fertilizer, fertilizer ingredients and farm chemicals,* between Highland, Brown, Adams, Clinton, Ross, Hamilton, Clermont and Fayette Counties, OH and Campbell and Pendleton Counties, KY, on the one hand, and, on the other, points in OH, IN and KY for 270 days. An underlying ETA seeks 120 days authority. Shipper(s): Highland Landmark, Inc., 404 N.W., St., Hillsboro, OH 45133; New Van, Inc., Box 135, Rainsboro, OH 45165; Johns Chemical Company, Inc., Box 204, Hillsboro, OH 45133; Mid-Ohio Chemical Co., Inc., 111 Moore St. (Box 413), Hillsboro, OH 4513.

MC 142864 (Sub-II–7TA), filed May 3, 1982. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, OH 44646. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Contract; irregular: General commodities (except houshold goods, commodities in bulk, and classes A and B explosives),* between points in the U.S. (except AK and HI), under continuing contract with Giant Eagle Markets, Inc. and its affiliates, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Giant Eagle Markets, Inc., 101 Kapta Dr., RIDC Park, Pittsburgh, PA 15238.

MC 128940 (Sub-II–4TA), filed May 6, 1982. Applicant: RICHARD A. CRAWFORD, d.b.a. R. A. CRAWFORD TRUCKING SERVICE, P.O. Box 303, Ganbrills, MD 21504. Representative: Edward N. Button, 635 Oak Hill Avenue, Hagerstown, MD 21440. *Food and related products,* between the facilities of Frank A. Serio & Sons located at or near Baltimore, Maryland on the one hand, and, on the other, all points in and East of ND, SD, NE, KA, OK, & TX for 270 days. Supporting shipper(s): Frank A. Serio & Sons, Inc., 8441 Dorsey Run Road, Jessup, MD 20794.

MC 143374 (Sub-II–3TA), filed May 3, 1982. Applicant: DURBIN TRANSPORT, INC., 17683 Oakmont Ave., Gaithersburg, MD 20760. Representative: H. Neil Garson, 3251 Old Lee Highway, Fairfax, VA 22030. Pizzas from Montgomery, AL to points in DE, FL, GA, MD, NJ, NY, NC, PA, SC, VA, and DC for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: General Mills, P.O. Box 1113, Minneapolis, MN 55440.

MC 154687 (Sub-II–1TA), filed May 3, 1982. Applicant: D. L. GEORGE & SONS CONSTRUCTION CO., INC., Box K, Blue Ridge Summit, PA 17214. Representative: Edward N. Button, 635 Oak Hill Avenue, Hagerstown, MD 21740. *Roofing granules, crushed stone, filler materials, equipment and supplies,* at or near Charmain, PA on the one hand, and, on the other, points in MD, VA, WV, NJ, NC, CT, MA, DE, SC, GA, & OH, for 270 days. Supporting shipper(s): G.A.F. Corporation, 1361 Alps Road, Wayne, NJ 07470.

MC 161835 (Sub-II–1TA), filed May 4, 1982. Applicant: LISBOA TRANSPORTATION COMPANY, INC., 1520 Easton Road, Roslyn, PA 19001. Representative: Stuart J. Scheffler, 5006F N. Convent Lane, Philadelphia, PA 19114. *Passengers and their baggage, in special and charter operations, in vans capable of transporting fifteen passengers or less, not including drivers,* beginning and ending in points in PA and extending to points in NY for 180 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are 18 supporting shippers. Their statements may be examined in the Philadelphia ICC office. Please make note that out of the 18 supporting shippers, 15 are individual affiants.

MC 161836 (Sub-II–1TA), filed May 6, 1982. Applicant: RONALD W. PETERS, d.b.a. R. W. PETERS TRUCKING CO., Rt. 2, Box 498, Ridgeway, Virginia 24148. Representative: Ronald W. Peters, Rt. 2, Box 498, Ridgeway, Virginia 24148. *Furniture, parts and supplies to manufacture same* between Henry County, Va., Marion, Va., and Chilhowie, Va., on the one hand, and points in Florida, Texas, Minnesota, Arizona, and California on the other hand, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): American Furniture Co., Inc., Martinsville, VA 24112.

MC 157114 (Sub-II–2TA), filed May 6, 1982. Applicant: R. H. A. TRUCKING, INC., R.R. #2, Napoleon, OH, 43545. Representative: Robert Arps (same as applicant). *Contract; irregular: Machinery, material and supplies used in the manufacturing and sale of machinery,* between Napoleon, OH, on the one hand, and, on the other, pts. in the U.S., under continuing contract(s) with Automatic Feed Co., Nepoleon, OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Automatic Feed Co., R.R. #4, Nepoleon, OH 43545.

MC 152640 (Sub-II–12TA), filed May 3, 1982. Applicant: RAPID DISTRIBUTION SERVICE, INC., 2392 N. Dupont Hwy., Dover, DE 19901. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., N.W., Washington, DC 20005. *Contract* carriage; irregular routes; *Such merchandise as is dealt in and distributed by retail department stores and chain stores* and materials and supplies used in the manufacture of the aforementioned commodities, between Dallas, NC, on the one hand,

and, on the other, Los Angeles, CA, Atlanta, GA, Chicago, IL, Robbinsville, NJ, and Kansas City, MO, under continuing contract(s) with Mason Athletic Company, Sport Division of Riegle Textile Corp., of Greenville, SC, for 270 days. Supporting shipper: Mason Athletic Company, Sports Division of Riegle Textile Corp., Dallas, NC 28034.

MC 146807 (Sub-II–27TA), filed May 3, 1982. Applicant: S-n-W ENTERPRISES, INC., P.O. Box 1131, Wilkes Barre, PA 18702. Representative: Edward F. V. Pietrowski, 430 Scranton, PA 18503. *Perlite (other than crude),* from Lake Zurich, IL to Baltimore, MD; Philadelphia, PA; New York, NY; Newark, NJ; St. Louis, MO; Indianapolis, IN; Memphis & Knoxville, TN; Oklahoma City, OK; Kansas City, KS; Shreveport and Lake Charles, LA; and Houston and Dallas, TX, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Filter Products Corp., 20 Ellerman Rd., Lake St. Louis, MO 63367.

MC 158613 (Sub-II–8TA), filed May 4, 1982. Applicant: TRICOR BUSINESS GROUP, INC., 1242 Tatamy Rd., Easton, PA 18042. Representative: Martin O'Shaughnessy, 22 Olde Mill Run Medford, NJ 08055. *Such commodities as are dealt in or used by manufacturers or distributors of automotive repair parts,* between pts. in the U.S., restricted to traffic originating at or destined to the facilities, suppliers and distributors of Chromium Corp., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Chromium Corp., 1221 W. Campbell Rd., Dallas, TX 75080.

MC 161795 (Sub-II–1TA), filed May 3, 1982. Applicant: VANTAGE TRANSPORT, INC., 6810 Fleetwood Rd., McLean, VA 22101. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Contract:* Irregular: *General commodities* (except commodities in bulk, classes A and B explosives, and household goods as defined by the Commission), between points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, and MI, under continuing contract(s) with Draft, Inc., of Glenview, IL. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Draft, Inc., Draft Court, Glenview, IL 60025.

The following applications were filed in region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 146343 (Sub-3–8TA), filed May 4, 1982. Applicant: SOUTHERN EXPRESS CORPORATION, 505 South Ocean Boulevard, Pompano Beach, FL 33062. Representative: Joe Badway, 2 Sawyer Drive, Coventry, RI 02816. *Contract* Carrier: irregular: Scrap, *Insulated copper wire, copper coated copper wire, Related Materials, Equipment and Supplies, (Except class A and B explosives, household goods as defined by the Commission, and commodities in bulk),* from Olmsted Falls OH to Points in WV, VA, DE, MD, NJ, PA, NY, CT, MA; NH, VT, ME, and RI under continuing contract or contracts with American Wire and Cable Company of Olmsted Falls, Ohio. Supporting Shipper: American Wire & Cable Company, 7951 Bronson Road, Olmsted Falls, OH 44138.

MC 161781 (Sub-3–1TA), filed April 30, 1982. Applicant: AAA PICKUP AND DELIVERY, INC., 2615 Crestwood Boulevard, Birmingham, AL 35210. Representative: Julius Fore (same address as above). *Common:* regular. *Passengers, their baggage and express and newspapers in the same vehicle with passengers,* between Birmingham, AL and Chattanooga, TN serving all intermediate points: From Birmingham over Alabama Hwy. 75 to the GA/AL State Boundary Line, then over GA Hwy. 301 to junction GA Hwy. 136, then over GA Hwy. 136 to Interstate Hwy. 59, then over Interstate Hwy. 59 to Chattanooga, TN and return over the same route. There are 20 statements of support attached to the application which may be reviewed at the ICC Regional Office in Atlanta, GA. Applicant intends to interline at Chattanooga, TN and Birmingham, AL.

MC 143065 (Sub-3–1TA), filed May 3, 1982. Applicant: WEATHERFORD TRANSIT, INC.; Hwy. 15 N, Hartsville, SC 29550. Representative: Kim G. Meyer, 235 Peachtree St., N.E., Ste. 1200, Atlanta, GA 30303. *Passengers and their baggage, in the same vehicle with passengers, in round-trip charter operations,* beginning and ending at points in Fontana Dam, NC (and its commercial zone) and extending to points in Knoxville, TN (and its commercial zone). Supporting shipper: Econo-Touristic Associates, Inc., agent for Fontana Village Resort, 60 Lockwood Blvd., Charleston, SC 29401.

MC 159610 (Sub-3–2TA), filed April 30, 1982. Applicant: C. W. BOONE, d.b.a. T. WOLF CO., Route 3, Dallas, GA 30132. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237. *Contract carrier:* irregular: *General Commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk),* between points in the U.S., under continuing contract with Fortune Manufacturing Corp. Supporting shipper: Fortune Manufacturing Corp., 16420 Gundry Ave., Paramount, CA 90723.

MC 156694 (Sub-3–2TA), filed May 3, 1982. Applicant: TWIN CITY WAREHOUSES, INC., 800 Chatham Road, Winston-Salem, NC 27101. Representative: Mark C. Ellison, 300 Interstate North Parkway, Suite 329, Atlanta, GA 30339. *Caskets,* from the facilities of Simmons Casket Company in Winston-Salem, NC., to points in WV. Supporting shipper: Simmons Casket Company, 372 Washington Street, Wellesley Hills, MA 02181.

MC 146646 (Sub-3–49TA), filed May 4, 1982. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355–A, Birmingham, AL 35217. Representative: John R. Frawley, Jr., Suite 200, 120 Summit Parkway, Birmingham, AL 35209–4786. *General Commodities (except Classes A and B explosives and hazardous wastes)* between points in the U.S. for the account of Distribution Technology, Inc. d/b/a International Freight Brokers, Inc. Supporting shipper: Distribution Technology, Inc. d.b.a. International Freight Brokers, Inc., P.O. Box 7123, Charlotte, NC 28217–7123.

MC 161553 (Sub-3–1TA), filed May 4, 1982. Applicant: JOHN L. SHADD TRUCKING, INC., 220 W. Main St., Lake Butler, FL 32054. Representative: John L. Shadd (address same as applicant). *Contract* carrier: irregular: *reworked bolsters, side frames and center plates (railroad parts)* between Jacksonville, FL and Alexandria, VA. Supporting shipper: Fruit Growers Express Co., P.O. Box 37003, 2565 W. 5th St., Jacksonville, FL 32205.

MC 128021 (Sub-3–4TA), filed May 4, 1982. Applicant: DIVERSIFIED TRUCKING CORP., 309 Williamson Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. *Contract* carrier: irregular: *Margerine, shortening and peanut butter* from Birmingham, AL to Buffalo, NY; Elizabeth, NJ; Tewsbury, MA; Philadelphia, PA; and Chicago, IL; *Cheese* from Northvale, NJ to Philadelphia, PA and Boston, MA; *Cheese* from Philadelphia, PA to Northvale, NJ.; *Wine* from Atlanta, GA to Brooklyn, NY; Fort Worth, TX; Chicago, IL and Kenosha, WI; *Canned vegetables* from Cheriton, VA and Queen Anne, MD to Atlanta, Thomasville, and Savannah, GA; Anniston, Birmingham, Montgomery and Mobile, AL; and Charleston, SC; *Plastic* from Lenaxa, KS and Chicago, IL to Birmingham, AL; *Sugar* from Chicago, IL to Birmingham, AL; *Glass* from Coventry, RI to Atlanta, GA. Supporting

shipper: Sunnyland Refining Company; P.O. Box 457; Birmingham, AL 35201.

MC 145154 (Sub-3–16TA), filed May 4, 1982. Applicant: YOUNG'S TRANSPORTATION CO., 3401 Norman Berry Drive, Suite 246, East Point, GA 30344. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue NW., Washington, DC 20005. *Porcelain enamel ware, and materials and supplies used in the manufacture and distribution thereof,* between points in Rockdale County, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: John S. Frey Porcelain, Inc., 1035 South Access Road, Conyers, GA 30207.

MC 161456 (Sub-3–1TA), filed May 5, 1982. Applicant: HARMONY HILL TRUCKING COMPANY, INC., Range Road, Thomaston, AL 36783. Representative: William S. Poole, Jr., 111 South Walnut Street, P.O. Box 118, Demopolis, AL 36732. *Contract;* Irregular; *Ammonium Nitrate* from the facilities of Air Products in Pace, FL to Gallion, Geiger and Uniontown, AL. Supporting shipper: Estech, Inc., P.O. Box 2419, Montgomery, AL 36103.

MC 146180 (Sub-3–8TA), filed May 5, 1982. Applicant: QUALITY EXCHANGE, INC., Route 4, Box 459–A, Kings Mountain, NC 28086. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue NW., Washington, DC 20005. *Furniture and foam products,* between the facilities of Burton Dixie of Blacksburg, Inc., located at or near points in Cherokee County, SC, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, CO, and NM. Supporting shipper: Burton Dixie of Blacksburg, Inc., P.O. Box 608, Blacksburg, SC 29702.

MC 161878 (Sub-3–1TA), filed May 7, 1982. Applicant: TEAGUE HAULING, 1631 Boynton Avenue, Anniston, AL 36201. Representative: James A. Mitchell, 219 South K Street, Anniston, AL 36201. *Cast iron and rubber goods* between Anniston, AL, AR, CA, CO, DE, FL, GA, ID, AZ, IL, IN, IO, KS, KY, LA, MI, MA, MD, MS, MN, MO, MT, NE, NV, NH, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, WA, WY, WV and WI. Supporting shippers: Southeastern Specialty Company, 1906 West 13th Street, Anniston, AL 36201 and Donoho Clay Company, Post Office Box 843, Anniston, AL 36202.

MC 147402 (Sub-3–4TA), filed May 5, 1982. Applicant: WACO DRIVERS SERVICE, INC., 138 Atando Avenue, Charlotte, NC 28206. Representative: Carl L. Helms (same address as applicant). *Contract carrier:* irregular: *Foodstuffs and Related Products, including concession supplies and accessories,* between Mecklenburg County, NC, on the one hand, and, on the other, points in FL, GA, AL, NC, MS, SC, TN, KY, VA and WV. Supporting shipper: Piedmont Popcorn Company, 3730 Monroe Road, Charlotte, NC 28218.

MC 161875 (Sub-3–1TA), filed May 7, 1982. Applicant: Lloyd Masters, d.b.a. HAPPY DAY EXPRESS, 121 Alsip Trail, Corbin, KY 40701. Representative: Lloyd Masters (same as above). *Passengers, no baggage, in special and charter operations,* from Corbin, KY to Knoxville, TN and return. Supporting shipper: Corbin Chamber of Commerce, 401 S. Lynn Avenue, Corbin, KY 40701.

MC 151173 (Sub-3–20TA), filed May 7, 1982. Applicant: HAR-BET, INC., 7209 Tara Boulevard, P.O. Box 855, Jonesboro, GA 30236. Representative: O. L. Godfrey, Jr. (same address as applicant). *General commodities (except household goods as described by the commission and classes A and B Explosives, hazardous waste, and commodities in bulk)* between points in the U.S. (except AK and HI). Restricted to shipments originating at or destined to facilities used by Ralston Purina Company and its Subsidiaries. Supporting shipper: Ralston Purina Co., Checkerboard Square, St. Louis, MO 63164.

MC 143185 (Sub-3–2TA), filed May 7, 1982. Applicant: CHARLES G. LAWSON TRUCKING, INC., Post Office Box 2805, Montgomery, AL 36105. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Foodstuffs, and such commodities as are used in the manufacture and distribution of foodstuffs,* between St. Landry Parish, LA, on the one hand, and, on the other, points in the US (except AK and HI). Supporting shipper, Lou Ana Foods, Inc., Post Office Box 591, Opelousas, LA 70570.

MC 161876 (Sub-3–1TA), filed May 7, 1982. Applicant: LAUREL DIVING HEADQUARTERS, INC., Route 4 Box 146–B, Corbin, KY 40701. Representative: Carl Turner (same address as applicant). *Passengers and their baggage* in special and charter operations between Corbin, KY and Knoxville, TN. Supporting shipper: Quality Inn, I–75 & U.S. 25–E, Corbin, KY 40701.

MC 161667 (Sub-3–1TA), filed May 7, 1982. Applicant: GRAY LINE SIGHTSEEING TOUR, INC., 626 Valley Hill Rd. Riverdale, GA 30274. Representative: Archie W. Andrews, 617 F Lynrock Terrace, Eden, NC 27288. *Passengers and their baggage in special and charter operations,* beginning and ending at points in Rabon County, GA, Macon, Jackson, and Transylvania Counties, NC and extending to points in GA, NC, SC and TN. Supporting shippers: There are 7 supporting shippers statements attached to the application which may be examined at the regional office in Atlanta, GA.

MC 140484 (Sub-3–29TA), filed May 7, 1982. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same as applicant). *Foodstuffs and related products* from points in IL, IN, MN, OH, and WI to points in Westmoreland County, PA. Supporting shippers: Fox Grocery Company, Box 29, Rehoboth Valley, Belle Vernon, PA 15012.

MC 2934 (Sub-3–46TA), filed May 7, 1982. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Contract* Carrier: Irregular *Household Goods:* between points within the U.S. under continuing contracts with Jimmy Swaggart Ministries, P.O. Box 2550, Baton Rouge, LA 70821: Supporting shippers: Jimmy Swaggart Ministries, P.O. Box 2550, Baton Rouge, LA 70821.

MC 161862 (Sub-3–1TA), filed May 7, 1982. Applicant: DIXIE MOTOR FREIGHT, INC., 1375 White Circle, Marietta, GA 30065. Representative: James M. Parrish, P.O. Box 1365, Marietta, GA 30061. *Contract* Carrier: Irregular: *Plastic Containers and Materials, Equipment and Supplies used in the manufacture of plastic containers,* Between Birmingham, AL, Marietta and Warner Robins, GA, and LaVergne, TN, on the one hand, and on the other, points in AL, FL, GA, KY, LA, NC, SC, TN, TX and VA under continuing contract(s) with North American Beverage Cases, Inc. of Marietta, GA. Supporting shippers: North American Beverage Cases, Inc., 1375 White Circle, Marietta, GA 30065.

MC 116254 (Sub-3–31TA), filed May 7, 1982. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, P.O. Box 339, Florence, AL 35631. Representative: Hampton M. Mills (same address as applicant). *Contract;* Irregular—*Commodities (except Meat and Packing House Products) used or dealt in by operators of grocery stores,* between points in FL, on the one hand, and, on the other, points in GA. Supporting shipper: Jewel T Discount Grocery, 511 Lake Zurich Road, Barrington, IL 60010.

The following applications were filed in Region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 141951 (Sub-4–1TA), filed April 29, 1982. Applicant: MARY DICK and

HOLLIS DICK, d.b.a. H. O. DICK TRANSFER CO., P.O. Box 307, Bethany, IL 61914. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Corn oil, soy bean oil* between points in IN and IA on the one hand, and on the other, points in Milwaukee County, WI. An underlying E/T/A seeks 120 days authority. Supporting shipper: Bestel, Inc., 352 Grain Exchange Bldg., Minneapolis, MN 55415.

MC 150331 (Sub-4–3TA), filed April 30, 1982. Applicant: RPH, INC., P.O. Box 717, Champaign, IL 61820. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Malt beverages* from Milwaukee, WI and Evansville, IN to Danville, IL. Underlying ETA seeks 120 day authority. Supporting shipper: Herb Wiese Distributing Co., Inc., 310 South St., Danville, IL 61832.

MC 154127 (Sub-4–9TA), filed April 29, 1982. Applicant: A. LUURTSEMA PRODUCE, INC., 5367 School Street, P.O. Box 67, Hudsonville, MI 49426. Representative: Andrew K. Light, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204–3491. *Contract* irregular: *Food and related products,* from Chicago, IL and its commercial zone to points in FL. Restricted to continuing contracts with Fearn International, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Fearn International, Inc., 9353 West Belmont Avenue, Chicago, IL 60131.

MC 155118 (Sub-4–7TA), filed April 29, 1982. Applicant: T.D.S. TRANSPORTATION, INC., 1700 S. Wolf Road, Des Plaines, IL 60018. Representative: H. Barney Firestone, Esq., Sullivan & Associates, Ltd., 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601. *Contract, Irregular; furniture and fixtures, doors and partitions and household products* between Covington, TN on the one hand, and, on the other, Chicago, IL; Los Angeles, CA; Dallas, TX and Atlanta, GA under a continuing contract with Clopay Corporation. Supporting shipper: Clopay Corporation, 101 East Fourth Street, Cincinatti, OH 45202.

MC 161753 (Sub-4–1TA), filed April 29, 1982. Applicant: MINORITY UNIVERSAL CARRIERS, INC., 967 40th Lane, Anoka, MN 55303. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Telephone trucks & related equipment* from points in OK to points in IA, MN, ND, NE, and SD. An underlying ETA seeks 120 days authority. Supporting shipper: Southwestern Bell Telephone Co., 121 Dean McGee Ave., Oklahoma City, OK 73102.

MC 161754 (Sub-4–1TA), filed April 29, 1982. Applicant: ANCONA GRAIN, INC., Ancona, IL 61311. Representative: Albert A. Andrin, 180 North La Salle St., Chicago, IL 60601. *Fertilizer,* from Clinton, IA to points in the State of IL. Supporting Shippers: Stockdale Fertilizer, Morris, IL, Deacon Farm Management & Appraisal Service, 209 Prospect, Streator, IL, Stockdale Fertilizer, R.R., Ottawa, IL, Stockdale Fertilizer, Kinsman, IL and Larry Martell d.b.a L & M Chemical, Ancona, IL.

MC 161765 (Sub-4–1TA), filed April 29, 1982. Applicant: JOE E. ROBERTSON & FOE H. ROBERTSON d.b.a. JOE'S BODY SHOP, Rt 136 East, P.O. Box 533, Rantoul, IL 61866. Representative: Joe H. Robertson (Same as Above). *Transporting trucks,* between points in IL, WI, MI, IA, IN, OH, KY, TN, MO, OK, and MN. Supporting Shipper: Southland, Inc., Bloomington Rd., Champaign, IL 61820.

MC 161771 (Sub-4–1TA), filed April 30, 1982. Applicant: ROBERT H. HICKS TRUCKING, INC., 65668 Brick Church Road, Cassopolis, MI 49031. Representative: Paul D. Borghesani and Daniel G. Areaux, 300 Communicana Bldg., 421 So. Second Street, Elkhart, IN 46516. *Furniture and fixtures,* from Elkhart, IN; and Niles, MI, to points in the United States (except AK and HI). Supporting Shippers: Trawood Manufacturing, Inc., 1600 W. Mishawaka Rd., Elkhart, IN; and Packard Industries, Inc., 1515 U.S. 31–N, Niles, MI.

MC 161774 (Sub-4–1TA), filed April 30, 1982. Applicant: LYLE HAYES, an individual, d.b.a. HAYES TRUCKING, Kings Road, Kings, IL 61045. Representative: Dennis P. Drda, 13 East Stephenson Street, Freeport, IL 61032. *Contract irregular: Agricultural Chemicals* from points in IL to various points in WI, IN, IA, MO, and MN, and return, under a continuing contract(s) with USS Agri-Chemicals. Applicant has filed a corresponding ETA seeking up to 120 days of operating authority. Supporting shipper: USS Agri-Chemicals Division, United States Steel Corporation, 233 Peachtree St., NE., Atlanta, Georgia 30303.

MC 161778 (Sub-4–1TA), filed April 30, 1982. Applicant: IONA OVERFIELD d.b.a. T.I.M. CO., 531 South Park St., Sheffield, IL 61361. Representative: Carl E. Munson, 469 Fischer Building, P.O. Box 796, Dubuque, IA 52001. *Hazardous waste and materials (except classes A and B explosives and radioactive materials),* from points in IL, IN, IA, MI, MN, SD and WI, to points in AR and OH. Supporting shippers: Cecos International, 5324 West 124th Street, Alsip, IL, and Power Transformer Services, Inc., Box 232, Somers, WI 53171.

MC 15735 (Sub-4–14TA), filed May 3, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract irregular: Household goods* between points in the U.S. (except AK and HI) under a continuing contract with International Harvester Company. Supporting shipper: International Harvester Company of Chicago, IL 60611.

MC 15735 (Sub-4–16TA), filed May 6, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Household goods* between points in the U.S. (except AK and HI) under a continuing contract with Kendall Company Supporting shipper: Kendall Company, Boston, MA.

MC 15735 (Sub-4–17TA), filed May 7, 1982. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Ave., Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Household goods* between points in Gila, Maricopa, Pina, and Yavapai Counties, AZ; Almeda, Contra Costa, Merced, Monterey, San Benito, Santa Cruz, Santa Clara, San Joaquin, San Mateo and Stanislaus Counties, CA; Clackamas, Clatsop, Columbia, Linn, Marion, Multonamah, Tillamook, Washington and Yamhill Counties, OR; Clark, Cowlitz and Skamania Counties, WA; Bastrop, Bell, Blanco, Burleson, Burnet, Caldwell, Comal, Guadalupe, Hays, Milam, Travis and Williamson Counties, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI) under a continuing contract with Intel Corporation. Supporting Shipper: Intel Corporation of Santa Clara, CA.

MC 120184 (Sub-4–5TA), filed May 6, 1982. Applicant: PEP LINES TRUCKING CO., 32600 Dequindre Rd., Warren, MI 48092. Representative: Thomas B. Hill, 1010 Jorie Blvd., Oak Brook, IL 60521. Contract, irregular: *Televisions, radios, cassette recorders, and such other commodities as are dealt in or used by dealers of RCA Distributing Corporation,* between Wayne Cty., MI, on the one hand, and, on the other, Fulton, Lucas, Ottawa, Wood, Henry, Sandusky, Seneca, and Hancock Ctys., OH, under continuing contract(s) with RCA Distributing Corporation. Supporting shipper: RCA Distributing Corporation, 27000 Trolley Dr., Taylor, MI 48180.

MC 138569 (Sub-4–3), filed May 6, 1982. Applicant: DAVID BRAITHWAITE AND DENNIS BRAITHWAITE d.b.a. BRAITHWAITE TRUCKING, 3819 Sunset Dr., Rapid City, SD 57701. Representative: Thomas J. Simmons, Box 480, Sioux Falls, SD 57101. *Contract,* irregular; *Precast concrete products,* between the facilities of U-Cart Concrete and Precast Products, in Campbell County, WY, on the one hand, and, on the other, points in NE, ND, SD, and WY, under contract with U-Cart Concrete and Precast Products, Gillette, WY. An underlying ETA seeks 120 days. Supporting shipper: U-Cart Concrete and Precast Products, Gillette, Wyoming.

MC 144621 (Sub-4–10TA), filed May 4, 1982. Applicant: COLUMBINE CARRIERS, INC., P.O. Box 66, South Bend, IN 46624. Representative: Charles M. Williams, 1600 Sherman St., #665, Denver, CO 80203. *Such commodities as are dealt in by manufacturers and distributors of shelving and filing systems,* between the facilities of Lundia, Division of MI Industries, Inc., at or near Jacksonville, IL, on the one hand, and, on the other, points in the United States. Supporting shipper: Lundia, Division of MI Industries, Inc., 600 Capitol Way, Jacksonville, IL 62650.

MC 144621 (Sub-4–11TA), filed May 4, 1982. Applicant: COLUMBINE CARRIERS, INC., P.O. Box 66, South Bend, IN 46624. Representative: Charles M. Williams, 1600 Sherman St., #665, Denver, CO 80203. *(1) pulp, paper, and related products, (2) metal products, and (3) machinery,* from the facilities of Bunn-O-Matic Corporation, at or near White Hall, IL to points in the U.S. in and east of WI, IL, KY, TN, MS, LA and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Bunn-O-Matic Corp., 1400 Stevenson Drive, Springfield, IL 62703.

MC 145629 (Sub-4–2TA), filed May 7, 1982. Applicant: FUCHS, INC., R.R. 1, Box 576, Sauk City, WI 53583. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Such commodities as are dealt in or used by manufacturers and distributors of buildings, building materials, furniture, and fixtures* between Waunakee, WI, on the one hand, and, on the other, points in the U.S. in and east of MT, WY, CO, and NM. An underlying ETA seeks 120 days authority. Supporting shipper: Marshall Erdman & Associates, 500 Division St., Waunakee, WI 53597.

MC 146438 (Sub-4–8TA), filed May 3, 1982. Applicant: ETV, INC., P.O. Box 393, Comstock Park, MI 49321. Representative: Miss Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. *Frozen foods* between the facilities of Saluto Foods Division, General Mills, Inc. at Benton Harbor, MI and Montgomery, AL, on one hand, and points in MA, TX, CT, LA and MS on the other. Supporting shipper: Saluto Foods Division, General Mills, Inc.

MC 147771 (Sub-4–4TA), filed May 3, 1982. Applicant: RALPH J. MARQUARDT & SONS, INC., P.O. Box 1040, Yankton, SD 57078. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Salt and salt products,* from the Lake Point, UT commercial zone to points in the U.S. (except AK and HI). Supporting shipper: Domtar Industries, Inc., Sifto Salt Division, 4285 North Scott Street, Schiller Park, IL 60176.

MC 149406 (Sub-4–3), filed May 6, 1982. Applicant: E. W. WYLIE CORPORATION, P. O. Box 1188, Fargo, ND 58107. Representative: Robert D. Gisvold, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402. *Contract,* irregular route: *such commodities as are dealt in or used by manufacturers and distributors of brick, tile and other clay products* between points in the U.S. (except AK and HI) under continuing contracts with Sioux City Brick & Tile Company, United Brick & Tile Co. of IA and Ballou Brick Company. Supporting shippers: Sioux City Brick & Tile Company of Sioux City, Iowa: United Brick & Tile Co. of Iowa of Adel, Iowa and Ballou Brick Company of Sergeant Bluff, Iowa.

MC 150358 (Sub-4–4TA), filed May 3, 1982. Applicant: RICHARD R. KROHN, d.b.a. NORTHWEST DELIVERY SERVICE, 4060 Trenton Ave. North Plymouth, MN 55441. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. *Food and related products,* from Chicago, IL to Minneapolis-St. Paul, MN. An underlying ETA seeking 120 days authority is pending. Supporting shipper: Gourmet Foods, Inc., 860 Vandalia Street, St. Paul, MN 55114.

MC 152706 (Sub-4–5TA), filed May 3, 1982. Applicant: MIDWEST OIL TRANSIT, INC., Post Office Box 68083, Indianapolis, IN 462680. Representative: Robert B. Hebert, HARRISON & MOBERLY, 777 Chamber of Commerce Building, Indianapolis, IN 46204. *Asphalt cement and asphalt emulsion.* From Indianapolis, IN and Louisville, KY to points in Champaign and Vermilion Counties, IL. Supporting Shipper: Asphalt Materials & Construction, Inc., 4902 West 86th Street, Indianapolis, IN 46268. An underlying ETA seeks 120 days authority.

MC 152779 (Sub-4–5), filed May 5, 1982. Applicant: KFM TRANSPORT, INC., 222 E. 5th Ave., Naperville, IL 60540. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Contract, Irregular: New Furniture, supplies, materials, and equipment used in the manufacture, sale and distribution* from the facilities of Luxor-Springs Crop., d.b.a. Kroehler Furniture Division at Bradley & Chicago, IL to points in and east of ND, SD, NE, KS, OK and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Luxor-Springs Crop., d.b.a. Kroehler Furniture Division, 404 Southwest Ave., Bradley, IL 60195.

MC 157836 (Sub-4–2TA), filed May 6, 1982. Applicant: JIM SCHAUER d.b.a. BASELINE COMPANY, 5660 Gregory Road, Dexter, MI 48130. Representative: Paul M. Ross, Attorney, 3104 S. Cedar St., Lansing, MI 48910, (517) 394–4220. *Contract* irregular: *Machinery, concrete sweepers, and construction equipment* between points in states East of the Mississippi River, on the one hand, and, on the other, between points in the U.S. under continuing contracts with Equipment Brokering Specialists Company, Aeschliman Equipment Company, and Sweepsters Equipment Company (an underlying ETA seeks 90 day authority). Supporting Shippers: Aeschliman Equipment Company, 284 Six Mile Road, Whitmore Lake, MI 48190; Equipment Brokering Specialist Company, P.O. Box 445, Dexter, MI 48130; Sweepsters Equipment Company, 2810 Baker Road, Dexter, MI 48130.

MC 158465 (Sub-4–2), filed May 3, 1982. Applicant: INDUSTRIAL STEEL CONSTRUCTION, INC., 6150 East Ave., Hodgkins, IL 60525. Representative: Stephen H. Loeb, Suite 4, 2777 Finley Road, Downers Grove, IL 60515. *Steel plate,* from Chicago, IL and points in its commercial zone to the facilities of Gibralter Sprocket Co., 3592 Military Street, Port Huron, MI 48060.

MC 161810 (Sub-4–1TA), filed May 3, 1982. Applicant: M & E MILK TRANSPORT, INC., R.R. 3, Box 243, Middlebury, IN 46540. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, 703–442–8330. *Contract: Irregular; Citric Acid and Enzymes* between Elkart, IN on the one hand, and, on the other, points in and east of MT, WY, CO, NM and TX under continuing contract with Miles Laboratories, Inc. An underlying ETA seeking 120 days authority has been filed. Supporting shipper: Miles Laboratories, Inc., P.O. Box 40, Elkhart, IN 46515.

MC 161842 (Sub-4–1TA), filed May 5, 1982. Applicant: KNAACK MANUFACTURING COMPANY, 420 E.

Terra Cotta Ave., Crystal Lake, IL 60014. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah WI 54956. *Contract* irregular: *plastic articles* from (1) Bound Brook, NJ to points in IL, IN, OH, PA and WI under continuing contract with P.V.P. Products Co., Inc. and (2) from Baltimore, MD and Mansfield, TX to points in IL, IN & OH under continuing contract with Life-Like Products, Inc. Supporting shippers: Life-like Products, Inc. 1600 Union Ave., Baltimore, MD and P.V.P. Products Co., Inc., Bld G–W, Chimney Rock Road, Bound Brook, NJ.

MC 161863 (Sub-4–1TA), filed May 6, 1982. Applicant: MERLE STERENBERG, d.b.a. BROOKFIELD FARMS TRUCKING, Rt. 2, Morrison, IL 61270. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Fertilizer and anhydrous ammonia,* between Clinton, Durant, Wyoming and Lowden, IA on the one hand, and on the other, points in IL. An underlying E/T/A seeks 120 days authority. Supporting Shippers: Lyndon Lumber & Grain, Inc., P.O. Box 278, Lyndon, IL 61261, Big Bill's Feeds, Inc., P.O. Box 8, Onslow, IA 52321, J. A. Bull & Sons, Inc., P.O. Box 358, Morrison, IL 61270, Mapco Fertilizer, Inc., R.R. #2, Box 43, Athens, IL 62613.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, P.O. Box 17150, Fort Worth, TX 76102.

MC 61396 (Sub-5–23TA), filed May 3, 1920. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. *Cement, in bag and bulk,* between pts in St. Louis County, MN on the one hand, and, on the other, pts in WI, SD, ND, MI and IA. Supporting shipper: Dundee Cement Company, P.O. Box 67, Clarksville, MO 63336.

MC 123476 (Sub-5–16TA), filed May 3, 1982. Applicant: CURTIS TRANSPORT, INC., #23 Grandview Ind. Ct., Arnold, MO 63010. Representative: David G. Dimit (Same address as applicant). *Paper and paper products, and materials, equipment and supplies used in the manufacture and distribution thereof,* between the facilities of Alton Packaging Corp. on the one hand, and on the other hand, all points in AR, MO, IA, MN, WI, IL, IN, MI, KY, TN, VA, WV, OH, PA, MD, NY, NJ, NC and DE. Supporting shipper: Alton Packaging Corp, R.R. #2, Box 1, Pacific, MO 63069.

MC 124411 (Sub-5–4TA), filed May 4, 1982. Applicant: SULLY TRANSPORT, INC., P.O. Box 185, Sully, IA 50251. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Anhydrous ammonia and liquid fertilizer solutions, in bulk,* from Niota, IL and Herman and Louisiana, MO to all pts in IA. Supporting shipper(s): Kaiser Agricultural Chemicals Div. of Kaiser Aluminum & Chemical, 7025 Hickman Road, Des Moines, IA 50322.

MC 135936 (Sub-5–6TA), filed May 3, 1982. Applicant: C & K TRANSPORT, INC., Box 205, Webster City, IA 50595. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Food products* between Weld County, CO and Hall County, NE on the one hand and, on the other, pts in CO, CT, DE, DC, IL, IN, IA, KS, KY, MD, MA, MI, MN, MO, NE, NY, OH, OK, PA, TN, TX, VA, WV, WI and WY. Supporting shipper: Monfort of Colorado, Inc., Grand Island, NE.

MC 136275 (Sub-5–4TA), filed May 3, 1982. Applicant: WHITFIELD ASSOCIATED TRANSPORT, INC., 777 Executive Blvd., El Paso, TX 79922. Representative: Dann L. Drewry, 777 Executive Blvd., El Paso, TX 79922. *Fly Ash, in bulk, in Pheumatic Equipment* between Amarillo, TX on the one hand, and on the other points in AZ, CO, OK, KS and WY. Supporting Shipper: De Pauw Construction, Amarillo, TX.

MC 143638 (Sub-5–3TA), filed May 3, 1982. Applicant: JOHNSON'S TRUCKING, INC., Route 1, Box 31, Inola, OK 74036. Representative: Michael H. Lennox, Box 75613, Oklahoma City, OK 73147. *Pig Iron, in dump vehicles,* Between TX, LA, AR, MO, KS, OK. Supporting shipper: Philipp Bros., Inc., 1221 Avenue of the Americas, New York, N.Y. 10020.

MC 144616 (Sub-5–11TA), filed May 3, 1982. Applicant: SOUTHWESTERN CARRIERS, INC., P.O. Box 79495, Saginaw, TX 76179. Representative: Harry F. Horak, 5001 Brentwood Stair Road, Suite 115, Fort Worth, TX 76112. *Cranes, crane parts, booms, and items used in the installation, testing and repair of cranes,* between Harris County, TX, on the one hand, and, on the other, points in the US. Supporting shipper: Mechanical Systems, Houston, TX 77041.

MC 145396 (Sub-5–5TA), filed May 3, 1982. Applicant: BOYCE HOWARD d.b.a. HOWARD TRUCKING, P.O. Box 165, Newport, AR 72112. Representative: John Paul Jones, P.O. Box 3140, Front St. Station, Memphis, TN 38103. *Metal Products* between Jackson County, AR on the one hand, and, on the other points in AL, FL, GA, IL, IN, KS, KY, MO, NC, OH, OK, SC, VA and WV, restricted to the facilities of Razorback Steel Corp. Supporting shipper: Razorback Steel Corp., Newport, AR.

MC 146442 (Sub-5–6TA), filed May 3, 1982. Applicant: CLEARFIELD TRANSPORTATION COMPANY, INC., P.O. Box 313, Clinton, MO 64735. Representatives: Mark J. Andrews, Lawrence Rudolph, Suite 1100, 1660 L Street, N.W., Washington, D.C. 20036. Contract, irregular. *Foodstuffs, and products pertaining to restaurant service,* between points in the US (except AK and HI), undercontinuing contract(s) with Howard Johnson, Inc. Supporting shipper: Howard Johnson, Inc., 220 Forbes Road, Braintree, MA 02184.

MC 149035 (Sub-5–3TA), filed May 4, 1982. Applicant: HARLAN D. RUDD, P.O. Box 57, Drakesville, IA 52552. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Contract irregular: *Anhydrous Ammonia and Fertilizers,* (1) Between pts in ID and WA on the one hand, and, on the other, pts. in MT under continuing contract(s) with Cargill, Inc., and Shoco Fertilizer, Inc. (2) Between pts in ID, MT, OR, UT, WA and WY on the one hand, and, on the other, pts. in the U.S. under continuing contract(s) with McIntosh Grain & Feed of Great Falls, MT. Supporting shippers: Cargill, Inc., P.O. Box 1584, Great Falls, MT 59403; Shoco Fertilizer, Inc., P.O. Box 654, Great Falls, MT 59403; McIntosh Grain & Feed, P.O. Box 1425, Great Falls, MT 59403.

MC 149199 (Sub-5–8TA), filed May 3, 1982. Applicant: FRONTIER EXPRESS, INCORPORATED d.b.a. D & M TRANSPORTATION, 905 S.W. Second, Oklahoma City, OK 73109. Representative: G. Timothy Armstrong, P.O. Box 1124, El Reno, OK 73036. *Air conditioning and heating equipment and related supplies;* and *materials, equipment and supplies used in the manufacture and distribution thereof (except bulk commodities);* between the facilities of Waugh Bros. Supply Co. at Oklahoma City, Enid, Lawton, and Tulsa, OK, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Waugh Bros. Supply Co., 2015 N.W. 7th, Oklahoma City, OK 73106.

MC 149199 (Sub-5–9TA), filed May 3, 1982. Applicant: FRONTIER EXPRESS, INCORPORATED d.b.a. D & M TRANSPORTATION, 905 S.W. Second, Oklahoma City, OK 73109. Representative: G. Timothy Armstrong, P.O. Box 1124, El Reno, OK 73036. *Materials, parts and accessories used in the manufacturing of off-highway vehicles and drilling rig draw works (except bulk commodities);* between the facilities of Unit Rig & Equipment Co. at Tulsa, OK, and the facilities of Kimco,

Inc., at Conroe, TX, on the one hand, and, on the other, points in the U.S. (except AK & HI). Supporting shipper: Unit Rig & Equipment Co., P.O. Box 3107, Tulsa, OK 74101.

MC 150812 (Sub-5–11TA), filed May 4, 1982. Applicant: FROST TRANSPORTATION, INC., P.O. Box 3400, Shreveport, LA 71103. Representative: Joseph A. Keating Jr., 121 S. Main St., Taylor, PA 18517. Contract, Irregular. *Metal products,* between Baton Rouge, LA on the one hand, and, on the other, points in Kent, WA, Seattle, WA, San Diego, CA, Ontonagon, MI, Bath, ME, and Fairless Hills, PA under contract with Spiral Metals Corp., Baton Rouge, LA. Supporting shipper(s): Spiral Metals Corp., 4145 Flannery Road, North, Baton Rouge, LA 70814.

MC 159474 (Sub-5–4TA), filed May 3, 1982. Applicant: U.S. EXPRESS, INC., P.O. Box 9652, Little Rock AR 72219. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 South 8th Street, Minneapolis, MN 55402. *Meat, meat by-products, meat products and articles distributed by meat packing houses,* from points in IA and NE to New Orleans, LA. Supporting shipper: AJC International, Inc., 6065 Roswell Rd., Atlanta, GA 30328.

MC 160785 (Sub-5–2TA), filed May 4, 1982. Applicant: CASTAR TRUCKING, 7840 "F" Street Omaha, NE 68127. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Food and related products (except commodities in bulk),* between the facilities of Blue Star Foods, Inc. at or near Council Bluffs, IA, and cold storage facilities in Douglas and Sarpy Counties, NE, on the one hand, and, on the other, pts in the U.S. (except AK and HI). Supporting shipper: Blue Star Foods, Inc., 1023 4th Street, Council Bluffs, IA 51501.

MC 161431 (Sub-5–1TA), filed May 4, 1982. Applicant: C & C TRANSPORT, INC., 1400 Airline Highway, Baton Rouge, LA 70805. Representative: John C. Mangano, (same as applicant). *Bulk petroloum products,* From points in LA to points in MS. Supporting shippers: The Southland Corporation, P.O. Box 7002, Addison, TX 75001.

MC 161662 (Sub-5–1TA), filed May 3, 1982. Applicant: HOLMES TRUCKING, INC., 206 East May, Osceola, IA 50213. Representative: James M. Hodge, 3730 Ingersoll Avenue, Des Moines, IA 50312. *Pork products,* (1) From the facilities of The Jimmy Dean Meat Company, Inc. at Osceola, IA to all pts in the U.S., and (2) From Dallas, TX to the facilities of The Jimmy Dean Meat Company, Inc. at Osceola, IA. Supporting shipper(s): The Jimmy Dean Meat Company, Inc., P.O. Box 467, Osceola, IA 50213.

MC 114028 (Sub-5–4TA), filed May 6, 1982. Applicant: ROWLEY INTERSTATE TRANSPORTATION COMPANY, INC., 2010 Kerper Boulevard, Dubuque, IA 52001. Representative: Carl L. Steiner, 29 South LaSalle Street, Chicago, IL 60603. *Bananas,* From Ft. Lauderdale, FL, to Chicago, IL; Terre Haute, IN; Grand Rapids, MI; and Milwaukee, WI. Supporting shipper: Pandol Brothers, Inc., 500 S.E. 17th Street, Ft. Lauderdale, FL 33316.

MC 121037 (Sub-5–2TA), filed May 7, 1982. Applicant: CONTINENTAL FREIGHTWAYS, INC., P.O. Box 9423, Houston, TX 77011. Representative: Damon R. Capps, 1300 Main St., Suite 1230, Houston, TX 77002. *Mercer Commodities, metal and metal products and pipe* between the plantsite of Great Western Pump and Supply in Tarrant and Harris Counties, TX and points in OK, MT, LA, CO, AR, WY, AZ, CA, KS, and NM. Supporting shipper: Great Western Pump and Supply, 3121 Yuma, Ft. Worth, TX 76119.

MC 142672 (Sub-5–31TA), filed May 7, 1982. Applicant: DAVID BENEUX PRODUCE AND TRUCKING INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Harry Keifer (same as applicant). *Such commodities as are dealt in by grocery and food business houses (except frozen and in bulk), materials, equipment, and supplies used in the manufacture or distribution thereof;* between French Lick, IN, on the one hand, and, on the other, points in AZ, CA, CO, FL, GA, IL, MD, MA, MN, MO, NC, NJ, OH, PA, and TX. Supporting shipper: Pluto Corp., P.O. Box 391, French Lick, IN 47432.

MC 142755 (Sub-5–1TA), filed May 7, 1982. Applicant: W. E. HAMILTON, d.b.a. HAMILTON TRUCKING COMPANY, 103 North Cedar Street, Pecos, TX 79772. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. *Drilling mud and completion fluids, in bulk, in tank vehicles,* between points in Ector, Reeves and Ward Counties, TX, on the one hand, and, on the other, points in Chaves, Curry, Eddy, Lea and Roosevelt Counties, NM. Supporting shipper(s): M. L. Baroid, Odessa, TX, Runnels Mud Co., Pecos, TX, Hughes Drilling Fluid, Inc., Pecos, TX.

MC 143654 (Sub-5–2TA), filed May 7, 1982. Applicant: DOYLE BRANT, INC., Route 4, Grand Terrace Estates, St. Joseph, MO 64507. Representative: Tom B. Kretsinger, Jr., P.O. Box 258, Liberty, MO 64068. *Malt beverages and empty containers* between points in Buchanan County, MO on the one hand, and on the other hand, points in Tarrant County, TX. Supporting shipper: Midland Bottling Co., Inc., 1422 South 6th Street, St. Joseph, MO 64503.

MC 143768 (Sub-5–3TA), filed May 6, 1982. Applicant: F. R. ANDERSON, INC., Box 782, Des Moines, IA 50306. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *General commodities (except explosives, household goods and commodities in bulk)* between Linn County, IA on the one hand, and, on the other, points in IA. Supporting shipper: Best Refrigerated Express, Inc., Scott Truck Line, Inc.

Note.—Applicant intends to interline.

MC 144505 (Sub-5–6TA), filed May 5, 1982. Applicant: DOYLE LOVE, d.b.a. LOVE TRUCKING, Route 1, Box 438, Maybank, TX 75147. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. *Such Articles as are dealt in by manufacturers or distributors of Power Products—Motorcycles or Automobiles* between facilities of American Honda Motor Co., Inc. at points in the U.S. on the one hand, and, on the other, points in the U.S. Restricted to shipments originating at or destined to the facilities of American Honda Motor Co., Inc. Supporting Shipper: American Honda Motor Co., Inc., 100 West Alondra Blvd., Gardena, CA 90427.

MC 147196 (Sub-5–50TA), filed May 7, 1982. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 10686, Jefferson, LA 70k181–0686. Representative: Donald A. Larousse (same as applicant). *General Commodities* between Orleans Parish, LA on the one hand, and on the other points in the US (except AK and HI) for the account of Transoceanic Shipping Co., Inc., New Orleans, LA. Supporting Shipper: Transoceanic Shipping Co., Inc., 1505 Int'l Trade Mart Bldg., New Orleans, LA 70130.

MC 148943 (Sub-5–3TA), filed May 6, 1982. Applicant: TEJAS OESTE TRUCK INC., 2209 Mills St., El Paso, TX 79901. Representative: Greg J. Evans (same as applicant). *General commodities, freight all kinds, (except bulk liquid in tank vehicles, or bulk requiring special equipment or commodities which either due to size, weight, or value would require special equipment)* between El Paso, TX and points in NM. Applicant will tack and interline. Supporting Shipper(s): 14.

MC 148987 (Sub-5–2TA), filed May 6, 1982. Applicant: W. C. CARRIERS, INC., P.O. Box 519, Bethany, OK 73008. Representative: Kenneth L. Peacher, 3925 N. Ann Arbor, Oklahoma City, OK

73122. *Dry Drilling Fluid Additives* between points in Benton and Washington Counties, AR, Kimble County, TX, and points west of the Mississippi River, including the states of AR, AZ, CA, CO, ID, KS, LA, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY. Supporting Shipper: Southern Mineral and Fibers, Inc., Springdale, AR.

MC 151124 (Sub-5–2TA), filed May 5, 1982. Applicant: LOLA JEANNE LYNN, d.b.a. LYNN LEASING, P.O. Box 117, Labadie, MO 63055. Representative: Lola Jeanne Lynn (same address as applicant). Contract, irregular; *Sand, in bulk,* from points in Jefferson and St. Louis Counties, MO, to Hillsboro, IL, under contract with Hillsboro Glass Co. Supporting shipper(s): Hillsboro Glass Co., Schram Avenue, Hillsboro, IL 62049.

MC 160058 (Sub-5–1TA), filed May 6, 1982. Applicant: SPIKES COMMODITIES, INC., P.O. Box 759, Hugoton, KS 67951. Representative: Larry E. Gregg, P.O. Box 1979, Topeka, KS 66601. *Urea ammonium nitrate solution* from Woodward, OK, to points in CO, NE, KS, NM, and TX. Supporting shipper: Terra Chemicals International, Inc., P.O. Box 1828, Sioux City, IA 51102.

MC 160785 (Sub-5–3TA), filed May 7, 1982. Applicant: CASTAR TRUCKING, 7840 "F" Street, Omaha, NE 68127. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Such commodities as are dealt in or used by manufacturers and distributors of machinery and communication equipment (except Classes A and B explosives and commodities in bulk),* from the facilities of the Western Electric Company, Inc. at or near Omaha, NE, to pts in the U.S. (except AK and HI). Supporting shipper: Western Electric Company, Inc., P.O. Box 14000, West Omaha Station, Omaha, NE 68114.

MC 161256 (Sub-5–1TA), filed May 5, 1982. Applicant: CACTUS TRANSPORTATION COMPANY, INC., 909 North Judge Ely, Abilene, TX 79601. Representative: Sam Hallman, Attorney at Law, 4555 First National Bank Bldg., Dallas, TX 75202. Contract, irregular; *drilling mud and drilling mud additives, in sacks and in containers, except commodities in bulk, in tank vehicles,* from Lovell, Upton, Green River and Casper, WY; Belle Fourche, SD; Gascoyne, ND; and Lathrop Wells, NV, to Wichita Falls, Abilene, San Angelo, Midland, Odessa, Lubbock and Slayton, TX, under continuing contract(s) with Cactus Consolidated, Inc., d.b.a. Cactus Wholesale Mud, of Abilene, TX.

MC 161509 (Sub-5–1TA), filed May 5, 1982. Applicant: BAUDY TRANSPORT, INC., 1717 S. Peters St., New Orleans, LA 70130. Representative: C. W. Ferebee, 3910 FM 1960 West, Suite 106, Houston, TX 77068. *Iron and steel articles* between New Orleans, LA and its commercial zone on the one hand, and, points in TX and MS on the other hand. Supporting shipper(s): Tri State Steel Sales, Inc., Morrera, LA, Atlas Steel & Wire, Inc., Harrahan, LA.

MC 161509 (Sub-5–2TA), filed May 5, 1982. Applicant: BRAUDY TRANSPORT, INC., 1717 S. Peters St., New Orleans, LA 70130. Representative: C. W. Ferebee, 3910 FM 1960 West, Suite 106, Houston, TX 77068. *General Commodities having a prior or subsequent movement by water* between the facilities of Kaiser Aluminum and Chemical Corp. located in Chalmette, Gramercy, and Baton Rouge, LA, on the one hand, and, points in LA on the other hand. Supporting shipper: Kaiser Aluminum and Chemical Corp., New Orleans, LA.

MC 161874 (Sub-5–1TA), filed May 7, 1982. Applicant: B & D TRANSPORTATION, INC., P.O. Box 37581, Omaha, NE 68137. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Food and related products,* between (1) pts in Pottawattamie County, IA and Douglas and Sarpy Counties, NE, and (2) Monmouth County, NJ on the one hand, and on the other pts in the U.S. (except AK and HI). Supporting shipper: Blue Star Foods, Inc., 1023 4th Street, Council Bluffs, IA 51501.

MC 161882 (Sub-5–1TA), filed May 7, 1982. Applicant: MID–SOUTH CABINET AND MILLWORK, INC., Hwy 65 South, Conway, AR 72032. Representative: Paul H. Patton (same as applicant). Contract, Irregular; *Paper, paper products, cardboard containers, materials and supplies used in the manufacture and distrubtion thereof* between the facilities of Container Service Corp. located at Dallas, TX, Houston, TX, and North Little Rock, AR and all points in TX and AR, under continuing contract with Container Service Corp., No. Little Rock, AR 72119.

MC 161883 (Sub-5–1TA), filed May 7, 1982. Applicant: MUNROE COLD HEADING, INC., 3020 Lewis St., Little Rock, AR 72204. Representative: C. K. Munroe (same as applicant). Contract, Irregular; *Plastic, rubber, or foam articles* from Little Rock, AR to Memphis, TN and Tupelo, MS under continuing contract with Foam Packaging, Inc., 8503 New Benton Hwy, Little Rock, AR.

The following applications where filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 161798 (Sub-6–1TA), filed May 3, 1982. Applicant: A S C PACIFIC INC., POB 2075, Tacoma WA 98401. Representative: W. E. Seliski, POB 8255, Missoula, MT 59807. *Building materials and iron and steel articles* between points in CA, WA, OR, ID and MT on the one hand, and, on the other points in the U.S. in and west of MT, WY, CO, and NV for 270 days. Supporting shippers: There are five shippers. Their statements may be examined at the Regional Office listed above.

MC 161797 (Sub-6–1TA), filed May 3, 1982. Applicant: ACCURATE DELIVERY SERVICE, INC., 353 West 56th Ave., Denver, CO 80216. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Ste. 600, Kansas City, MO 64105. *Contract carrier;* irregular route, *merchandise, equipment and supplies sold, used or distributed by a manufacturer of cosmetics* between points in CO for the account of Avon Products, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Avon Products, Inc., 83rd & College, Kansas City, MO 64141.

MC 161297 (Sub-6–1TA), filed April 29, 1982. Applicant: HOWARD CHRISTIANSON AND CRAIG CHRISTIANSON, d.b.a. ARLINGTON DISTRIBUTING COMPANY, P.O.B. 366, Arlington, WA 98223. Representative: Clyde H. MacIver, 1700 Peoples National Bank Bldg., 1415 Fifth Ave., Seattle, WA 98171. *Contract carrier,* irregular routes, *lumber and wood products* between points in the U.S. under continuing contract with J. H. Baxter & Co. of Renton, WA., for 270 days. Supporting shipper: J. H. Baxter & Co. P.O.B. 568, Renton, WA 98057.

MC 161330 (Sub-6–1TA), filed April 30, 1982. Applicant: KENNETH R. AMICK and JOSEPH H. SWANDA, d.b.a. B.A.S. TRUCKING, 8931 Lamar St., Spring Valley, CA 92077. Representative: Kenneth R. Amick (same as applicant). *Contract carrier,* Irregular routes: *rock and ore,* from Troma, CA to Esmeralda County, NV for the account of D.K. Mining for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: D.K. Mining, 10029 Medina Dr., Santee, CA 92071.

MC 161780 (Sub-6–1TA), filed April 30,, 1981. Applicant: BASRAN FREIGHT & LUMBER, division of BASRAN INDUSTRIES LTD., 317 Wood St., New Westminster, B.C., CD V3M 5K6. Representative: George LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA

98055. *Commodities as are dealt in or used by manufacturers and dealers of prefabricated log homes* between ports of entry on the International Boundary line between the U.S. and CD located in WA and Pierce County, WA, for 270 days. Supporting shipper: Lindal Cedar Homes Ltd., P.O.B. 2080, New Westminster, B.C. V3L 5A3.

MC 147981 (Sub-6–2TA), filed April 30, 1982. Applicant: CORNWELL TRANSPORTATION, P.O.B. 247, Norco, CA 91760. Representative: Foster L. Kent, P.O.B. 285, Council Bluffs, IA 51501–285. *Contract;* Irregular. *Plastic products,* between points in Los Angeles and Orange Counties, CA on the one hand, and on the other, points in AZ, ID, OR, UT and WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Future Foam, Inc., 1400 N. Jefferson, Anaheim, CA 92807.

MC 146464 (Sub-6–17TA), filed May 3, 1982. Applicant: NEVADA GENERAL TRANSPORTATION, INC., 11560 So. State, Draper, UT 84020. Representative: Carl I. Sundeaus (same address as applicant). *General commodities* (except Classes A & B explosives, household goods and commodities in bulk) between Boston, MA, Chicago, IL, Emeryville, CA, Los Angeles, CA, So Kearney, NJ and St. Louis, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. Supporting shipper: Westransco, Inc., 330 S. Santa Fe Ave., Los Angeles, CA 90013.

MC 161531 (Sub-6–1TA), filed April 29, 1982. Applicant: POWDER RIVER TRANSPORTATION SERVICES, INC., P.O.B. 2578, Gillette, WY 82716. Representative: H. Wayne Worthen (same as applicant). Authority: *Passengers and baggage* in charter operations between points in WY on the one hand, and, on the other, points in CO, SD, UT, MT, ID, NV, NE, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: There are 9 shippers. Their statements may be examined at the Regional office listed above.

MC 159308 (Sub-6–2TA), filed April 30, 1982. Applicant: G. RADEN & SONS, INC., 1915 So. Corgiat Dr., Seattle, WA 98108. Representative: Henry C. Winters, 12600 S.E. 38th St., Suite 200, Bellevue, WA 98006. *Glass containers and accessories thereof* from points in King County, WA, to points in CA, for 270 days. Supporting shipper: Northwestern Glass, 5801 East Marginal Way South, Seattle, WA 98134.

MC 128114 (Sub-6–2TA), filed May 4, 1982. Applicant: SAVAGE & SONS, INC., P.O.B. 2422, Pasco, WA 99302. Representative: Boyd Hartman, P.O.B. 3641, Bellevue, WA 98009. *Petroleum* and *petroleum products* between Pasco, WA and Hanford, Benton County, WA for 270 days. Supporting shipper: Pacific Northern Oil Corporation, Suite 1800, 1100 Olive Way, Seattle, WA 98101.

MC 156509 (Sub-6–3TA), filed May 4, 1982. Applicant: W.M.M. COMPANY, INC., P.O.B. 80, Goshen, OR 97401. Representative: Wilford L. Main, 2299 Willona Dr., Eugene, OR 97401. *Steel & Steel by-products, Zinc, Alloy, Aluminum and scrap material to be used for recycle and Light & Heavy equipment* between WA, OR, CA, for 270 days. Applicant requests tacking privileges. Supporting shippers: Western Equipment Co., 6309 N.E. Columbia Blvd., Portland OR, 97218; and Oregon Metal Slitters Inc., 2245 N.W. Suffork, Portland, OR 97210.

MC 161779 (Sub-6–1TA), filed April 29, 1982. Applicant: WENTZ EQUIPMENT HAULING, LTD., #170 Lake Slyvan Close SE., Calgary, Alberta, CD, T2J 3E6. Representative: Murray K. Mullen, P.O. Box 8984, Station "F", Calgary, Alberta, CD, T2J 5S6. *Contract carrier,* irregular routes: *Oilfield equipment,* between ports of entry on the International Boundary between the U.S. and CD located in MT on the one hand, and, on the other, points in LA, TX, OK, CO, WY, MT, and ND, under a continuing contract(s) with M.N.M. Machinery Ltd. of Calgary, Alberta, for 270 days. Supporting shipper: M.N.M. Machinery Ltd., 2707—58 Ave., SE., Calgary, Alberta, CD, T2C 0B4.

MC 161847 (Sub-6–1TA), filed May 5, 1982. Applicant: MEL PEARL, 380 Sutherland Ln., Reno, NV 89511. Representative: Mel Pearl (same as applicant). *Contract carrier,* irregular routes: *Metal products, as iron, steel, bar plate strip, structural, pipe,* (1) from Stockton and Fontana, CA and Santa Clara, Alameda, Contra Costa and Los Angeles Counties CA; Plymount, UT; and Portland, OR; to Sparks and Reno, NV; and (2) from Sparks, NV to Bishop and Lone Pine, CA for account of Pittsburg DesMoines Steel Co. for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper: Pittsburg DesMoines Steel Co. 1250 Kleppe Ln, Sparks, NV 89431.

MC 161530 (Sub-G–1TA), filed May 5, 1982. Applicant: RAIDER TRUCKING, INC. 3621 W. Dailey, Phoenix, AZ 85023. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Contract carrier:* Irregular routes: *Tires and commodities dealt in or used by tire stores,* between the facilities of Goodyear Tire & Rubber Co. in Los Angeles, CA, on the one hand, and, on the other, points in AZ and Clark County, NV, for the account of Goodyear Tire & Rubber Co., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Goodyear Tire & Rubber Co. 1144 E. Market St. Akron, OH 44316.

MC 146075 (Sub-6–7TA), filed May 5, 1982. Applicant: TEXAS INTERMOUNTAIN TRANSPORTATION, INC., 6161 West 29th Place, Wheatridge, CO 80214. Representative: Delbert Ewing, (same as applicant). (1) *food and related products* (except in bulk, in tank vehicles); (2) *beverages* (except in bulk, in tank vehicles); and (3) *meat and meat products* (except in bulk, in tank vehicles) (1) from points in LA, MS, and TX to points in AR, CO, IA, IL, IN, KS, MN, ND, NE, OH, and SD; (2) from points in AZ, CA, OR, TX, WA, and WI to Denver, CO; and (3) from the facilities of Sigman Meat Company at/near Denver, CO to points in AZ, CA, ID, MT, NM, NV, OR, TX, UT, WA, and WY, for 270 days. Supporting shippers: Castle & Cooke Foods, P.O.B. 8743, Metarie, LA 70011; C&C Distributing, Inc., 6275 E. 62nd Ave., Denver, CO 80207; Murray Bros. Dist. Co., 1505 W. 3rd Ave. Denver, CO 80223; and Sigman Meat Company, Inc. 6000 W. 54th Ave., Arvada, CO 80002.

MC 148791 (Sub-6–13TA), filed May 5, 1982. Applicant: TRANSPORT–WEST, INC., 2125 N. Redwood Rd., Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake City, UT 84110. *Contract Carrier:* Irregular routes: *Packaging, packaging products and related materials, equipment and supplies,* between points in the U.S. (except AK and HI), for the account of Boise Cascade Corporation of Boise, ID for 270 days. Supporting shipper: Boise Cascade Corporation, P.O. Box 7747, Boise, ID 83707.

MC 161879 (Sub-6–1TA), filed May 5, 1982. Applicant: DAVID CABRAL, CABRAL TRANSPORTATION COMPANY, 14756 Raritan Dr., Whittier, CA 90604. Representative: David Cabral (same address as applicant). *Contract carrier,* Irregular routes: *Frozen Meats and Fish,* from Santa Fe Springs, CA to Portland, OR; Phoenix, AZ; Las Vegas, NV and Seattle, WA for 270 days. Supporting shipper: Certi-Fresh Food Corp., 13055 E. Molette St., Santa Fe Springs, CA 90670.

MC 161339 (Sub-6–1TA), filed May 6, 1982. Applicant: COMANCHE ROAD TRANSPORT, LTD., 232 38th Ave., N.E., Calgary, Alberta T2E 2M2. Representative: James M. Christenson, 4444 IDS Center, 80 South Eighth St.,

Minneapolis, MN 55402. *Crude gypsum rock and coke* between Whatcom County and Stevens County, WA, on the one hand, and, points on the U.S./ Canadian border on the other, for 270 days. Supporting shippers: Columbia Cement Corporation, P.O. Box 37, Bellingham, WA 98227; and Philipp Bros. Inc., 1221 Ave. of the Americas, New York, NY 10020.

MC 157488 (Sub-6–2TA), filed May 6, 1982. Applicant: ROY WESSELS, d.b.a. D & K TRANSPORTATION, P.O. Box 818, Lewiston, ID 83501. Representative: Roy Wessels (same as applicant). *Contract carrier* irregular routes, *lumber, plywood, and all forest related products* under continuing contract with Inland Forest Products, between points in WA, ID, OR, CA, AZ, ND, SD, UT, CO, WY, NE, NV, MN, IA, KS, MT, for 270 days. Supporting shipper: Inland Forest Products, P.O. Box 505, Clarkston, WA 99403.

MC 161799 (Sub-6–1TA), filed May 5, 1982. Applicant: DAVE R. GRANT HAY, INC., 910 W. 24th St., Ogden, UT 84401. Representative: Bruce W. Shand, Ste. 280, 311 S. State St., Salt Lake City, UT 84111. *Contract carriage,* irregular routes, transporting *machinery,* from Mitchell, SD, Las Vegas, NV, Denver, CO, Wassau, WI, Barnesville, MN, Owatonna, MN, and Lamarada, CA to Salt Lake City, UT under a continuing contract(s) with Masonry Equipment & Supply Company, for 270 days. Supporting shipper: Masonry Equipment & Supply Company, 295 S. Redwood Rd., North Salt Lake City, UT 84054.

MC 144053 (Sub-6–2TA), filed May 6, 1982. Applicant: DON MUMMA TRUCKING CO., INC., Rt. 2, Box 143M, Spokane, WA 99207. Representative: James E. Wallingford, P.O. Box 2647, Spokane, WA 99220. *Building materials, machinery* and *parts thereof, dry chemicals in packages* (excluding Type A & B explosives and hazardous waste products) and *scrap materials* not identified by industry; between points in WA, OR, and ID on one hand and points in AL, AK, AR, AZ, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MD, MT, NE, NV, NJ, NM, NY, ND, OH, OK, OR, PA, SD, TN, TX, UT, WA, WI, and WY on the other hand: for 270 days. Supporting shippers: There are fifteen shippers, their statements may be examined at the regional office above.

MC 161732 (Sub-6–1TA), filed May 6, 1982. Applicant: R. & I. TRUCKING, INC., 9727 Glandon St., Bellflower, CA 90706. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Such commodities* as are dealt in or used by housing products manufacturers, from Fullerton, CA, to points in AZ, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Nutone Division of Scovill Manufacturing Co., 2330 Raymer Ave., Fullerton, CA 92633.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-13288 Filed 5-14-82; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506.

Date: June 3–4, 1982
Time: 8:30 a.m. to 5:30 p.m.
Room: 807
Program: This meeting will review applications submitted by state humanities committees, Division of State Programs, for activity beginning after November 1, 1982.

Date: June 10–11, 1982
Time: 8:30 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted by state humanities committees, Division of State Programs, for activity beginning after November 1, 1982.

Date: June 9, 10 and 11, 1982
Time: June 9, 7:00 p.m. to 9:00 p.m.
June 10, 8:30 to 7:00 p.m.
June 11, 8:30 to 5:00 p.m.
Room: 807
Program: This meeting will review applications submitted for Humanities Projects in Media Division of Public Programs, for projects beginning after September 1, 1982.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose:

(1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) Information the disclosure of which would significantly frustrate implementation of proposed agency action;

Pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82-13295 Filed 5-14-82; 8:45 am]

BILLING CODE 7536-01-M

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506.

Date: June 7–8, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for the Youth Projects Program, Division of Public Programs, for projects beginning after October 1, 1982.

Date: June 11, 1982
Time: 9:00 a.m. to 5:00 p.m.
Room: 1134
Program: This meeting will review applications submitted for the Libraries Humanities Projects Program, Division of Special Programs, for projects beginning after September 1, 1982.

The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the

agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose:

(1) Trade secrets and commercial or financial information obtained from a person and privileged or condifential;

(2) Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) Information the disclosure of which would significantly frustrate implementation of proposed agency action;

Pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call 202–724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82–13296 Filed 5–14–82; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Reactor Operations and TMI–2 Action Plans; Meeting

The ACRS Combined Subcommittees on Reactor Operations and TMI–2 Action Plans will hold a meeting on June 2, 1982, Room 762, 1717 H Street, NW, Washington, DC. The Subcommittees will discuss with members of the NRC Staff and other interested parties two proposed regulations. The first topic concerns proposed rulemaking to clarify applicability of the license conditions and technical specifications in an emergency and would be implemented by adding the necessary clarifications to 10 CFR 50.54, "Conditions of License" and 10 CFR 50.72, "Notification of Significant Events". The other proposed rule deals with licensing requirements for pending operating license applications. This rule will modify 10 CFR 50.34 (contents of applications; technical information) and contains the basic requirements of NUREG–0737, "Clarification of TMI Action Plan Requirements".

In accordance with the procedures outlined in the Federal Register on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss proprietary and Industrial Security information. One or more closed sessions may be necessary to discuss such information. (Sunshine Act Exemption 4). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: Wednesday, June 2, 1982—1:00 p.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard K. Major (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., DST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close some portions of this meeting to protect proprietary and Industrial Security information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552(c)(4).

Dated: May 12, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–13327 Filed 5–14–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–317 and 318]

Baltimore Gas and Electric Co.; Issuance of Amendments to Facility Operating Licenses and Negative Delcaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 69 and 52 to Facility Operating Licenses Nos. DPR–53 and DPR–69, issued to Baltimore Gas and Electric Company (the licensee), which revised the licenses and their appended Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Units Nos. 1 and 2. The amendments are effective as of the date of issuance.

The amendments authorize an increase in the maximum allowable number of fuel assemblies in the fuel storage pool from 1760 to 1830 assemblies.

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. Notice of Consideration of Proposed Modification to Facilities Spent Fuel Storage Pool in connection with this action was published in the Federal Register on February 4, 1982 (47 FR 5372). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal of the action being authorized and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action significantly greater than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated April 1973, and the action will not significantly affect the quality of the human environment.

For further details with respect to this action, see (1) the application for amendment dated October 30, 1981, (2) Amendment Nos. 69 and 52 to License Nos. DPR–53 and DPR–69, and (3) the Commission's related Safety Evaluation

and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Calvert County Library, Prince Frederick, Maryland. 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 May, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch #3, Division of Licensing.

[FR Doc. 82-13320 Filed 5-14-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-261]

Carolina Power and Light Co. (H. B. Robinson Unit No. 2); Exemption

I

The Carolina Power and Light Company (the licensee) is the holder of Facility Operating License No. DPR-23 which authorizes operation of the H. B. Robinson Plant, Unit No. 2. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility comprises one pressurized water reactor at the licensee's site located in Darlington County, South Carolina.

II

On November 19, 1980, the Commission published a revised 10 CFR 50.48 and a new Appendix R to 10 CFR regarding fire protection features of nuclear power plants (45 FR 76602). This revised § 50.48 and Appendix R became effective on February 17, 1981. Section 50.48(c) established the schedules for satisfying on February 17, 1981. Section 50.48(c) established the schedules for satisfying the provisions of Appendix R. Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. Two of these fifteen subsections III.G and III.L are the subject of this exemption request. III.G specified detailed requirements for fire protection of the equipment used for safe shutdown by means of separation and barriers (III.G.2). If the requirements for separation and barriers could not be met in an area, alternative safe shutdown capability, independent of that area and equipment is that area, was required (III.G.3) and III.L.[1]

Section 50.48(c) required completion of all modifications to meet the provisions of Appendix R within a specified time from the effective date of this fire protection rule, February 17, 1981, except for modifications to provide alternative safe shutdown capability. These latter modifications (III.G.3 and III.L) require NRC review and approval. Hence, § 50.48(c) requires their completion within a certain time after NRC approval. The date for submittal of design descriptions of any modifications to provide alternative safe shutdown capability was specified as March 19, 1981.

By letter dated March 11, 1981, as amended June 30, 1981, October 15, 1981 and March 1, 1982, Carolina Power and Light requested exemptions from 10 CFR 50.48(c) with respect to the requirements of Section III.G and III.L of Appendix R as follows:

(1) Extend from March 19, 1981, to March 10, 1982, the date for submittal of plans and schedules to achieve compliance with III.G.2 required by § 50.48(c)(5);

(2) Extend from March 19, 1981, to March 10, 1982, the date for filing additional exemptions from Section III.G and III.L pursuant to §§ 50.12(a) and 50.48(c)(6);

(3) Extend from March 19, 1981, to March 10, 1982, the date for submittal of design descriptions of alternative or dedicated shutdown systems to comply with Section III.G.3 and III.L if such are necessary; and

(4) Extend from February 17, 1981, to March 10, 1982, the date from which the installation schedules established in § 50.48(c) (2) and (3) are calculated.

When this Fire Protection Rule was approved by the Commission, it was understood that the time required for each licensee to re-examine those previously-approved configurations at its plant to determine whether they meet the requirements of Section III.G of Appendix R to 10 CFR 50 was not well know and would vary depending upon the degree of conformance. For each item of non-conformance that was found, a fire hazards analysis had to be performed to determine whether the existing configuration provided sufficient fire protection. If it did, a basis had to be formulated for an exemption request. If it did not, modifications to either meet the requirements of Appendix R or to provide some other acceptable configuration, that could be justified for an exemption, had to be designed. Where fire protection features alone could not ensure protection of safe shutdown capability, alternative safe shutdown capability had to be designed as required by section III.G.3 and III.L of Appendix R. Depending upon the extensiveness and number of the areas involved, the time required for this re-examination, reanalysis and redesign could vary from a few months to a year or more. The Commission decided, however, to require one, short-term date for all licensees in the interest of ensuring a best-effort, expedited completion of compliance with the Fire Protection rule, recognizing that there would be a number of licensees who could not meet these time restraints but who could then request appropriate relief through the exemption process. Licensees for 44 of the 72 plants to which Appendix R applies (plants with an operating license issued prior to January 1, 1979) have requested such schedular relief.

The licensees for the remaining 28 plants made submittals to meet the schedular requirements of 50.48(c). All of these submittals, however, were deficient in some respect. In general, much of the information requested in a generic letter (81-12) dated February 20, 1981, to the licensees of all 72 plants, was not provided. Therefore, additional time is being used to complete those submittals also.

III

Prior to the issuance of Appendix R, H. B. Robinson Unit 2 had been reviewed against the criteria of Appendix A to the Branch Technical Position 9.5-1 (BTP 9.5-1). The BTP 9.5-1 was developed to resolve the lessons learned from the fire at Browns Ferry Nuclear Plant. It is broader in scope than Appendix R, formed the nucleus of the criteria developed further in Appendix R and in its present, revised form constitutes the section of the Standard Review Plan used for the review of applications for construction permits and operating licenses of new plants. The review was completed by the NRC staff and its fire protection consultants and a Fire Protection Safety Evaluation (FPSER) was issued. A few items remained unresolved. Further discourse between the licensee and the NRC staff resulted in resolution of these items as documented in two supplements to the FPSER. The FPSER and its supplements supported the issuance of amendments to the operating licenses of H. B. Robinson Unit 1[2] which required modifications to

[1] Note III.L provides the criteria for III.G.3.

[2] H. B. Robinson Unit 2—Operating License DPR-23, Amendment 31 supported by FPSER issued

be made to plant physical features, systems, and administrative controls to meet the criteria of Appendix A to BTP 9.5–1. All of these modifications have been completed. Therefore, the H. B. Robinson Unit 1 has been upgraded to a high degree of fire protection already and the extensive reassessment involved in this request for additional time is to quantify, in detail, the differences between what was recently approved and the specific requirements of Section III.G to Appendix R to 10 CFR 50.

Based on the above considerations, we find that the licensee has completed a substantial part of the fire protection features at H. B Robinson Unit 2 in conformance with the requirements of the Fire Protection Rule and is applying significant effort to complete the reassessment of any remaining modifications which might be necessary for strict conformance with Section III.G. We find that because of the already-completed upgrading of these facilities, there is no undue risk to the health and safety of the public involved with continued operation until the completion of this reassessment on June 30, 1982. Therefore, an exemption should be granted to allow such time for completion. However, because we have found that most submittals of this reanalysis to date from other licensees have not been complete; that is, not all of the information requested by Generic Letter 81–12 dated February 20, 1981, was provided, we are adding a condition to this exemption that requires all such information to be submitted by the date granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants the following exemptions with respect to the requirements of Section III.G of Appendix R to 10 CFR 50:

(1) The date, March 19, 1981, for submittal of plants and schedules to achieve compliance as required by § 50.48(c)(5) is extended to March 10, 1982;

(2) The date, March 19, 1981 for filing exemption requests pursuant to § 50.48(c)(6) which include a tolling provision is extended to March 10, 1982;

(3) The date, March 19, 1981, for submittal of design descriptions of alternative or dedicated shutdown systems to comply with section III.G.3 and III.L as required by § 50.48(c)(5) is extended to March 10, 1982;

(4) The date, February 17, 1981, from which the installation schedules established in § 50.48(c) (2) and (3) are calculated, is extended to March 10, 1982;

Provided the following conditions are met:

(1) Requests for exemption pursuant to § 50.48(c) (6) must include:

(a) A concise statement of the extent of the exemption;

(b) A concise description of the proposed alternative design features related to assuring post-fire shutdown capability; and

(c) A sound technical basis that justifies the proposed alternative in terms of protection afforded to post-fire shutdown capability, degree of enhancement in fire safety by full compliance with III.G requirements, or the detriment to plant incurred by full compliance with III.G and III.L. A simple statement that the feature for which the exemption is requested was previously approved by the staff is not sufficient. A simple assertion that in the licensee's judgment the feature for which the exemption is requested is adequate fire protection is not sufficient.

(2) The design descriptions of alternative or dedicated shutdown systems to comply with Section III.G.3 and III.L, as required by § 50.48(c)(5) shall include a point-by-point response to each item in Section B of Enclosure 1 to generic letter 81–12 dated February 20, 1981, and to each item in Enclosure 2 to Generic Letter 81–12, dated February 20, 1981.

If the licensee does not meet the above conditions, the licensee will be found in violation of 10 CFR 50.48(c) even though the submittal may be made within the time limit granted by the exemption. If such a violation occurs, imposition of a civil penalty will be considered under Section 234 of the Atomic Energy Act, as amended. Such a violation will be a continuing one beginning with the date set in the exemption for submittal and terminating when all inadequacies are corrected.

A delay in the determination of inadequacy by the staff, caused by the workload associated with reviewing all of the submittals falling due near the same time, will not relieve the licensee of the responsibility for completeness of the submittal, nor will such delay cause any penalty that may be imposed to be mitigated.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 10th day of May 1982.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-13321 Filed 5-14-82; 8:45 am]

BILLING CODE 7590-01-M

February 28, 1978, Supplement 1 to FPSER issued February 21, 1980, Supplement 2 to FPSER issued December 8, 1980.

[Docket Nos. 50-250 and 50-251]

Florida Power and Light Co. (Turkey Point Plant, Unit Nos. 3 and 4); Exemption

I

The Florida Power and Light Company (the licensee) is the holder of Facility Operating License Nos. DPR–31 and DPR–41 which authorize operation of the Turkey Point Plant (TTP), Unit Nos. 3 and 4. These licenses provide, among other things, that they are subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility comprises two pressurized water reactors at the licensee's site located in Dade County, Florida.

II

On November 19, 1980, the Commisison published a revised 10 CFR 50.48 and a new Appendix R to 10 CFR 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised 50.48 and Appendix R became effective on February 17, 1981. Section 50.48(c) established the schedules for satisfying the provisions of Appendix R. Section III of appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these fifteen subsections III.G., is the subject of this exemption request. III.G. specifies detailed requirements for fire protection of the equipment used for safe shutdown by means of separation and barriers (III.G.2). If the requirements for separation and barriers could not be met in an area, alternative safe shutdown capability, independent of that area and equipment in that area, was required (III.G.3).

Section 50.48(c) required completion of all modifications to meet the provisions of Appendix R within a specified time from the effective date of

this fire protection rule, February 17, 1981, except for modifications to provide alternative safe shutdown capability. These latter modifications (III.G.3) require NRC review and approval. Hence, § 50.48(c) requires their completion within a certain time after NRC approval. The date for submittal of design descriptions of any modifications to provide alternative safe shutdown capability was specified as March 19, 1981.

By letter dated March 19, 1981, Florida Power and Light requested exemptions from 10 CFR 50.48(c) with respect to the requirements of section III.G of Appendix R as follows:

1. With respect to the requirements of section III.G.2 and III.G.3 of Appendix R FPL requests that the Commission exempt it from the reuqirements of § 51.48(c) as follows:

(a) Extend from March 19, 1981 for six months the date for:

(1) Submittal of plans and schedules and/or design descriptions for any modifications necessary to achieve compliance with sections III.G.2 and III.G.3 of Appendix R for the Auxiliary Building Corridor and the Cable Spreading Room;

(2) Filing requests for additional exemptions from Sections III.G.2 and III.G.3 of Appendix R for the Auxiliary Building Corridor and the Cable Spreading Room pursuant to 10 CFR 50.12(a) and 50.48(c)(6).

(b) Extend from March 19, 1981 for six months the date for submittal, if applicable, of design descriptions of alternative or dedicated shutdown systems to comply with section III.G.

2. With respect to section III.G.2 and III.G.3 of Appendix R, FPL requests exemption from the requirements of those sections for those areas of the plant which have been already reviewed and approved by the Commission as shown by the NRC's Fire Protection Safety Evaluation Report (SER) for Turkey Point Units 3 and 4, as amended.

(a) Should the Commission deny FPL's request for such exemption, extend the date for submittal of plans and schedules and/or design descriptions necessary to achieve compliance with the requirements of III.G.2 and III.G.3 for a period of twelve months following the date of such denial.[1]

[1] Based on our November 9, 1981 denial of your requested exemption, proposing section III.G.2 and III.G.3 criteria not be applied to the remainder of the plant, we understand that your requested date for submitting justifiable exemption bases is November 9, 1982.

When this Fire Protection Rule was approved by the Commission, it was understood that the time required for each licensee to re-examine those previously-approved configurations at its plant to determine whether they meet the requirements of Section III.G of Appendix R to 10 CFR Part 50 was not well known and would vary depending upon the degree of conformance. For each item of non-conformance that was found, a fire hazards analysis had to be performed to determine whether the existing configuration provided sufficient fire protection. If it did, a basis had to be formulated for an exemption request. If it did not, modifications to either meet the requirements of Appendix R or to provide some other acceptable configuration, that could be justified for an exemption, has to be designed. Where fire protection features alone could not ensure protection of safe shutdown capability, alternative safe shutdown capability had to be designed as required by Section III.G.3 of Appendix R. Depending upon the extensiveness and number of the areas involved, the time required for this re-examination, reanalysis and redesign could vary from a few months to a year or more. The Commission decided, however, to require one, short-term date for all licensees in the interest of ensuring a best-effort, expedited completion of compliance with the Fire Protection Rule, recognizing that there would be a number of licensees who could not meet these time restraints but who could then request appropriate relief through the exemption process. Licensees for 44 of the 72 plants to which Appendix R applies (plants with an operating license issued prior to January 1, 1979) have requested such schedular relief.

The licensees for the remaining 28 plants made submittals to meet the schedular requirements of §50.48(c). All of these submittals, however, were deficient in some respects. In general, much of the information requested in a generic letter (81–12) dated February 20, 1981, to all licensees of all 72 plants, was not provided. Therefore, additional time is being used to complete those submittals also.

III

Prior to the issuance of Appendix R, the Turkey Point Units had been reviewed against the criteria of Appendix A to the Branch Technical Position 9.5–1 (BTP 9.5–1). The BTP 9.5–1 was developed to resolve the lessons learned from the fire at Browns Ferry Nuclear Plant. It is broader in scope than Appendix R, formed the nucleus of the criteria developed further in Appendix R and in its present, revised form constitutes the section of the Standard Review Plan used for the review of applications for construction permits and operating licenses of new plants. The review was completed by the NRC staff and its fire protection consultants and a Fire Protection Safety Evaluation (FPSER) was issued. A few items remained unresolved. Further discourse between the licensee and the NRC staff resulted in resolution of all items except alternative Safe Shutdown which is the subject of this exemption. The FPSER and its supplements supported the issuance of amendments to the operating licenses of Turkey Point Units [2] which required modifications to be made to plant physical features, systems, and administrative controls to meet the criteria of Appendix A to BTP 9.5–1. All of these modifications have been completed. Therefore, the Turkey Point Units have been upgraded to a high degree of fire protection already and the extensive reassessment involved in this request for additional time is to quantify, in detail, the differences between what was recently approved and the specific requirements of section III.G to Appendix R of 10 CFR Part 50.

Based on the above considerations, we find that the licensee has completed a substantial part of the fire protection features at Turkey Point Plant Units 3 and 4 in conformance with the requirements of the Fire Protection Rule and is applying significant effort to complete the reassessment of any remaining modifications which might be necessary for strict conformance with section III.G. We find that because of the already-completed upgrading of these facilities, there is no undue risk to the health and safety of the public involved with continued operation until the completion of this reassessment on June 30, 1982. Therefore, an exemption should be granted to allow such time for completion. The Commission is granting an extension until July 1, 1982. This date is based upon the response of all the

[2] a. A. Schwencer to R. E. Uhrig dated March 21, 1979, Amendments 45 and 37 to Facility Operating License Nos. DPR–31 and DPR–41 and supporting FPSER.

b. S. Varga to R. E. Uhrig dated April 19, 1982, Amendments 84 and 78 to Facility Operating License Nos. DPR–31 and DPR–41 updating the Fire Protection Technical Specifications to include modifications and requirements of Appendix R to 10 CFR Part 50.

c. S. Marga to R. E. Uhrig dated January 26, 1982, completed our review of modifications as designated in our FPSER dated March 21, 1979.

d. A. Schwencer to R. E. Uhrig dated April 3, 1980, Review and Status of Fire Protection modifications.

e. S. Varga to R. E. Uhrig dated July 9, 1980, Review and Status of Fire Protection modifications.

licensees with regard to the time needed to perform the reassessment required and the redesign of plant features if necessary. All but a few licensees indicated submittal dates prior to July 1, 1982, and many have already made their submittals. On this basis, we cannot find that your proposed schedule exhibits your best effort in meeting the requirements of 10 CFR 50.48(c) and Appendix R to 10 CFR 50. Therefore, in the judgment of the Commission, the time elapsed from November 19, 1980, when the Fire Protection Rule was published, until July 1, 1982, allows adequate time for you to complete your submittal. However, because we have found that most submittals of this reanalysis to date from other licensees have not been complete; that is, not all of the information requested by Generic Letter 81–12 dated February 20, 1981, was provided, we are adding a condition to this exemption that requires all such information to be submitted by the date granted.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants the following exemptions with respect to the requirements of section III.G. of Appendix R to 10 CFR Part 50:

(1) The date, March 19, 1981, for submittal of plans and schedules to achieve compliance as required by § 50.48(c)(5) is extended to July 1, 1982;

(2) The date, March 19, 1981 for filing exemption requests pursuant to § 50.48(c)(6) which includes a tolling provision is extended to July 1, 1982;

(3) The date, March 19, 1981, for submittal of design descriptions of alternative or dedicated shutdown systems to comply with section III.G.3, as required by § 50.48(c)(5) is extended to July 1, 1982; and

(4) The date, February 17, 1981, from which the installation schedules established in § 50.48(c) (2) and (3) are calculated, is extended to July 1, 1982;

Although item 4 is not in your exemption request, it is implied in the request for items 1, 2, and 3.

Provided the following conditions are met:

(1) Requests for exemption pursuant to § 50.48(c)(6) must include:

(a) A concise statement of the extent of the exemption;

(b) A concise description of the proposed alternative design features related to assuring post-fire shutdown capability; and

(c) A sound technical basis that justifies the proposed alternative in terms of protection afforded to post-fire shutdown capability, degree of enhancement in fire safety by full compliance with III.G requirements, or the detriment to plant safety incurred by full compliance with III.G. A simple statement that the feature for which the exemption is requested was previously approved by the staff is not sufficient. A simple assertion that in the licensee's judgment the feature for which the exemption is requested is adequate fire protection is not sufficient.

(2) The design descriptions of alternative or dedicated shutdown systems to comply with section III.G.3., a required by § 50.48(c)(5) shall include a point-by-point response to each item in Section 8 of Enclosure 1 to generic letter 81–12 dated February 20, 1981, and to each item in Enclosure 2 to Generic Letter 81–12, dated February 20, 1981.

If the licensee does not meet the above conditions, the licensee will be found in violation of 10 CFR 50.48(c) even though the submittal may be made within the time limit granted by the exemption. If such a violation occurs, imposition of a civil penalty will be considered under section 234 of the Atomic Energy Act, as amended. Such a violation will be a continuing one beginning with the date set in the exemption for submittal and terminating when all inadequacies are corrected.

A delay in the determination of inadequacy by the staff, caused by the work-load associated with reviewing all of the submittals falling due near the same time, will not relieve the licensee of the responsibility for completeness of the submittal, nor will such delay cause any penalty that may be imposed to be mitigated.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland, this 10th day of May, 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-13323 Filed 5-14-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-213, 50-245 and 50-336]

Connecticut Yankee Atomic Power Co., et al.; Exemption

I

In the matter of Connecticut Yankee Atomic Power Company; The Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, and Northeast Nuclear Energy Company (Haddam Neck Plant and Millstone Nuclear Power Station, Unit Nos. 1 and 2).

The Connecticut Yankee Atomic Power Company (CYAPCO) (the licensee) is the holder of Facility Operating License No. DPR–61 which authorizes operations of the Haddam Neck Plant. Northeast Nuclear Energy Company, et al, (NNECO) (the licensee) is the holder of Provisional Operating License No. DPR–21 and Facility Operating License No. DPR–65 which authorizes operation of Millstone Nuclear Power Station, Units No. 1 and 2. These licenses provide, among other things, that they are subject to all rules. regulations and Orders of the Commission now or hereafter in effect.

The Haddam Neck Plant comprises a pressurized water reactor located in Middlesex County, Connecticut. Millstone Station, Units No. 1 and 2 comprise boiling and prerssurized water reactors, respectively, located in Waterford, Connecticut.

II

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and a new Appendix R to 10 CFR 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section 50.48(c) established the schedules for satisfying the provisions of Appendix R. Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these fifteen subsections III.G., is the subject of this exemption request. III.G specifies detailed requirements for fire protection of the equipment used for safe shutdown by means of separation and barriers (III.G.2). If the requirements for separation and barriers could not be met in an area, alternative safe shutdown capability, independent of that area and equipment in that area, was required (III.G.3).[1]

[1] III.L. specifies the criteria for meeting III.G.3. and is included in the NNECO schedular exemption

Section 50.48(c) required completion of all modifications to meet the provisions of Appendix R within a specified time from the effective date of this fire protection rule, February 17, 1981, except for modifications to provide alternative safe shutdown capability. These latter modifications (III.G.3) require NRC review and approval. Hence, § 50.48(c) requires their completion within a certain time after NRC approval. The date for submittal of design descriptions of any modifications to provide alternative safe shutdown capability was specified as March 19, 1981.

By letter dated March 19, 1981, as amended June 23, 1981, November 6, 1981 and January 15, 1982, CYAPCO and NNECO requested exemptions from 10 CFR 50.48(c) with respect to the requirements of Section III.G of Appendix R as follows:

(1) Extend from March 19, 1981, to March 1, 1982, the date for submittal of plans and schedules to achieve compliance with III.G.2 required by § 50.48(c)(5);

(2) Extend from March 19, 1981, to March 1, 1982, the date for filing additional exemptions from section III.G.2 pursuant to §§ 50.12(a) and 50.48(c)(6);

(3) Extend from March 19, 1981, to March 1, 1982, the date for submittal of design descriptions of alternative or dedicated shutdown systems to comply with section III.G.3, if such are necessary; and

(4) Extend from February 17, 1981, to March 1, 1982, the date from which the installation schedules established in § 50.48(c)(2) and (3) are calculated.

When this Fire Protection Rule was approved by the Commission, it was understood that the time required for each licensee to re-examine those previously-approved configurations at its plant to determine whether they meet the requirements of section III.G of Appendix R to CFR 50 was not well known and would vary depending upon the degree of conformance. For each item of non-conformance that was found, a fire hazards analysis had to be performed to determine whether the existing configuration provided sufficient fire protection. If it did, a basis had to be formulated for an exemption request. If it did not, modifications to either meet the requirements of Appendix R or to provide some other acceptable configuration, that could be justified for an exemption, had to be designed. Where fire protection features alone could not ensure protection of safe shutdown capability, alternative safe shutdown capability had to be designed as required by section III.G.3 of Appendix R. Depending upon the extensiveness and number of the areas involved, the time required for this re-examination, reanalysis and redesign could vary from a few months to a year or more. The Commission decided, however, to require one, short-term date for all licensees in the interest of ensuring a best-effort, expedited completion of compliance with the Fire Protection Rule, recognizing that there would be a number of licensees who could not meet these time restraints but who could then request appropriate relief through the exemption process. Licensees for 44 of the 72 plants to which Appendix R applies (plants with an operating license issued prior to January 1, 1979) have requested such schedular relief.

The licensees for the remaining 28 plants made submittals to meet the schedular requirements of § 50.48(c). All of these submittals, however, were deficient in some respects. In general, much of the information requested a in generic letter (81–12) dated February 20, 1981, to the licensees of all 72 plants, was not provided. Therefore, additional time is being used to complete those submittals also.

III

Prior to the issuance of Appendix R, the Haddam Neck Plant and the Millstone Units No. 1 and 2 have been reviewed against the criteria of Appendix A to the Branch Technical Position 9.5–1 (BTP 9.5–1). The BTP 9.5–1 was developed to resolve the lesson learned from the fire at Browns Ferry Nuclear Plant. It is broader in scope than Appendix R, formed the nucleus of the criteria developed further in Appendix R and in its present, revised form constitutes the section of the Standard Review Plan used for the review of applications for construction permits and operating licenses of new plants. The review was completed by the NRC staff and its fire protection consultants and Fire Protection Safety Evaluation Reports (FPSER) are issued. A few items remained unresolved. Further discourse between the licensees and the NRC staff resulted in resolution of all items except for requirements related to alternative safe shutdown capability as documented in supplements to the FPSERs. The FPSERs and their supplements supported the issuance of amendments to the operating licenses for [2] the Haddam Neck Plant and Millstone Unit Nos. 1 and 2 which required modificationis to be made to plant physical features, systems, and administrative controls to meet the criteria of Appendix A to BTP 9.5–1. All of these modifications have been completed. Therefore, these plants have been upgraded to a high degree of fire protection already and the extensive reassessment involved in the request for additional time is to quantify, in detail, the differences between what was recently approved and the specific requirements of section III.G to Appendix R of 10 CFR 50 and to proposed modifications in conformance with Appendix R for areas requiring alternative safe shutdown or justify and request specific exemptions.

The licensees also stated in the request for exemption that all other subsections of Appendix R would be met on the schedules required by 10 CFR 50.48(c). As mentioned earlier there are 14 other subsections which contain criteria for other aspects of fire protection features. One of these, section III.L., provides the criteria for Alternative Safe Shutdown capability and, thus, affects the final reassessment and redesign, if necessary, of this feature at these plants. Nevertheless, this means that compliance with the remaining applicable sections of Appendix R have been or will be completed on or before the implementation dates required by the Fire Protection Rule.

Based on the above considerations, we find that the licensees have completed a substantial part of the fire protection features at the Haddam Neck and the Millstone Units No. 1 and 2 plants in conformance with the requirements of the Fire Protection Rule and are applying significant effort to complete the reassessment of any remaining modifications which might be necessary for strict conformance with section III.G. We find that because of the already-completed upgrading of these facilities, there is no undue risk to the health and safety of the public involved with continued operation until the completion of this reassessment. Therefore, an exemption should be granted to allow such time for completion. However, because we have found that most submittals of this reanalysis to date from other licensees have not been complete; that is, not all of the information requested by Generic

requests dated March 19, June 23, November 6, 1981 and January 15, 1982.

[2] Haddam Neck Operating License No. DPR–61, Amendment No. 28 dated 10/3/78 and Amendment No. 45 dated November 20, 1981. Millstone Unit 1 Operating License No. DPR–21, Amendment No. 53 dated 9/26/78 and Amendment No. 83 dated 4/2/82. Millstone Unit 2 Operating License No. DPR–65, Amendment No. 35 dated 3/3/78 and Amendment No. 43 dated 9/19/78.

Letter 81–12, dated February 20, 1981, was provided, we are adding a condition to this exemption that requires all such information to be submitted by the date granted.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants the following exemptions for the Haddam Neck Plant and Millstone Station Units No. 1 and 2 with respect to the requirements of Section III.G of Appendix R to 10 CFR 50:

(1) The date, March 19, 1981, for submittal of plans and schedules to achieve compliance as required by § 50.48(c)(5) is extended to March 1, 1982;

(2) The date, March 19, 1981, for filing exemption requests pursuant to § 50.48(c)(6) which includes a tolling provision is extended to March 1, 1982;

(3) The date, March 19, 1981, for submittal of design descriptions of alternative or dedicated shutdown systems to comply with section III.G.3, as required by § 50.48(c)(5) is extended to March 1, 1982; and

(4) The date, February 17, 1981, from which the installation schedules established in § 50.48(c) (2) and (3) are calculated, is extended to March 1, 1982.

Provided that the following conditions are met:

(1) Requests for exemption pursuant to § 50.48(c)(6) must include:

(a) A concise statement of the extent of the exemption;

(b) A concise description of the proposed alternative design features related to assuring post-fire shutdown capability; and

(c) a sound technical basis that justifies the proposed alternative in terms of protection afforded to post-fire shutdown capability, degree of enhancement in fire safety by full compliance with III.G requirements, or the detriment to plant safety incurred by full compliance with III.G. A simple statement that the feature for which the exemption is requested was previously approved by the staff is not sufficient. A simple assertion that in the licensee's judgment the feature for which the exemption is requested is adequate fire protection is not sufficient.

(2) The design descriptions of alternative or dedidated shutdown systems to comply with section III.G.3., as required by § 50.48(c)(5) shall include a point-by-point response to each item in section 8 of Enclosure 1 to generic letter 81–12 dated February 20, 1981, and to each item in Enclosure 2 to Generic Letter 81–12, dated February 20, 1981.

If the licensees do not meet the above conditions, the licensees will be found in violation of 10 CFR 50.48(c) even though the submittal may be made within the time limit granted by the exemption. If such a violation occurs, imposition of a civil penalty will be considered under Section 234 of the Atomic Energy Act, as amended. Such a violation will be a continuing one beginning with the date set in the exemption for submittal and terminating when all inadequacies are corrected.

A delay in the determination of inadequacy by the staff, caused by the work-load associated with reviewing all of the submittals falling due near the same time, will not relieve the licensees of the responsibility for completeness of the submittal, nor will such delay cause any penalty that may be imposed to be mitigated.

The NRC staff has determined that the granting of this exemption will not result in any signficant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need be not prepared in connection with this action.

Dated at Bethesda, Maryland this 10th day of May, 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82–13322 Filed 5–14–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–201 OLA]

Nuclear Fuel Services, Inc. and New York State Energy Research and Development Authority (Western New York Nuclear Service Center), Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this spent fuel reprocessing and radioactive waste disposal facility operating license amendment proceeding:

Thomas S. Moore, Chairman
Dr. W. Reed Johnson
Gary J. Edles

Dated: May 11, 1982.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 82–13328 Filed 5–14–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–286]

Power Authority of the State of New York; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 44 to Facility Operating License No. DPR–64, issued to the Power Authority of the State of New York (the licensee), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 3 (the facility) located in Buchanan, Westchester County, New York. The amendment is effective 21 days from the date of issuance.

The amendment revises the plant Technical Specifications to require operability of a system to sample the plant effluent for indications of radioiodine and particulates. The amendment also provides a minor restructuring of Table 3.5–3 and Table 3.5–4 with no deletions or additions of new requirements.

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 the amendment dated February 1, 1982, (2) Amendment No. 44 to License No. DPR–64, 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 May 1982.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 82-13324 Filed 5-14-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-206]

Southern California Edison Co. and San Diego Gas and Electric Co. (San Onofre Nuclear Generating Station Unit 1); Exemption

I

The Southern California Edison Company (the licensee) is a holder of Provisional Operating License No. DPR-13 which authorizes operation of the San Onofre Nuclear Generating Station Unit 1 (the facility). The license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility is a pressurized water reactor located in San Diego County, California.

II

On November 19, 1980, the Commission published a revised 10 CFR 50.48 and a new Appendix R to 10 CFR 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section 50.48(c) established the schedules for satisfying the provisions of Appendix R. Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these fifteen subsections III.G., is the subject of this exemption request. III.G. specifies detailed requirements for fire protection of the equipment used for safe shutdown by means of separation and barriers (III.G.2). If the requirements for separation and barriers could not be met in an area, alternative or dedicated safe shutdown capability, independent of that area and equipment in that area, was required (III.G.3.).

Section 50.48(c) required completion of all modifications to meet the provisions of Appendix R within a specified time from the effective date of this fire protection rule, February 17, 1981, except for modifications to provide alternative or dedicated safe shutdown capability. These latter modifications (III.G.3.) require NRC review and approval. Hence, § 50.48(c) requires their completion within a certain time after NRC approval. The date for submittal of design descriptions of any modifications to provide alternative or dedicated safe shutdown capability was specified as March 19, 1981.

By letter dated March 19, 1981, as supplemented November 9, 1981, Southern California Edison Company requested an exemption from 10 CFR 50.48(c) with respect to the requirements of Section III.G. This request would extend the deadline for submittal of plans and schedules for a safe shutdown capability, including design descriptions of modifications needed to satisfy section III.G.3, from March 19, 1981 to approximately six months after completion of the Systematic Evaluation Program.

When this Fire Protection Rule was approved by the Commission, it was understood that the time required for each licensee to re-examine those previously-approved configurations at its plant to determine whether they meet the requirements of section III.G of Appendix R to 10 CFR Part 50 was not well known and would vary depending upon the degree of conformance. For each item of non-conformance that was found, a fire hazards analysis had to be performed to determine whether the existing configuration provided sufficient fire protection. If it did, a basis had to be formulated for an exemption request. If it did not, modifications to either meet the requirements of Appendix R or to provide some other acceptable configuration, that could be justified for an exemption, had to be designed. Where fire protection features alone could not ensure protection of safe shutdown capability, alternative or dedicated safe shutdown capability had to be designed as required by section III.G.3. of Appendix R. Depending upon the extensiveness and number of the areas involved, the time required for this re-examination, reanalysis and redesign could vary from a few months to a year or more. The Commission decided, however, to require one, short-term date for all licensees in the interest of ensuring a best-effort, expedited completion of compliance with the Fire Protection Rule, recognizing that there would be a number of licensees who could not meet these time restraints but who could then request appropriate relief through the exemption process. Licensees for 44 of the 72 plants to which Appendix R applies (plants with an operating license issued prior to January 1, 1979) have requested such schedular relief.

The licensees for the remaining 28 plants made submittals to meet the schedular requirements of § 50.48(c). All of these submittals, however, were deficient in some respects. In general, much of the information requested in a generic letter (81-12) dated February 20, 1981, to the licensees of all 72 plants, was not provided. Therefore, additional time is being used to complete those submittals also.

III

Amendment 44 to Provisional Operating License No. DPR-13, supported by the staff's Fire Protection Safety Evaluation Report (FPSER) for San Onofre Unit 1 dated July 19, 1979, predated issuance of the revised 10 CFR 50.48 and Appendix R. This amendment and FPSER approved the deferral of the implementation of certain fire protection modifications to the completion of the Systematic Evaluation Program (SEP). In approving the schedular requirements of the revised 10 CFR 50.48, the Commission decided that implementation of the fire protection modifications should not be deferred to the SEP. By letter dated March 19, 1981, Southern California Edison stated that with the exception of providing alternative or dedicated safe shutdown capability per Section III.G of Appendix R, it was probable that each of the fire protection items could be implemented in accordance with the required schedules in the revised 10 CFR 50.48. The licensee has informed us that these modifications are scheduled to be completed during the current outage which began on February 27, 1982.

As stated previously, the licensee's supplemental application dated November 9, 1981, requested an exemption from 10 CFR 50.48(c) that would adjust the deadline for submission of required information regarding safe shutdown capability for San Onofre Unit 1 to approximately six months after completion of SEP. None of the other plants in the SEP have requested a schedular delay subsequent to the issuance of the revised 10 CFR 50.48 that is linked to completion of the SEP. All but a few licensees have indicated submittal dates prior to July 1, 1982, and many have already made their submittals. On this basis, the Commission cannot find that Southern California Edison's proposed schedule exhibits a best effort in meeting the requirements of 10 CFR 50.48(c) and Appendix R to 10 CFR Part 50. Therefore, in the judgment of the Commission, the time elapsed from November 19, 1980, when the Fire Protection Rule was published, until July 1, 1982, allows adequate time for the licensee to complete the submittal. Accordingly, a schedular exemption until July 1, 1982 is the subject for consideration.

IV

Prior to the issuance of Appendix R, San Onofre Unit 1 had been reviewed against the criteria of Appendix A to the Branch Technical Position 9.5–1 (BTP 9.5–1). The BTP 9.5–1 was developed to resolve the lessons learned from the fire at Browns Ferry Nuclear Plant. It is broader in scope than Appendix R, formed the nucleus of the criteria developed further in Appendix R and in its present, revised form constitutes the section of the Standard Review Plan used for the review of applications for construction permits and operating licenses of new plants. The review was completed by the NRC staff and its fire protection consultants and a Fire Protection Safety Evaluation (FPSER) was issued. A few items remained unresolved. Further discourse between the licensee and the NRC staff resulted in resolution of these items as documented in Supplement No. 1 to the FPSER dated February 4, 1981. The licensee has completed most of the fire protection modifications and had indicated that the remaining modifications not associated with alternative or dedicated shutdown capability are scheduled to be completed during the current outage which began on February 27, 1982. In addition, as stated in our FPSER, the licensee has taken several measures to provide alternate shutdown capability in the interim by the installation of an additional source of offsite power, modifications to the station air system, provisions for isolation capability of affected control system, and development of station procedures. Therefore, San Onofre Unit 1 has been upgraded to a high degree of fire protection already and the extensive reassessment involved in this request for additional time is to quantify, in detail, the differences betweeen what was recently approved and the specific requirements of section III.G to Appendix R of 10 CFR 50.

Based on the above considerations, we find that the licensee has completed a substantial part of the fire protection features at San Onofre Unit 1 in conformance with the requirements of the Fire Protection Rule and is applying significant effort to complete the reassessment of any remaining modifications which might be necessary for strict conformance with section III.G. We find that because of the already-completed upgrading of these facilities, there is no undue risk to the health and safety of the public involved with continued operation until the completion of this reassessment on July 1, 1982. Therefore, an exemption should be granted to allow such time for completion. However, because we have found that most submittals of this reanalysis to date from other licensees have not been complete; that is, not all of the information requested by Generic Letter 81–12 dated February 20, 1981, was provided, we are adding a condition to this exemption that requires all such information to be submitted by the date granted.

V

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants the following exemptions with respect to the requirements of section III.G of Appendix R to 10 CFR 50:

(1) The date, March 19, 1981, for submittal of plans and schedules to achieve compliance as required by § 50.48(c)(5) is extended to July 1, 1982; and

(2) The date, March 19, 1981, for submittal of design descriptions of alternative or dedicated shutdown systems to comply with section III.G.3, as required by § 50.48(c)(5) is extended to July 1, 1982.

Provided that the following condition is met:

The design description of alternative or dedicated shutdown systems to comply with section III.G.3., as required by § 50.48(c)(5) shall include a point-by-point response to each item in Section 8 of Enclosure 1 to Generic Letter 81–12 dated February 20, 1981, and to each item in Enclosure 2 to Generic Letter 81–12, dated February 20, 1981.

If the licensee does not meet the above condition, the licensee will be found in violation of 10 CFR 50.48(c) even though the submittal may be made within the time limit granted by the exemption. If such a violation occurs, imposition of a civil penalty will be considered under section 234 of the Atomic Energy Act, as amended. Such a violation will be a continuing one beginning with the date set in the exemption for submittal and terminating when all inadequacies are corrected.

A delay in the determination of inadequacy by the staff, caused by the work-load associated with reviewing all of the submittals falling due near the same time, will not relieve the licensee of the responsibility for completeness of the submittal, nor will such delay cause any penalty that may be imposed to be mitigated.

The NRC staff has determined that the granting of this exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

Dated at Bethesda, Maryland this 10th day of May 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82–13325 Filed 5–14–82; 8:45 am]

BILLING CODE 7590–01–M

Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals Meeting Notice

Notice is hereby given in accordance with Section 10 of the Federal Advisory Committee Act that NRC's Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals will hold its second meeting at 10:00 a.m., June 2, 1982. This meeting will take place at the office of Shaw, Pittman, Potts and Trowbridge, South Building, 9th Floor Lobby, 1800 M Street, NW, Washington, DC and will be open for public observation. The third meeting of the committee has been scheduled for 10:00 a.m. on June 10, 1982 at the asme location.

At these meetings, the committee will continue its review of proposals for reforming the NRC's licensing process for nuclear plants. Transcripts of the meetings will be made available for public inspection and copying at NRC's Public Document Room, 1717 H Street, NW, Washington, DC.

Further information on the meetings may be obtained from Mr. Rothschild, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555. (Telephone 202/634–1465).

Dated at Washington, D.C., this 13th day of May, 1982.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc 82–13430 Filed 5–14–82; 8:45 am]

BILLING CODE 7590–01–M

THE PRESIDENT'S TASK FORCE ON PRIVATE SECTOR INITIATIVES

Meeting

May 12, 1982.

The President's Task Force on Private

Sector Initiatives will hold its third meeting on May 26, 1982 in the Francis Scott Key Ballroom, South of the Baltimore Hilton Hotel, (101) West Fayette Street, Baltimore, Maryland.

The meeting will convene at 9:00 a.m. and adjourn at 1:00 p.m. The meeting is open to the public. However, due to fire regulations, the attendance will be limited. Those persons wishing to attend should call Tish Manes at the President's Task Force on Private Sector Initiatives at (202) 395–7366 to make a reservation. Calls should be placed during business hours no sooner than May 20, and no later than May 21, 1982.

Michael P. Castine,

Deputy Director, Private Sector Initiatives.

[FR Doc. 82–13350 Filed 5–14–82; 8:45 am]

BILLING CODE 3510-CW-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer—George G. Kundahl—202–272–2700. Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, D.C. 20549

New

Form U–5

No. 270–257

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for clearance proposed Rule 15b7–1, (17 CFR 240.15b7–1), and proposed Form U–5 under the Securities Exchange Act of 1934 which would provide qualification standards for broker-dealers not members of a registered national securities association ("SECO broker-dealers") and their associated persons.

The potential respondents are all SECO broker-dealers and their associated persons. There are currently approximately 436 SECO broker-dealers registered with the Commission.

Submit comments to OMB Desk Officer: Robert Veeder 202–395–4814.

George A. Fitzsimmons,

Secretary.

May 11, 1982.

[FR Doc. 82–13305 Filed 5–14–82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22496; 70–6732]

New England Electric System; Proposed Transactions by Holding Company to Assure Payment of Post-Retirement Benefits to Subsidiaries' Employees

May 11, 1982.

In the Matter of New England Electric System, 25 Research Drive, Westborough, Massachusetts 01581 (70–6732)

New England Elecrtic System ("NEES"), a registered holding company, has filed a declaration with this Commission pursuant to Section 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 promulgated thereunder.

The declaration states that the subsidiaries of NEES (the "Employers") provide for the benefit of certain of their officers: an Incentive Compensation Plan, a Deferred Compensation Plan, an Executive Supplemental Retirement Plan, and a Retirement Supplement Plan (the "Four Plans"). To avoid constructive receipt of income for federal income tax purposes, the amounts held under the Four Plans are not funded. In order to provide greater assurance of payment of post-retirement benefits to the particpants under the Four Plans, NEES proposes (1) to make any payment due under the Four Plans not made by the Employer liable for such payment and (2) to indemnify surety companies for any payments they might make which are not made by the Employers or NEES.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 7, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulations, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–13297 Filed 5–14–82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18727; SR-CBOE–80–16]

Chicago Board Options Exchange, Inc.; Order Partially Approving Proposed Rule Change on Summary and Temporary Basis

May 11, 1982.

In the matter of Chicago Board Options Exchange, Incorporated, LaSalle at Jackson, Chicago, IL 60604 (SR–CBOE–80–16).

On June 9, 1980, the Chicago Board Options Exchange, Incorporated ("CBOE"), filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change to modify its operations and procedures relating to options market makers. Among other things, the proposed rule change created a single class of market makers by eliminating supplemental appointments, increased the number of options classes in which market makers were permitted to have appointments, and established a new exchange committee responsible for evaluating the performance of and taking disciplinary action against market makers.[1] The proposed rule change also required that a minimum number of contracts or percentage of transactions be executed by market makers in person.[2]

On February 12, 1981, the Commission, pursuant to Section 19(b)(2) of the Act, approved the proposed rule change.[3] On April 13, 1981, Charles B. Clement, a member of the Chicago Board of Trade ("CBT") and a market maker on the CBOE, filed a petition for review of the Commission's approval order in the United States Court of Appeals of the Seventh Circuit.[4]

[1] Notice of the proposed rule change was published in Securities Exchange Act Release No. 16919 (June 24, 1980), 45 FR 43914 (1980).

[2] Subsequently, on July 9, 1980, the CBOE filed an amendment to the proposed rule change excluding certain closing transactions from the calculations of transactions required to be executed in person by market makers and requiring the recording of additional information on market maker orders. Notice of the amendment to the proposed rule change was published in Securities Exchange Act Release No. 17012 (July 25, 1980), 45 FR 51325 (1980).

[3] Securities Exchange Act Release No. 17535 (February 12, 1981), 46 FR 13055 (1981).

[4] On April 14, 1981, Clement requested that the Commission stay its approval order pending a

On April 5, 1982 the Seventh Circuit vacated the Commission's order approving the proposed rule change.[5]

The Court based its decision upon a finding that the Commission, in approving the proposed rule change and denying the stay, did not adequately consider the possible anti-competitive and discriminatory effects of the rule change on CBT members who also were CBOE market makers as require by Sections 6(b)(7) and 19(b)(2) of the Act. The Court then remanded the matter to the Commission for further proceedings consistent with its decision. The Court specifically refrained from addressing the substantive merits of the rule change.

The Commission has reviewed the rule filing and has determined to approve, on a summary basis and for a 90-day period, those portions of the proposed rule change not in contention in the judicial proceeding.[6] In particular, the Commission has determined to approve on a temporary basis all of the amendments contained in the proposed rule change except those establishing requirements that a specified minimum number of options contracts or percentage of market makers options transactions must be executed in person.[7]

The Commission is approving the proposed changes on temporary basis without prior additional public comment because it appears approval is necessary, consistent with Sections 6(b)(1) and 6(b)(5) of the Act, to assure that the CBOE has the capacity to enforce compliance by CBOE market makers with the Act and rules thereunder and the rules of the CBOE, as well as for the protection of investors and the maintenance of fair and orderly markets on the CBOE. The proposed changes have been in effect since February 12, 1981. To require CBOE to return to its former procedures would result in considerable disruption of its ability to monitor and evaluate market maker activities, particularly because it would leave the CBOE without a basis to evaluate maker performance. In addition, a policy manual revised by the CBOE and filed in connection with the proposed rule change permitted CBOE market makers to increase substantially the number of options classes in which they hold appointments. Return to the status of CBOE rules before the rule changes became effective would require market makers to give up appointments granted as a result of that revision, a result that clearly would be disruptive and confusing to CBOE market markers, and possibly anticompetitive.

In addition, the Commission believes that these proposed rule changes are consistent with the Act because by increasing the number of options classes in which a CBOE market maker may be registered, they enhance opportunities for fair competition among broker-dealers. In this connection, the Commission believes that it is important to note that when it initially published the proposed rule change these proposed changes, unlike the "in-person" requirement, were not the subject of any adverse comment.

The Commission therefore finds that approval of these proposed changes is necessary in the public interest and for the protection of investors. The Commission further finds good cause to allow the rule change to become effective immediately because their absence impairs the CBOE's ability to enforce compliance by its members and their associated persons with the CBOE's rules, the Act and Commission rules thereunder, and it would be contrary to the public interest to require CBOE to operate without the rules.

The Commission has determined that 90 days should be sufficient to permit the Commission and the CBOE to reevaluate the entire proposal in light of the Court's opinion, and in particular will permit the Commission to consider *de novo* whether the proposed rule change, or any other proposal submitted by the CBOE during the 90-day period, is consistent with the Act.

Interested persons are invited to submit written data, views and arguments concerning those portions of the proposed rule change being approved on a temporary basis by June 7, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, DC 20549. Reference should be made to File No. SR–CBOE–80–16.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed changes which are filed with the Commission and all written communications relating to the proposed changes between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the principal office of the above-mentioned self-regulatory organization.

It is therefore ordered, that the proposed rule change referenced above be, and it hereby is, approved for a period of 90 days from the date hereof.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-13298 Filed 5-14-82; 8:45 am]

BILLING CODE 8010-01-M

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determination by the Court of Appeals on the issues presented in his petition. The Commission denied Clement's request in Securities Exchange Act Release No. 17815 (May 22, 1981).

[5] *Clement* v. *Securities and Exchange Commission*, No. 81–1583 (7th Cir., April 5, 1982).

[6] CBOE has requested that the Commission approve on an accelerated and temporary basis those portions of the rule change not at issue in the court's decision. *See* letter from Anne Taylor, Secretary and Associate General Counsel, CBOE, to Richard T. Chase, Assistant Director, Division of Market Regulation, SEC (April 14, 1982).

[7] The following addition to Interpretation and Policy 8.7(.03) has not been approved:

"Moreover, for each quarter, except for unusual circumstances, a Market-Maker must execute in person and not through the use of orders either (a) 75% of his total trading activity less closing transactions not executed in person (measured in terms of contract volume), or (b) 20,000 contracts in those classes to which a Market-Maker holds an appointment."

In approving the rule change temporarily, the Commission notes that Rule 8.7(b) imposes a "continuous obligation" on a person with a market maker appointment to maintain a fair and orderly market. Approving this portion of the rule change is not inconsistent with the Court's opinion and does not appear to result in discrimination against CBT members because CBOE has interpreted this provision in connection with the rule change to "impose a duty on market makers only while they are on the trading floor," and does not impose an obligation to be continuously on the floor. *See* letter from Arne R. Rode, General Counsel, CBOE, to Geroge A. Fitzsimmons, Secretary, SEC (April 20, 1981).

[Release No. 34–18721; File No. SR–OCC–82–8]

Self-Regulatory Organizations; Proposed Rule Change by Options Clearing Corp. Relating to Use of Letters of Credit for Margin Required To Be Deposited With the Corporation

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 April 27, 1982, The Options Clearing Corporation ("OCC") 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 OCC. 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 the Proposed Rule Change

The proposed rule change would set forth the existing standards for approval of U.S. financial institutions as letter of credit issuers, and permit OCC to approve letters of credit from non-U.S. issuers meeting certain specified criteria. These standards relate to net worth, country of origin, and institution strength. The proposed rule change would also include limitations on Clearing Members' use of letters of credit issued by non-U.S. banks.

II. Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified below. OCC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to codify existing standards for approval of U.S. financial institutions as letter of credit as issuers, and to expand the forms of margin available to Clearing Members to meet OCC margin requirements by providing for the approval by OCC of qualifying non-U.S. banks issuers of letters of credit. The criteria for non-U.S. banks derive from the diversity of regulatory structures and political and economic systems and climates outside the U.S. The restrictions on use of non-U.S. letters of credit by Clearing Members are intended to limit dependence by OCC and its Clearing Members on foreign bank issuers, and the appropriateness of these limitations will be periodically re-evaluated by OCC.

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934, as amended, in that it is intended to assure the safeguarding of securities and funds which are in the custody or control of OCC or for which it is responsibile by providing reasonable standards for the acceptance of letters of credit from foreign and domestic issuers.

(B) Burden on Competition

The proposed rule change is expected to have a positive impact on competition by allowing U.S. branches and agencies of foreign banks to enter the market for Clearing Members' letters of credit.

(C) Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were not and are not intended to be solicited with respect to the proposed rule change and none were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

By June 11, 1982, or within such longer period (i) as the Commission may designate up to 90 days if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule should be disapproved.

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 ruler 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 by June 7, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

May 10, 1982.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-13299 Filed 5-14-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0330]

First Wall Street Small Business Investment Co., Inc.; License Surrender

Notice is hereby given that First Wall Street Small Business Investment Co., Inc., 767 Fifth Avenue, Suite 4403, New York, New York 10022 has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). First Wall Street Small Business Investment Co., Inc., was licensed by the Small Business Administration on August 31, 1976.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on April 22, 1982, and accordingly, all rights, privileges, and franchises derived there from have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: May 10, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-13314 Filed 5-14-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06-0256]

FSA Capital, Ltd., Issuance of License To Operate as a Small Business Investment Company

On March 11, 1982, a notice was published in the **Federal Register** (47 F.R. 10694), stating that an application had been filed by FSA Capital, Ltd., 301 West Sixth Street, Austin, Texas 78701, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)), for a license to operate as a small business investment company (SBIC).

Interested parties were given until the close of business March 26, 1982, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, and after having considered the application and all other information, SBA issued License No. 06/06-0256, on April 23, 1982, to FSA Capital, Ltd. to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies)

Dated: May 10, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-13315 Filed 5-14-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0431]

MRN Capital Co.; Issuance of a License To Operate as a Small Business Investment Company

On September 15, 1981, a Notice was published in the **Federal Register** (46 FR 45847) stating that MRN Capital Company, 111 Great Neck Road, Great Neck, New York 11021, had filed an application with the Small Business Administration pursuant to § 107.102 of the SBA Rules and Regulations governing small business investment companies (13 CFR 107.102 (1981)), for a license to operate as a small business investment company.

Interested parties were given until the close of business September 30, 1981, to submit their comments. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA on April 23, 1982, issued Licensed No. 02/02-0431 to MRN Capital Company, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 10, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-13316 Filed 5-14-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: (1) Motor vehicle, (2) Rail freight, (3) Cargo vessel, (4) Cargo-only aircraft, (5) Passenger-carrying aircraft.

DATES: Comment period closes June 14, 1982.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, D.C.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8816-N	Hunt-Wesson Foods, Inc., Fullerton, CA	49 CFR 172.504(c)(2)	To authorize shipment of matches, strike anywhere, flammable solid, in quantities of up to 2,000 pounds without placarding. (Mode 2).
8817-N	Allied Corp., Morristown, NJ	49 CFR 173.274(a)(1), Note 1	To authorize shipment of fluorsulfonic acid, corrosive material, in acid resistant screw cap glass bottles instead of glass bottles with glass stoppers. (Modes 1, 2, 3).
8818-N	Dow Chemical Co., Midland, MI	49 CFR 173.252(a)(3), 179.102-7(a)(1)	To authorize shipment of bromine corrosive material in DOT Specification 105A500W tank car tanks with a maximum capacity of 263,000 pounds gross weight. (Mode 2).
8819-N	Radiation Service Organization, Laurel, MD	49 CFR 173.395	To authorize a one-time shipment, via exclusive use vehicle, of less than 100 curies of encapsulated metallic cobalt-60 in its original non-DOT specification and uncertified container. (Mode 1).
8820-N	Fauvet-Girel, Paris, France	49 CFR 173.315	To manufacture, mark and sell non-DOT specification IMCO Type 5 portable tanks for shipment of various refrigerant gases, nonflammable gases. (Modes 1, 2, 3).
8821-N	Rocket Research Co., Redmond, WA	49 CFR 173.304	To authorize shipment of compressed gases, n.o.s. in non-DOT specification inflator assembly, incorporating an explosive device, for use in a sonobuoy. (Modes 1, 4).
8822-N	Certified Tank Manufacturing, Inc., Long Beach, CA	49 CFR 173.119(a)(17), 173.245(a)(30), (31), 178.340-7, 178.342-5, 178.343-5.	To manufacture, mark and sell non-DOT specification cargo tanks complying generally with DOT Specification MC-307/312 except for bottom outlet valve variations for transport of flammable or corrosive waste liquids or semi-solids. (Mode 1).
8823-N	International Air Transport, Anchorage, AK	49 CFR 172.101, 173.119, 175.3	To authorize the transportation of fuel, aviation, turbine engine, classed as flammable liquid, in DOT Specification 34 polyethylene containers of 15 gallon capacity loaded in cargo compartments of helicopters. (Mode 4).
8824-N	Pengo Industries, Inc., Fort Worth, TX	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107 Appendix (B).	To authorize shipment of various Class A and B explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4).
8825-N	Mustang Aviation, Inc., San Diego, CA	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107 Appendix (B).	To authorize carriage of Class A, B and C explosives not permitted for air shipment or in quantities of greater than those prescribed for air shipment. (Mode 4).
8826-N	Phoenix Air, Marietta, GA	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107 Appendix (B).	To authorize carriage of various Class A, B and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4).

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8827-N	Union Carbide Corp., Danbury, CT	49 CFR 173.315	To authorize shipment of vinyl methyl ether, flammable gas, in DOT Specification MC-330 and MC-331 cargo tanks. (Mode 1).
8828-N	Economics Laboratory, Inc., St. Paul, MN	49 CFR 173.277	To authorize use of a DOT Specification 12A fiberboard box containing 4 inner 1-gallon capacity, vented polyethylene bottles for shipment of a sodium hypochlorite solution, classed as a corrosive material. (Mode 1).
8829-N	Mountstar Division of Amalgamet, Inc., New York, NY	49 CFR 173.154	To authorize a one-time shipment of zinc skimmings, flammable solid, in non-DOT specification 20 foot freight containers lined with heavy duty plastic. (Mode 3).
8830-N	Logical Technical Services Corp., Newtown, PA	49 CFR 173.119	To manufacture, mark and sell DOT Specification 34 containers for shipment of methyl alcohol, solution classed as a flammable liquid. (Modes 1, 2, 3, 4).
8831-N	Teledyne Energy Supplies, Timonium, MD	49 CFR 173.249, 172.400	To authorize shipment of potassium hydroxide solution, not exceeding one gallon in non-DOT specification blotter like material within a module overpacked in a plywood case, excepted from labeling. (Modes 1, 4).
8833-N	Stresau Laboratory, Inc., Spooner, WI	49 CFR 173.73, 173.74, 173.78	To authorize shipment of an initiating explosive, Class A, wetted with hexane, flammable liquid, in inside containers of plastic not to exceed 30 grams of explosive, overpacked in DOT Specification 5, 5B 17H metal drums containing no more than 8 inside containers. (Mode 1).
8834-N	Crosby & Overton, Inc., Long Beach, CA	49 CFR 173.119(a), 173.119(m), 173.245(a), 173.346(a), 178.340-7, 178.341-5, 178.343-5.	To authorize shipment of various liquid and semi-solid waste flammable, corrosives or poison B materials in non-DOT specification vacuum cargo tanks similar to DOT Specification 307/312 except for bottom outlet and circumferential reinforcement. (Mode 1).
8835-N	Georgia-Pacific Corp., Atlanta, GA	49 CFR 172.202(b)	To authorize use of shipping papers which list the quantity ordered and product number before the proper shipping name. (Modes 1, 2).
8836-N	United States Steel Corp., McKeesport, PA	49 CFR 178.37-10(b), 178.37-10(c), 178.45-7(a), 178.45-7(b).	To manufacture, mark and sell DOT Specification 3A, 3AX, 3AA, 3AAX and 3T high pressure cylinders with small reduced well sections which would permit calculation of excess stresses at these points, for shipment of those compressed gases presently authorized in these cylinders. (Modes 1, 2, 3).
8837	Fabricated Metals, Inc., San Leandro, CA	49 CFR 173.245	To manufacture, mark and sell non-DOT specification portable steel tanks with a polyethylene liner for shipment of a corrosive liquid, n.o.s. (Modes 1, 2, 3).

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on May 6, 1982.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-13021 Filed 5-14-82; 8:45 am]

BILLING CODE 4910-60-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 95
Monday, May 17, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, May 21, 1982.

PLACE: 2033 K Street, NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–726–82 Filed 5–13–82; 12:42 pm]

BILLING CODE 6351–01–M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, May 28, 1982.

PLACE: 2033 K Street, NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–727–82 Filed 5–12–82; 12:42 pm]

BILLING CODE 6351–01–M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, May 18, 1982.

PLACE: Commission Conference Room 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

1. Ratification of Notation Vote: Freedom of Information Act Appeal No. 82–3–FOIA–46.
2. Freedom of Information Act Appeal No. 82–3–FOIA–038–MK, concerning a request for information from an open investigative case file.
3. Freedom of Information Act Appeal No. 82–3–FOIA–2–AT, concerning a request for information from open Title VII investigative files.
4. Freedom of Information Act Appeal No. 82–3–FOIA–14–ME, concerning a request for administrative decisions on administrative subpoenas.
5. Freedom of Intormation Act Appeal No. 82–2–FOIA–10–ME, concerning a request for contents of a charge file.
6. Freedom of Information Act Appeal No. 82–2–FOIA–021–MK, concerning a request for copies of materials contained in three investigative age discrimination charge files.
7. A report on Commission Operations by the Executive Director.

Closed:

Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Officer, at (202) 634–6748.

This Notice Issued May 11, 1982.

[S–722–82 Filed 5–13–82; 10:10 am]

BILLING CODE 6570–06–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meetings

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 the Corporation's Board of Directors has determined, by affirmative vote of Chairman William M. Isaac, Director Irvine H. Sprague (Appointive), and Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business requires the withdrawal from the agenda for consideration in the Board's closed meeting scheduled for 2:30 p.m. on Monday, May 17, 1982, and the addition to the agenda for consideration in the Board's open meeting scheduled for 2:00 p.m. that same day, on less than seven days' notice to the public, of the following matter:

Petition of the Investment Company Institute seeking certain relief in connection with the creation and operation by The Boston Five Cents Savings Bank, Boston, Massachusetts, of The Boston Five Mutual Fund, The Boston Five Money Market Fund, The Boston Five Fund Distributor, Inc., and The Boston Five Fund Adviser, Inc.

By the same unanimous vote, the Board has also determined that Corporation business requires the withdrawal from consideration at its May 17, 1982 open meeting, on less than seven days' notice to the public, of the following matter:

Memorandum and Resolution re: Proposed new Part 350 of the Corporation's rules and regulations, to be entitled "Special Reporting Basis for Insured Savings Banks," which would improve the quality of financial data reported to the FDIC by insured savings banks by (1) requiring all insured savings banks to report all financial assets and liabilities acquired or funded on or after January 1, 1983 on a fair value basis for purposes of preparing their Reports of Condition and Income that are filed with the FDIC, and (2) permitting insured savings banks to restate all financial assets and liabilities and bank premises existing on January 1, 1983, to their fair value.

By the same majority vote, the Board determined that no earlier notice of these changes in the subject matter of the meetings was practicable.

Dated: May 12, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–725–82 Filed 5–13–82; 12:42 pm]

BILLING CODE 6714–01–M

5

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 3 p.m., May 13, 1982.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Closed.

MATTER TO BE CONSIDERED: Passenger vessel certification of Canadian Cruise Lines, Ltd., owner and operator of the passenger vessel *Prince George.*

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S-721-82 Filed 5-13-82; 10:06 am]

BILLING CODE 6730-01-M

6

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Thurday, May 20, 1982.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposals regarding Regulation B (Equal Credit Opportunity):

(A) Interpretations on treatment of income and disclosure of reasons for adverse action (proposed earlier for public comment—Docket No. R–0203); and

(B) Amendments to the business credit provisions (proposed earlier for public comment—Docket No. R–0185).

2. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne Assistant to the Board; (202) 452–3204.

Dated: May 12, 1982.

James McAfee,

Associate Secretary of the Board.

[S-723-82 Filed 5-13-82; 10:13 am]

BILLING CODE 6210-01-M

7

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 10 a.m., Wednesday, May 26, 1982.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary: (a) CAT scan equipment (Docket No. 825).
5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

S-724-82 Filed 5-13-82; 10:25 am]

BILLING CODE 7020-02-M

federal register

Monday
May 17, 1982

Part II

Department of Health and Human Services

Office of Human Development Services

Head Start Training and Technical Assistance Program; Availability of FY 1982 Funds

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Annoucnement No. 13600-821]

Head Start Training and Technical Asistance Program; Availability of FY 1982 Funds

AGENCY: Office of Human Development Services, HHS.

SUBJECT: Announcement of Availability of FY 1982 Funds and Request for Applications for Head Start Training and Technical Assistance Grants.

SUMMARY: The Administration for Children, Youth and Families (ACYF), Head Start Bureau, announces that competing applications will be accepted for new State-wide Training and Technical Assistance grants to assist local Head Start grantees in the management and provision of services in Regions I, II, IV, VI, VII, VIII, IX, X. Excluded from the State-wide provider system are Regions III and V. Applications will also be accepted for one T/TA grant to assist all Migrant Head Start programs and one grant to assist Indian Head Start programs in four States.

DATE: The closing for reciept of applications is July 1, 1982.

Scope of This Program Announcement

Under the restructured Head Start training and technical assistance system, we plan to place more emphasis on *technology transfer* by which we mean disseminating good program practices, developed and tested in Head Start, to other Head Start programs and—to the extent resources allow—to other State and local child care providers e.g., day care, public schools, health agencies, etc. As a parallel effort Head Start will also be systematically incorporating program practices from other social services programs. In addition, we will be placing increased emphasis on technical consultation services, by which we mean joint participation in the solution of programmatic and management problems. This joint participation of Head Start programs with training and technical assistance providers is intended to increase Head Start grantee capacity to manage and secure their own T/TA.

This program announcement contains the following sections:

- Program Purpose
- Program Goals and Objectives
- Program Priorities
- The Application Process

Grant Categories are listed below, and described in detail under Program Priorities. Applications are requested in the following two categories:

Grant Category 1: State-wide Training and Technical Assistance.

2: Indian and Migrant Programs Division Training and Technical Assistance.

2a: Training and Technical Assistance grant to serve migrant programs.

2b: Training and Technical Assistance grant to serve East Coast Indian programs (6 grantees in 4 States).

Program Purpose

The Head Start Act, Pub. L. 97-35, Subchapter B, section 648, provides for technical assistance to communities in developing, conducting, and administering programs and for training for specialized or other personnel needed in connection with Head Start programs. In keeping with the law, ACYF will provide financial assistance for training and technical assistance (T/TA) services to Head Start services to children and families. The training and technical assistance is to build capacity in all substantive service components, as well as administration and management, to meet the qualitative standards expected of Head Start.

Program Goals and Objectives

Beginning in Fiscal Year 1982, ACYF plans to restructure the Head Start T/TA delivery system, streamlining it into primarily State-wide provider service areas. The goals are fivefold:

1. To increase direct participation of local Head Start grantees and the broader child care/child development community in the planning, management and delivery of T/TA services.

2. To foster increased utilization of State/local government, private and voluntary sector resources in Head Start programs.

3. To make the Head Start T/TA system responsive to the T/TA needs of the broader child care/child development community.

4. To establish a more cost-effective T/TA network which is more responsive to the needs of Head Start programs at the local community level.

5. To increase Head Start grantee capcity for self-determination in asessing, securing, and managing T/TA services.

T/TA functions vital to the continued success and improvement of Head Start programs are to be assured. Among these functions are: Child Development Associate (CDA) training, assistance to grantees in identifying and correcting both programmatic and management deficiencies, and assistance to grantees in effecting linkages with other child and family service agencies.

The restructuring of the T/TA delivery system into State-wide provider service areas is expected to provide for cost-effectiveness through a reduction in requirements for consultants of staff T/TA from the provider. T/TA gantees will be expected to rely to the maximum extent upon existing Head Start program staff and parents as experts who will be available to provide T/TA services, generally at no fee (but with reimbursement as needed for travel and per diem). Grantees are expected to seek other resources from State and local governments and the private sector of the child care/child development community.

Eight of the ACYF regions will participate in the Category 1 Statewide provider system while Regions III and V will continue the T/TA delivery system presently in place in those regions. ACYF intends to do a management analysis of all the delivery systems during the FY 1983 operating year in order to make decisions for the FY 1984 system.

Program Priorities

The Administration for Children, Youth and Families proposes to make financial assistance awards for the provision of training and technical assistance (T/TA) services to Head Start programs. Each type project is described below.

Category 1: State-wide Training and Technical Assistance Projects.

ACYF solicits applications for financial assistance to assist Head Start programs to meet their T/TA needs and to arrange (through brokerage activities) or provide training and technical assistance as appropriate. Training and technical assistance should be delivered or arranged upon request or demonstrated need of the recipient Head Start program(s). While it is ACYF's intent to use the experienced and competent staff of other Head Start programs to deliver T/TA, some instances will require the use of the State-wide T/TA grantee's own specialists or specialists obtained from other sources in the Head Start Training and technical assistance network.

Functional areas of need include:

1. Assisting Head Start programs to identify, classify and assign priorities to their T/TA needs;

2. Organizing these needs for the geographic area served by the State-wide T/TA grantee to determine the range and severity of needs;

3. Identifying or helping Head Start programs to identify individual staff

members who can provide T/TA to others within that program or within the geographic area served by the State-wide T/TA grantee, or model programs or components which can serve as a demonstration site for T/TA.

4. Matching identified needs with appropriate individuals or site, and brokering an assistance relationship (which in most cases will not involve payment of a fee, though it may require reimbursement for travel and/or per diem);

5. Receiving reports of user satisfaction with T/TA services brokered or provided, and modifying future efforts accordingly;

6. Coordinating with the ACYF Regional Office and with other State-wide T/TA projects; and

7. Reporting plans, activities, and accomplishments to the ACYF Regional Office which awards the grants.

All of these functional areas of need are expected to be accomplished within the framework of advice and guidance received from other elements of the child development community. For this purpose, each State-wide T/TA grantee is to establish and work with a T/TA Advisory Group which is representative of Head Start programs and other child care/child development interests in the geographic areas to be served.

Subject matter areas of need include the components of the Head Start program: Education, Health (including nutrition, medical, and mental health, but not dental health), Parent Involvement, Social Services, Administration and Financial Management. An additional area of need is the ability to provide or to arrange through qualified sub-grantees, Child Development Associate (CDA) staff training. In the provision of CDA training; the State-wide T/TA grantee will be expected to do the following:

- Continue to use the CDA training criteria presently in use.
- Arrange for persons presently receiving CDA training to continue to participate in training to the extent feasible. Grantees are encouraged to work out collaborative arrangements with existing CDA training providers where this will facilitate continued provision of quality CDA training.

While most of these projects are expected to cover State-wide geographic areas, a few will cover a sub-State area or a multi-State area (see Appendix II). In some jurisdictions some Head Start programs will be funded directly by the Regional Office to purchase or provide their own T/TA. These programs will not receive technical assistance services from the State-wide T/TA grantee, but they are to be included in training courses which are intended to serve more than one Head Start program.

Number of grants to be awarded: Approximately 45.

Amount of Individual grants: See Appendix II.

Category 2: Indian and Migrant Programs Division T/TA grants.

2a: ACYF solicits applications for financial assistance to provide T/TA services to all migrant Head Start programs. The functional and subject matter expectations are the same as those described for the State-wide T/TA Grants, Category 1.

2b: ACYF solicits applications for financial assistance to provide T/TA services to 6 Indian Head Start programs located in New York (2), Florida (2), North Carolina (1), and Mississippi (1), the functional and subject matter expectations are the same as those described for the State-wide T/TA Grants, Category 1.

Number of grants to be awarded: 2.

Funds available: See Appendix II.

General Instructions

Training and technical assistance are considered key factors in implementing and maintaining Head Start program quality and performance. Training and/or technical assistance may be given to any Head Start program for the purpose of conforming with Head Start regulations and policies. The determination that particular areas of the program require improvement is made by comparing actual program operation with Federal regulations and policies that govern the Head Start program. Training is defined as an educational activity or event which is designed to impart knowledge, understanding or develop skills. Such activities may be in the form of assembled events (e.g. workshops, seminars), programmed or self-instructional activities. Technical assistance is a problem solving event generally utilizing the services of an expert. Such services are generally provided on-site, address a specific problem or set of problems and are intended to assist the consumer with an immediate resolution or an approach to resolving a given problem or set of problems.

Prospective grantees should assess needs expressed by Head Start programs within the designated geographic area in order to plan for training and/or technical assistance.

The scope of the training and technical assistance (T/TA) efforts includes content related to all the Head Start program components and administration. Regions have in the past used, and to varying extents in different Regions still may use some or all of the following tools and methods to identify T/TA needs: The Program and Administrative Self-Assessment/Validation Instruments (SAVIs), or other self-assessment tools, Routine Validations, In-Depth Validations, audits, general program reviews, pre-reviews and Performance Indicators. In addition, T/TA may be provided in major national and regional/IMPD ACYF program emphases and pertinent regional, multi-State and State Head Start Association emphases. Major content areas for Head Start training and technical assistance are:

- Education
- Parent Involvement
- Social Services
- Health (medical, nutrition, and mental health)
- Staff Training for Career Advancement
- Management and Administration
- Handicapped
- Bilingual-Multicultural

Handicapped and Bi-Lingual/Multi-Cultural T/TA should be provided only to the extent that Head Start programs have high priority T/TA needs in these areas which cannot be met by the Resource Access Projects (RAPs) and the Bi-Lingual/Multi-Cultural Resource Centers.

Management and administration includes systems for the management of needs assessments, program planning, program improvement, personnel administration, fiscal management, program funding, organizational structure and compliance with administrative and programmatic regulations and requirements.

The T/TA grantee should take full advantage of the resources and expertise available from other ACYF grants and contracts, and should coordinate as necessary with those contractors or grantees. Specifically, the coordination should be with Resource Access Projects for handicapped services: Home Start Training Centers (HSTC's) for Head Start programs which are home-based or have home-based components; Bi-Lingual/Multi-Cultural Resource Centers; the National and Regional Child Development Associate (CDA) grantees and contractors; the Public Health Service for dental health T/TA; and the national Exploring Parenting contractor. These contractors and grantees are available to provide leadership, materials, advice and, in most cases, both training and orientation for the staff of the State-wide T/TA grantee, and direct T/TA for local Head Start programs.

In addition, the ACYF will furnish a set of basic training materials on each of the following: The Head Start Administrative Regulations, a curriculum for conducting Management Institutes for New Head Start Directors, and (in FY 1983) a curriculum for Advanced Management Training for experienced Head Start Directors. Head Start and Day Care materials will be made available to the T/TA grantee for reproduction or distribution and use, depending upon availability.

In addition to program content which is strictly related to Head Start, the T/TA grantee should, to the extent feasible, provide generic training and technical assistance in early childhood education to all the elements of the child development community. This coverage should be on an as-needed basis and is regarded as "feasible" if T/TA can be offered to day care staff or organizations beyond the local Head Start program at no additional cost as, for example, including day care staff in Head Start training programs where space is available.

Each State-wide, multi-State and sub-State T/TA grantee must establish a T/TA Advisory Board, which must be representative of the entire child care/child development community in the area served, and which, for example, may include among its members: Representatives of Head Start Directors, or of a State Head Start Directors Association; State or local day care official; representatives of Head Start parents, or of a State Head Start Parent Association; representatives of the State chapter of a child development professional association, such as the Association for the Education of Young Children, or the State Head Start program staff, or of the State Head Start Staff Association; representatives of appropriate schools of faculties in colleges and universities; and experts in such subjects as: Bilingual Education Program Administration, Nutrition, Finance, Mental Health, Early Childhood Education, Licensing, Social Services, etc.

One person, of course, may have qualifications in several of the above areas. The Advisory Board should have no more than ten members if it is to function efficiently. The group should meet at least twice each year, and should be consulted frequently for the purposes of budget planning, needs assessment design, planning activities, policy development, resource allocation, coordination with other T/TA activities within the State, resource identification (volunteer or paid), design and adaptation of training materials, and design and analysis of evaluation activities.

Eligible Applicants

Any public or private non-profit organization may apply for financial assistance under this announcement, including but not limited to organizations formed especially for this purpose (such as consortia of State Head Start Associations and other early childhood organizations within a State), institutions of higher education, and existing non-profit providers of Head Start training and technical assistance. "For profit" organizations are not eligible applicants but may be proposed by eligible applicants as sub-contractors. Applications which are developed jointly by eligible applicants (non-profit organizations, colleges or universities, etc.) in consultation with business and industry are encouraged in order to bring together broader capability and interdisciplinary skills required to implement the intent of these projects. However, in all cases the recipient is expected to perform a substantive role as either principal performer of project activities or overall administration of the project. Applicants must be organizations which are located within the geographic areas to be served by the grants.

Available Funds

Under this announcement awards will be made in FY 1982 and FY 1983.

The Administration for Children, Youth and Families expects to award $9,229,613 in FY 1982 for Head Start Training and Technical Assistance projects.

It is expected that approximately 45 financial assistance awards will be made in Category 1 of this announcement and 2 awards under Category 2. The amount of awards is presented in Appendix II. Some FY 1982 awards will be for a period of less than twelve (12) months.

Appendix II is a table of (1) the amounts available from FY 1982 allocations for awards in each category and (2) the approximate annualized amount for a complete grant year.

Support for FY 1983 will depend on the grantee's satisfactory performance on the project for which the award was made, the availability of funds, the results of the management analysis in FY 1983 of the various T/TA delivery systems, and the best interests of the Government.

Recipient Share of the Project

Recipients are not required to provide a non-Federal share or in-kind contributions. However, in-kind contributions are encouraged.

Instrument of Award

ACYF will award grants under this Announcement.

The Application Process

Availability of Forms

Application for a financial assistance award under the Head Start Training and Technical Assistance Program must be submitted on the standard forms provided for this purpose. Application kits which include the forms, and other information may be obtained by writing or calling the Regional Office or Indian and Migrant Programs Division contact listed in Appendix III of this Program Announcement. Application conferences will be scheduled for prospective grantees. Attendance at these conferences is not required in order to apply for a grant. (See Appendix I).

Application Submission

One signed original and two copies of the application, including all attachments, must be submitted for Category 1 projects to the appropriate Regional Office of Fiscal Operations (OFO), Office of Human Development Services, and for the Category 2 projects to the Grants and Contracts Management Division (GCMD) in Washington, D.C. (See Appendix III for a list of grants officials).

Application Consideration

The cognizant ACYF Regional Program Directors and the Director of the Indian and Migrant Programs Division of the Administration for Children, Youth and Families determine the final action to be taken with respect to each application for financial assistance for this program. Applications which are complete and conform to the requirements of this program announcement are subject to a competitive review and evaluation by qualified persons from the Administration for Children, Youth and Families, and other consumer representatives.

The results of the review assist the Regional Program Director and IMPD Director in considering competing applications. Comments may also be requested from appropriate specialists and consultants inside and outside the Federal Government.

After the cognizant Regional Program Director or IMPD Director has reached a decision either to approve or not to fund competing applications, unsuccessful applicants are notified in writing of this decision. Successful applicants are

notified through the issuance of a Notice of Financial Assistance Awarded which sets forth the amount of funds awarded, the terms and conditions of the award, the budget period for which support is given, and the total period for which project support is contemplated.

Criteria for Review and Evaluation of Applications

Competing applications for financial assistance will be reviewed and evaluated against the following criteria:

I. Understanding: Extent to which the project objectives support or are capable of achieving the program objectives and priorities as described by the program announcement—10 points.

II. Technical Approach: Extent to which the application shows an ability to apply the appropriate training methodology to different audiences for different purposes, knowledge of the use of various training and technical assistance techniques and their application to Head Start program staff and parents, and ability to satisfy the requirements and standards of the statement of work–15 points.

III. CDA Services: Extent to which the application shows capacity for training in CDA competencies (including center, home-based, and bilingual) at the multi-State, Statewide or Sub-State level—10 points.

IV. Head Start Performance Standards and administrative requirements: Degree to which the application reflects the ability and knowledge to train Head Start staff and parents in areas of need to satisfy program standards and applicable regulations—15 points.

V. Grantee Capability: Extent to which the applicant has or will have adequate facilities and resources and demonstrates familiarity with needs assessment, training and resource identification in the areas to be served.

Staff Capability: Extent to which the applicant's staff are shown to be qualified, experienced in, and familiar with the work to be performed and the programs to be served; and extent to which professional personnel are shown to be available to the applicant at the anticipated time of award—20 points.

VI. Advisory Board and Child Care Community Linkages: Extent to which the proposed Advisory Board represents the user community and will be involved in planning, policy development, determination of needs, resource allocation and oversight in evaluating delivery. Extent to which linkages can be developed with entire child care community for benefit of both Head Start and other child care providers—25 points.

VII. Cost: Extent to which the estimated cost to the Government is reasonable considering the anticipated results—5 points.

Closing Date for Receipt of Application

The closing date for receipt of all applications under this Program Announcement is forty-five days after the date of the **Federal Register** in which the Announcement appears. If the forty-fifth day falls on a Saturday, Sunday, or Federal holiday, the closing date is the first working day thereafter. Applications may be mailed or hand-delivered.

Mailed applications. Applications mailed through the U.S. Postal Service shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent by first class mail, postmarked on or before the deadline date, and received in time for submission to the independent review group. (Applicants are cautioned to request a legible U.S. Postal Service postmark or to use express mail or certified or registered mail and obtain a legibly dated mailing receipt from the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Applications submitted by other means. Applications submitted by any means except mailing first class through U.S. Postal Service shall be considered as meeting the deadline only if they are physically received before close of business on or before the deadline date.

Late applications. Applications which do not meet these criteria are considered late applications and will not be considered in the current competition.

(Category of Federal Domestic Assistance Program Number 13.000 Project Head Start)

Clarence E. Hodges,

Commissioner, Administration for Children, Youth and Families.

Approved:

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Dated: May 10, 1982.

Appendix I

Regional Application Conference

Each ACYF Regional Office and the Indian and Migrant Programs Division (IMPD) will schedule a conference for interested organizations within the first two weeks after the date this announcement appears in the **Federal Register.** There will be one conference in each Regional Office city, and one conference in Washington for IMPD.

It is recommended that interested organizations secure a copy of the application kit before the conference, if possible. The number of application kits available at the conferences may be limited.

Contact the office of the ACYF Regional Program Director or the Director, IMPD, for the exact time, date and place of the conference for the Region (or IMPD) in which you are interested in submitting an application.

APPENDIX II

Region and State	Approximate amount of fiscal year 1982 grant	Duration of fiscal year 1982 grant (month)	Proposed maximum amount of a full year grant	Total number of head start grantees
I—Boston:				
Connecticut	$245,462	12	$245,462	14
Maine	93,075	12	93,075	23
Massachusetts	449,862	12	449,862	30
New Hampshire[2]	0	N/A	0	6
Rhode Island	72,957	12	72,957	9
Vermont[2]	0	N/A	0	5
II—New York:				
New Jersey[2]	188,350	7	324,264	25
New York[1] (New York City)	93,785	7	148,621	1
(NW NYS)[4]	169,131	7	283,731	24
(SE NYS)[4]	165,287	7	286,220	20
Puerto Rico[2]	152,223	7	283,731	2
Virgin Island[2]	0	N/A	0	1
IV—Atlanta:				
Alabama[2]	340,993	12	340,993	32
Florida[2]	342,500	12	342,500	31
Georgia[2]	296,759	12	296,759	30

APPENDIX II—Continued

Region and State	Approximate amount of fiscal year 1982 grant	Duration of fiscal year 1982 grant (month)	Proposed maximum amount of a full year grant	Total number of head start grantees
Kentucky[3]	316,926	12	316,926	39
Mississippi[3]	515,319	12	515,319	23
N. Carolina[3]	299,755	12	299,755	45
S. Carolina[3]	222,091	12	222,091	19
Tennessee[3]	275,203	12	275,203	22
VI—Dallas:				
Arkansas	181,002	9	231,670	21
Louisiana	269,812	9	356,353	33
New Mexico	151,300	9	191,300	14
Oklahoma	223,800	9	306,266	23
Texas	692,287	8	1,042,311	70
VII—Kansas City:				
Iowa	173,795	12	173,795	18
Kansas	135,755	12	135,755	16
Missouri	405,269	12	405,269	19
Nebraska	89,481	12	89,481	13
VIII—Denver:				
Colorado[5]	228,276	10	264,810	23
Montana[5]	48,891	8	71,780	9
N. Dakota[5]	41,558	8	61,013	9
S. Dakota[5]	41,285	8	60,295	7
Utah[5]	70,132	8	111,977	6
Wyoming[5]	31,819	8	46,925	6
IX—San Francisco				
Trust Territory	148,750	12	148,750	7
California	1,037,710	11	1,118,750	47
Hawaii	128,750	12	128,750	5
Arizona[3] amd Nevada	235,750	12	235,750	10
Samoa[3]	0	N/A	0	1
X—Seattle:				
Alaska[3]	0	N/A	0	3
Idaho	80,000	9	100,000	9
Oregon	144,093	8	206,593	19
Washington	197,937	9	262,937	22
Indian and Migrant Programs Division:				
Migrant	190,219	12	190,219	25
East Coast Indian	42,264	5	100,000	6

[1] New York State is divided into three separate areas to receive 2 or 3 grants. The three areas are New York City, Western and Northern New York State, and Southern and Eastern New York State. Applicants may apply for one or both of the areas outside of New York City. The grant for New York City will be awarded as a separate grant. Western and Northern New York State includes the following counties: Broome (2 HS programs), Cattaragugus, Cayuga, Chautauqua, Chemung, Cortland, Erie, Jefferson, Lewis, Madison, Monroe, Niagara, Onandaga (Syracuse), Oneida (2 programs), Ontario (Geneva), Orleans, Oswego, St. Lawrence, Schuyler, Steuben, Tioga, Tompkins. The remaining counties in New York State are included in the Southern and Eastern cluster.

[2] To be direct-funded. No competitive grants will be awarded.

[3] These Region II and IV state-wide grants for fiscal year 1982 will not include Child Development Associate Training (CDA). CDA will be direct-funded.

[4] These Region II sub-state grants in New York state will not include CDA. CDA in these jurisdictions will be direct-funded.

[5] In Region VIII the state grants will exclude the following number of grantees that are to be direct-funded: Colorado, 6; Montana, 1; North Dakota, 1; South Dakota, 1; Utah, 2; Wyoming, 1.

Appendix III.—Administration for Children, Youth and Families Regional Offices

Region I

Administration for Children, Youth and Families, OHDS/DHHS, Federal Building, Room 2000, Government Center, Boston, Massachusetts 02203 (Connecticut, Maine, Massachusetts, New Hampshire, Vermont, Rhode Island)
Richard Stirling, Regional Program Director, (617) 223–6450, FTS (8) 223–6450

Region II

Administration for Children, Youth and Families, OHDS/DHHS, Federal Building, Room 4149, 26 Federal Plaza, New York, New York 10278 (New York, New Jersey, Puerto Rico, Virgin Islands)
Elaine Danavall-Williams, Acting Regional Program Director, (212) 264–2974, FTS (8) 264–2974

Region III

Administration for Children, Youth and Families, OHDS/DHHS, 3535 Market Street, (P.O. Box 13716), Philadelphia, Pennsylvania 19101 (Delaware, Washington, D.C. Maryland, Pennsylvania, Virginia, West Virgina)
Alvin Pearis, Regional Program Director, (215) 596–0356 FTS (8) 596–0356

Region IV

Administration for Children, Youth and Families, OHDS/DHHS, 101 Marietta Tower, Suite 903, Atlanta, Georgia 3023 (Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee)
John Jordan, Regional Program Director, (404) 221–2134 FTS (8) 242–2134

Region V

Administration for Children, Youth and Families, OHDS/DHHS, 300 Souther Wacker Driver, 15th Floor, Chicago, Illinois 60606 (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)
Hilton Baines, Regional Program Director, (312) 353–6503 FTS (8) 353–6508

Region VI

Administration for Children, Youth and Families, OHDS/DHHS, 1200 Main Tower Building, 20th Floor, Dallas, Texas 75202 (Arkansas, Louisiana, New Mexico, Oklahoma, Texas
Tommy Sullivan, Regional Program Director, (214) 767–2976, FTS (8) 729–2976

Region VII

Administration for Children, Youth and Families, OHDS/DHHS, Federal Building, 3rd Floor, 601 East 12th Street, Kansas City, Missouri 64106 (Iowa, Kansas, Missouri, Nebraska)
German White, Regional Program Director, (816) 374–5401, FTS (8) 758–5401

Region VIII

Administration for Children, Youth and Families, OHDS/DHHS, 1961 Stout Street, Room 7417, Denver, Colorado 80202 (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)
David Chapa, Regional Program Director, (303) 837–3106 FTS (8) 327–3106

Region IX

Administration for Children, Youth and Families, OHDS/DHHS, Federal Building, Room 143, 50 United Nations Plaza, San Francisco, California 94102 (Arizona, California, Hawaii, Nevada, Pacific Trust Territories)
Roy Fleischer, Regional Program Director, (415) 556–6153 FTS (8) 556–6153

Region X

Administration for Children, Youth and Families, OHDS/DHHS, Arcade Plaza Building, 1321 2nd Avenue, Seattle, Washington 98101 (Alaska, Idaho, Oregon, Washington)
William Hayden, Regional Program Director, (206) 442–0838 FTS (8) 399–0482

Indian and Migrant Programs Division

Hank Aguirre, Director, Indian and Migrant Programs Division, Head Start Bureau, ACYF, OHDS/DHHS, Donohoe Building, Room 5851 (P.O. Box 1182) Washington, D.C. 20013, (202) 755–7715

Directors, Office of Fiscal Operations, Regions I–X, OHDS Grants and Contracts/IMPD

Region I

Mr. St. Clair Phillips, Director, OFO/HDS, JFK Federal Building, Room 200, Boston, Massachusetts 02203

Region II

Mr. Nicholas Cordasco, Director, OFO/HDS, Federal Building, 26 Federal Plaza, New York, New York 10007

Region III

Mr. William Chesser, Director, OFO/HDS, 3535 Market Street, P.O. Box 13716, Philadelphia, Pennsylvania 19101

Region IV

Mr. Ed Shulz, Acting Director, OFO/HDS, 101 Marietta Tower, Atlanta, Georgia 30323

Region V

Mr. Russell Armstrong, Director, OFO/HDS, 300 South Wacker Drive, Chicago, Illinois 60606

Region VI

Mr. Marvin Layne, Director, OFO/HDS, 1200 Main Tower, Dallas, Texas 75202

Region VII

Mr. William Howard, Director, OFO/HDS, 601 East 12th Street, Kansas City, Missouri 64106

Region VIII

Mr. Masaru Yoshimura, Director, OFO/HDS, 1961 Stout Street, Room 7440, Denver, Colorado 80202

Region IX

Mr. Al Huerta, Director, OFO/HDS, 50 United Nations Plaza, San Francisco, California 94102

Region X

Mr. Gary Griffith, Director, OFO/HDS, 1321 Second Avenue, Mail Stop 813, Seattle, Washington 98101

Indian and Migrant Programs Division

Mary White, Office of Human Development Services, Grants & Contracts Management Division, North Building, Room 1296, 330 Independence Avenue, S.W., Washington, D.C. 20201

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federal register

Monday
May 17, 1982

Part III

Department of Transportation

Coast Guard

Safety Rules for Self-Propelled Vessels Carrying Hazardous Liquids

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 30, 91, and 153

[CGD 78-128]

Safety Rules for Self-Propelled Vessels Carrying Hazardous Liquids

AGENCY: Coast Guard, DOT.
ACTION: Final rule.

SUMMARY: This Amendment revises the safety rules for self-propelled vessels carrying hazardous liquids. It adds to the list of cargoes regulated under Part 153 and includes carriage requirements for these new cargoes. It corrects editorial errors, clarifies provisions that are confusing, deletes provisions that are impractical, and adds a number of new provisions. In general, the changes are in keeping with comparable standards adopted by IMCO in the eighth set of amendments to the IMCO Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IMCO Chemical Code), Resolution A.212. Finally, the rule updates the addresses of the Coast Guard Merchant Marine Technical Offices found in Part 91.

DATE: This Amendment is effective on July 16, 1982.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander James W. Gormanson, Office of Merchant Marine Safety (G-MHM-1/14), Room 1405, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593, (202-426-1217).

SUPPLEMENTARY INFORMATION: On July 17, 1980, the Coast Guard published a proposal in the **Federal Register** (45 FR 48058) to revise the regulations governing self-propelled vessels carrying certain bulk hazardous liquid cargoes.

Interested persons were given an opportunity to submit written comments to the Coast Guard concerning the proposal until September 2, 1980. The Coast Guard announced in the **Federal Register** dated August 31, 1981 (46 FR 43789) that the final wording of CGD 78-128 would be discussed at a public meeting of the Chemical Transportation Advisory Committee's (CTAC) Chemical Vessels Subcommittee. The meeting was held at U.S. Coast Guard Headquarters in Washington, D.C., on October 7, 1981. A copy of the meeting minutes and the tape recording of the meeting have been placed in the public docket. A discussion of comments received is contained in the following paragraphs.

Drafting Information

The principal persons involved in drafting this proposal are: Lieutenant Commander James W. Gormanson, Project Manager, Office of Merchant Marine Safety and Michael N. Mervin, Project Attorney, Office of the Chief Counsel.

Discussion of Comments on Specific Sections

Section 91.55-15 Procedures for submittal of plans. The Coast Guard closed the 5th Coast Guard District (mmt) office effective July 1, 1981. Accordingly, its functions have been assumed by the 3rd Coast Guard District (mmt) office.

Section 153.2 Definitions. One comment recommended that the definition of "Cargo Area" in the rule correspond to the definition adopted for tankers in 46 CFR 30.10-5a. The Coast Guard has added a definition of "Cargo Area" in this rule to clear up confusion which has occurred in interpreting the definition in 46 CFR 30.10-5a. The definition conforms with that contained in the IMCO Chemical Code and should serve to clarify the intent of the requirements contained in this part.

The proposed definition of "emergency overflow device" was found to be ambiguous and has been deleted. A new definition of "independent," as applies to § 153.408, has been added. (See the discussion under § 153.408.)

Table I—Table of Minimum Requirements; Sections 153.555 Special requirements for inorganic acids: 153.600 Special requirements for nitropropane; 153.963 Incompatible cargoes; and 153.1055 Nitropropane. One comment suggested that the I-B electrical hazard class and group assigned to hydrochloric acid was unnecessarily restrictive since it is normally carried in rubber lined equipment. The Coast Guard assigned hydrochloric acid and other inorganic acids to hazardous atmosphere group I-B as a result of the reevaluation of the potential for hydrogen generation associated with the carriage of inorganic acids. The accumulation of hydrogen gas in deck areas is not considered a major problem due to its low density and relatively low evolution rate. Of primary concern, however, is the possibility of acid leaking into a void or other enclosed space where hydrogen would be generated and could accumulate in hazardous concentrations. Section 153.555 previously prohibited electrical equipment in enclosed compartments adjacent to or containing cargo tanks for inorganic acids. This rulemaking relaxes § 153.555 by deleting § 153.555(b) of the existing rule. Electrical equipment, that is safe in an atmosphere containing hydrogen and conforms to requirements in Subchapter J, may be used in enclosed spaces within the containment area. The Coast Guard is adding footnote 10 to table I which eliminates the inorganic acid I-B electrical hazard classification for weather deck locations. Subchapter J was recently revised to incorporate this exception for inorganic acids. This revision was published in the **Federal Register** on April 8, 1982. This relaxation is consistent with the international proposal for inorganic acids which is to be included in the IMCO Chemical Code. It also gives the owner/operator of a vessel the option to install I-B or no electrical equipment and still comply with Subchapter J.

The electrical hazard classifications for carbon disulfide, diethylethanolamine, dimethylethanolamine, and ethylene chlorohydrin have been corrected to reflect the current National Academy of Science (NAS) electrical hazard classifications. The electrical hazard classifications and special requirements for some of the new cargoes being added to table I have been corrected to conform to the NAS electrical hazard classifications and IMCO Chemical Code requirements.

Electrical installations for cargoes assigned new or revised electrical hazard classifications and groups should be completed at the first drydock examination or no later than two years from the effective date of these regulations. Footnote 12 has been added to those cargoes affected.

The Coast Guard received data from industry indicating that copper and copper alloys do not corrode significantly as a result of prolonged exposure to ethylene dichloride or styrene. The reference to § 153.236(b) for ethylene dichloride and styrene has been deleted by this rule. This will allow vessels having copper or copper alloy components in their cargo containment systems to be certified to carry ethylene dichloride and styrene. The Coast Guard will address IMCO concerning this issue in the future.

Four cargoes, vinyl acetate, vinyl ethyl ether, vinylidene chloride and vinyl toluene, were inadvertently left out of the NPRM and have been assigned § 153.1002 (a) and (b) as a special requirement in table I.

The Coast Guard has reevaluated the hazards of 1- or 2-Nitropropane and is relaxing the carriage requirements to be equivalent to be IMCO requirements. Accordingly, the special requirements

for nitropropane found in §§ 153.600 and 153.1055 are being deleted.

As discussed in the NPRM extensive revisions were proposed to table I. To ensure that table I is correct, a revised table is being promulgated in its entirety. The revised carriage requirements for a number of cargoes and new cargoes in the revised table include:

(1) The cargo name entry in table I of this part for "1,1- or 1,2-Dichloropropane" is amended to read "1,1-, 1,2- or 1,3-Dichloropropane."

(2) The table I column entries for propylene oxide are amended to read as follows:

Cargo name * * *	Vent height * * *	Special requirements
* * *	* * *	* * *
Propylene oxide[9]	B/3	.252, .408, .440, .500, .526, .530, .1010, .1011.

(3) The table I column entry under "Fire protection system" is amended to read "NSR" for the following cargoes:

Carbon tetrachloride
Caustic potash solution
Caustic soda solution
Chloroform
Chlorosulfonic acid
Dichloromethane
Ethylene dibromide
Hydrochloric acid
Nitric acid (70 pct or less)
Oleum
Pentachloroethane
Phosphoric acid
Sodium hydrosulfide solution (45 pct or less)
Sodium hypochlorite solution (15 pct or less)
Sulfur (liquid)
Sulfuric acid
1,1,2,2-Tetrachloroethane

(4) ".316" is added in proper numerical sequence to the "Special requirements" column of table I for "(iso-, n-, sec-, tert-) Butylamine."

(5) ".336" is deleted from the "Special requirements" column of table I for the following cargoes:

Acetonitrile
Acrylonitrile
Allyl alcohol
Allyl chloride
Aniline
Benzyl chloride
(iso-, n-, sec-, tert-) Butylamine
Chloroprene
Crotonaldehyde
Epichlorohydrin
Ethylene chlorohydrin
(ortho-, para-) Nitrotoluene
Oleum
Pentachloroethane
1,1,2,2-Tetrachloroethane

(6) ".440" is added in proper numerical sequence to the "Special requirements" column of table I for the following cargoes:

Ethyl ether
Isoprene
Sulfur (liquid)
Vinyl ethyl ether
Vinylidene chloride

(7) ".527" is added in proper numerical sequence to the "Special requirements" column of table I for the following cargoes:

Acetic acid
Acetic anhydride
Acetone cyanohydrin
Acrylonitrile
Allyl alcohol
Allyl chloride
Benzyl chloride
(iso-, n-, sec-, tert-) Butylamine
Carbon disulfide
Chloroform
Chloroprene
Chlorosulfonic acid
Crotonaldehyde
1,1-Dichloroethane
1,3-Dichloropropene
Diethylamine
Diisopropylamine
Dimethylamine (40 pct or less)
Epichlorohydrin
Ethyl acrylate
Ethylene chlorohydrin
Ethylene dibromide
Ethyl ether
Formaldehyde solution (37 to 50 pct)
Formic acid
Hydrochloric acid
Methyl acrylate
Motor fuel anti-knock compounds (containing lead alkyls)
Nitric acid (70 pct or less)
Oleum
Propionic acid
Toluene diisocyanate
Triethylamine
Vinylidene chloride
Vinyl ethyl ether

(8) ".602" is added in proper numerical sequence to the "Special requirements" column of table I for the following cargoes:

Chlorosulfonic acid
Oleum
Sulfuric acid
Toluene diisocyanate

(9) ".912(a)" is changed to read ".912(a)(1)" in the "Special requirements" column of table I for the following cargoes:

Acrylic acid
Acrylonitrile
(iso-, n-) Butyl acrylate
Butyl methacrylate
Chloroprene
(iso-, n-) Decyl acrylate
Ethyl acrylate
2-Ethylhexyl acrylate
Ethyl methacrylate
2-Hydroxyethyl acrylate
Isoprene
Methyl acrylate
Methyl methacrylate
(alpha-) Methyl styrene
Vinyl acetate
Vinylidene chloride
Vinyl ethyl ether
Vinyl toluene

(10) ".912(b)" is changed to read ".912(a)(2)" in the "Special requirements" column for table I for the following cargoes:

Acetone cyanohydrin
Benzyl chloride
Tetrahydrofuran

(11) ".1002 (a), (b)" is added in proper numerical sequence to the "Special requirements" column of table I for the following cargoes:

(iso-, n-) Butyl acrylate
Butyl methacrylate
Chloroprene
(iso-, n-) Decyl acrylate
Ethyl acrylate
2-Ethylhexyl acrylate
Ethyl methacrylate
2-Hydroxyethyl acrylate
Isoprene
Methyl acrylate
Methyl methacrylate
(alpha-) Methyl styrene
Vinyl acetate
Vinyl ethyl ether
Vinylidene chloride
Vinyl toluene

(12) ".1002" is added in proper numerical sequence to the "Special requirements" column in table I for "Acetone cyanohydrin.

(13) ".1002(a)" is added in proper numerical sequence to the "Special requirements" column in table I for "Acrylic acid."

(14) ".1004" is added in proper numerical sequence to the "Special requirements" column of table I for the following cargoes:

Acetone cyanohydrin
Acrylic acid
Acrylonitrile
Benzyl chloride
(iso-, n-) Butyl acrylate
Butyl methacrylate
Chloroprene
(iso-, n-) Decyl acrylate
Ethyl acrylate
2-Ethylhexyl acrylate
Ethyl methacrylate
2-Hydroxyethyl acrylate
Isoprene
Methyl acrylate
Methyl methacrylate
(alpha-) Methyl styrene
Tetrahydrofuran
Vinyl acetate
Vinylidene chloride
Vinyl ethyl ether
Vinyl toluene

(15) The entries under "Special requirements" column of table I for the cargoes listed below are revised to read as follows:

Cargo name	Special requirements
* * *	* * *
Ammonium hydroxide (28 pct or less NH_3)	.236(b),(c),(f), .526 .527
* * *	* * *
Carbon tetrachloride	.316, .409, .525, .526, .527, .1020
* * *	* * *
Ethylene dichloride	.408, .526
* * *	* * *
1- or 2-Nitropropane	.526
* * *	* * *
Styrene	.912(a)(1), .1002(a),(b), .1004
* * *	* * *
Tricresyl phosphate (containing 1 pct or more of the ortho isomer).	.408, .525(a),(c),(d),(e), .1020

(16) The table I column entry under "Electrical hazard class and group" is amended to read "I–A" for "Carbon disulfide."

(17) The table I column entry under "Electrical hazard class and group" is amended to read "I–B[10]" for the following cargoes:

Chlorosulfonic acid
Hydrochloric acid
Nitric acid (70 pct or less)
Oleum
Phosphoric acid
Sulfuric acid

(18) The table I column entry under "Electrical hazard class and group" is amended to read "I–C[12]" for the following cargoes:

(n-) Butyl ether
Dibutylamine
Diethylethanolamine
Dimethylethanolamine
2-Ethyl-3-Propyl acrolein
Paraldehyde
Furfural
Sulfur (liquid)
Vinyl ethyl ether

(19) The table I column entry under "Electrical hazard class and group" is amended to read "I–D[12]" for the following cargoes:

(iso-, n-, sec-, tert-) Butylamine
Butyl methacrylate
Chloroprene
Cyclohexylamine
1,1-Dichloroethane
Dimethylformamide
Ethylene chlorohydrin
Ethyl methacrylate
Formic acid
Isoprene
(alpha-) Methyl styrene
Motor fuel anti-knock compounds (containing lead alkyls)
Pyridine

(20) The table I column entry under "Electrical hazard class and group" is amended to read "NA" for the following cargoes:

Acetone cyanohydrin
Adiponitrile
Aminoethylethanolamine
Aniline
Benzyl chloride
Carbolic oil
Carbon tetrachloride
Caustic potash solution
Caustic soda solution
Chloroform
Creosote
Cresols
(iso-, N-) Decyl acrylate
Dichlorobenzene
Dichloromethane
Diethanolamine

Diethylenetriamine
Diisopropanolamine
Ethanolamine
Ethylene cyanohydrin
Ethylene dibromide
2-Ethylhexyl acrylate
2-Hydroxyethyl acrylate
2-Methyl-5-Ethyl pyridine
Naphthalene (liquid)
(mono-) Nitrobenzene
(ortho-, para-) Nitrotoluene
Pentachloroethane
Phenol
Phthalic anhydride (liquid)
(iso-, n-) Propanolamine
Propionic anhydride
Sodium hydrosulfide solution (45 pct or less)
Sodium hypochlorite solution (15 pct or less)
1,1,2,2,-Tetrachloroethane
Tetraethylenepentamine
Toluene diisocyanate
Tricresyl phosphate (containing 1 pct or more of the ortho isomer)
Triethanolamine
Triethylenetetramine

(21) The new cargoes incorporated into table I are as follows:

Alkyl benzene sulfonic acid
Butyl methacrylate, decyl methacrylate, cetyl eicosyl methacrylate mixture
Cashew nut shell oil (untreated)
2- or 3-Chloropropionic acid
Diisobutylamine
Diphenyl methane diisocyanate
Dodecyl diphenyl oxide disulfonate solution
2-Ethylhexylamine
Hexamethyleneimine
Isophorone diamine
Isophorone diisocyanate
Methacrylic acid
Methyl formate
(ortho) Nitrophenol
1,3-Pentadiene
Perchloroethylene
Polyethylene polyamines
Polymethylene polyphenyl isocyanate
Propionaldehyde
(iso-) Propylamine
(n-) Propylamine
(iso-) Propyl ether
1,1,2-Trichloroethane
Trichoroethylene
Vinyl neodecanate
Xylenols

One comment requested clarification of the acceptance of non-compatible cargoes stowed diagonally across a corner or cruciform joint. The Coast Guard has added a new 46 CFR Part 150-Compatibility Cargoes and Operational Requirements for Bulk Liquid Hazardous Waste Cargoes (October 23, 1980, 45 FR 70282) which specifically address loading of incompatible cargoes across a cruciform joint. Section 150.130(b) states, "In this subpart, isolation across a cruciform joint is equivalent to isolation by two barriers." With the addition of the new Part 150, references to compatibility in other regulations for bulk liquid cargoes, such as § 153.963, were deleted. Since no other reference to cargo compatibility information is contained in Part 153, a new footnote 1 is added to the table I column heading "Cargo name" to refer the user to Part 150. The existing footnotes 1–6 have been renumbered 2–7.

Section 153.14 Requirements for flammable and combustible cargoes. The proposed § 153.14 was found to duplicate the certification requirements for U.S. flag vessels found in §§ 153.8 and 153.900 which require a U.S. flag vessel to have a Subchapter D Certificate of Inspection. Foreign flag vessels carrying flammable and combustible cargoes must comply with 46 CFR 30.01–5 which refers to Parts 32, 34 and 35. The Coast Guard is withdrawing the proposed § 153.14 because of the duplication.

Section 153.216 Shower and eyewash fountains. Several comments expressed the opinion that the temperature limits of 10°C minimum and 35°C maximum for the water in the emergency shower and eyewash fountains is overly restrictive. The purpose of establishing temperature limits is to prevent burning of flesh and eyes when the piping for these showers and fountains is exposed to prolonged periods of sunlight or other heat sources. This topic was discussed at a meeting of the Chemical Transportation Advisory Committee (CTAC) and it was generally felt that wash water temperature limits should be specified. Instances were cited when piping for emergency showers had been insulated and water recirculated to keep the wash water from becoming too hot. Furthermore, persons whose skin or eyes come into contact with toxic chemicals should be encouraged to use the emergency shower and eye wash fountains no matter how minor the initial symptoms may be. Keeping a wash water upper temperature that is reasonably comfortable to the touch would permit the use of the emergency shower and eye wash fountains without aggravating the injury or causing additional discomfort. The comments stated that the lower temperature limit should be ambient temperature in keeping with the IMCO standard. The Coast Guard agrees that the proposed water temperatures of 10°C to 35°C may be slightly restrictive. Accordingly, the requirement has been changed to maintain the wash water temperature between 0°C and 40°C (approx. 32°F and 104°F).

Another comment recommended that each tankship be required to have a second emergency shower and eyewash fountain at a location widely separated from the first on the weather deck. The Coast Guard has no reason to believe that a second emergency shower and eyewash station is necessary. Should the one required emergency shower and eyewash station become inoperable or inaccessible, the conventional showers located in the accommodation spaces could be utilized. This requirement does not preclude the owner/operator from installing additional emergency shower and eyewash fountains.

Section 153.239 Use of cast iron. One comment pointed out that although the requirements for the use of cast iron in a cargo containment system are contained in 46 CFR 56.60–10(b), no definition of "Lethal" products has been provided. For purposes of this section, the term "Lethal" product in § 56.60–10(b) means a cargo that table I references to §§ 153.525 or 153.527. This clarification has been added to § 153.239.

Sections 153.251 Independent cargo tanks; and 153.252 Special requirements for an independent cargo tank. In the preamble of the NPRM for § 153.251, the Coast Guard proposed that all independent tanks be designed for the same stresses and dynamic sloshing loads. The proposed requirement represents a significant upgrading for independent cargo tanks and exceeds both the IMCO Chemical Code and the current requirements of Part 153. For these reasons the Coast Guard has rewritten §§ 153.251 and 153.252 to restate the present requirements. Section 153.251 details the minimum attachment standards for all independent tanks. The requirements for dynamic loading and weld radiography have been placed in § 153.252. No substantive changes are made to either §§ 153.251 or 153.252.

Section 153.283 Valving for cargo piping. One comment questioned the requirement in § 153.283(f) for a "Positive Shutoff Valve" since a definition and specific standards for this type valve have not been included in Part 153. The intent of a "Positive Shutoff Valve" is to minimize the leakage of cargo in the event of fire, explosion, or collision resulting in a breakage of the pipeline, loss of power, etc. Section 153.283(f) has been clarified to indicate the standards of 46 CFR 56.50–60(d). Resilient seated valves are not acceptable as positive shutoff valves (see 46 CFR 56.20–15).

Section 153.284 Characteristics of required quick closing valves. Section 153.284 has been rewritten to show that the standards of this section apply to the remotely actuated quick closing valves required under § 153.530(n). Since § 153.464 is being deleted, the fusible element requirement previously found in § 153.464 is being added as § 153.284(e).

Section 153.294 Marking of piping systems; and 153.910 Cargo piping plan. Two comments suggested that marking every hose connection of a cargo piping system with the system's working pressure and any maximum cargo loading rate chosen under § 153.365(c) of the proposed rule was redundant. The comments recommended that the information be posted on a sign at the port and starboard manifold areas or on the cargo piping plan in lieu of marking every hose connection. Since there are several sizes of cargo piping and corresponding working pressures, each hose connection should be marked to aid in preventing the accidental

overpressurization of the cargo piping system. Likewise, the installed tank venting system equipped with emergency overflow devices would most likely be found in varying configurations aboard the same tankship. A different cargo loading rate chosen under § 153.365(b) would correspond to each size system. In order to prevent accidentally exceeding the maximum cargo loading rate of any particular venting system overflow device, any maximum cargo loading rate should be available to the person-in-charge of the cargo transfer.

The Coast Guard has reconsidered the marking of every hose connection with the maximum loading rate chosen under the proposed § 153.365(b) and is withdrawing the proposed revision of § 153.294. The Coast Guard is adding a new § 153.910(f) to require the cargo piping plan to be marked with the cargo loading rates chosen under § 153.365(b) for the individual cargo lines. This will make the information readily available to the person-in-charge of the cargo transfer. Section 153.910(d) is also revised to reflect Part 150 in lieu of the former § 153.963.

Section 153.340 Venting system design. As a prerequisite for a Subchapter O endorsement under this part, a tankship must meet Subchapter D. 46 CFR 31.30–1 requires that all tankships must meet the Marine Engineering regulations, Subchapter F, which includes part 56. The proposed § 153.340 duplicates the Subchapter D requirement and is withdrawn.

Section 153.361 Arrangements for removal of valves from venting having multiple relief valves. This section has been rewritten to eliminate grammatical errors found in the NPRM.

Section 153.365 Liquid overpressurization protection. One device that has been accepted as an "emergency overflow device" is a spill valve. The Coast Guard has allowed spill valves to be installed in restricted gauging systems only, except for cargoes that are toxic by skin absorption or by inhalation (cargoes referencing §§ 153.525 or 153.527). Additionally, spill valves should be constructed and sized to a specific cargo transfer rate to provide adequate protection. Since the Coast Guard does not have specifications for or approvals of spill valves detailed in Subchapter Q, § 153.365(b) has been rewritten to have spill valves specifically approved by the Commandant (G–MMT).

In response to one comment, this section has been rewritten to give owners/operators alternatives to prevent overpressurization of cargo tanks. However, the Coast Guard prefers the use of a system that meets requirements of § 153.408.

Section 153.407 Special requirements for sounding tube gauges. The only comment regarding this section suggested a further study as to whether the sounding tube perforation will not provide a path for flame propagation. There are two thoughts on the use of perforated sounding tubes. Those who advocate unperforated sounding tubes maintain that the purpose of a restricted sounding tube is to restrict the flow of cargo vapor or the release of cargo vapor when measuring the tank liquid level. By providing a path for vapors to escape from the cargo tank, a perforated sounding tube does not totally limit the release, defeating the primary function of a sounding tube as a restricted gauge. On the other hand, those who advocate perforated sounding tubes claim that the vapor trapped in an unperforated tube is compressed as the cargo tank is filled and the liquid level rises in the tank and the tube. As the liquid level approaches the top of the tank, it is possible for liquid cargo in the sounding tube to be carried over with a sudden release of the compressed vapor in the sounding tube. This will most likely occur if someone quickly removes the sounding tube cap to take a sounding. If the cap is removed rapidly, the sudden release of vapor could draw liquid out of the tube into the face of the individual taking the sounding. A perforated sounding tube would allow the vapor in the sounding tube to equalize with the vapor space in the tank. By eliminating the pressure differential between the vapor spaces in the sounding tube and the tank, the danger described above is avoided.

There is a wide diversity of opinion on the pros and cons of perforated sounding tubes. By permitting the use of one perforation hole the Coast Guard had planned to minimize the hazards of either case described above. After reconsidering available information, the Coast Guard is uncomfortable with a perforated sounding tube that vents the tank's vapor space, thereby defeating the purpose of a restricted gauging system as defined in § 153.2. Accordingly, the Coast Guard will not allow perforations in the tube wall. If documentation is later submitted to the Coast Guard which supports the case for perforated sounding tubes, this position may be reconsidered. In the interim, small pressure bleed cocks could be tapped into the top of the tube wall which could manually relieve any pressure buildup in the sounding tube before one removes the sounding tube cap, or personnel could be instructed to remove the cap slowly. Accordingly the revision of § 153.407, as contained in the Federal Register of 17 July 1980 (45 FR 48058), is withdrawn.

Section 153.408 Tank overflow controls. One comment objected to the requirement that the tank overflow control system operate automatically and activate on the loss of power, claiming that any automatic cessation of the cargo loading operation should be avoided unless an actual tank overflow is imminent. Although routine and frequent use of the automatic tank overflow control system is undesirable, the system is provided as a safety device in the event of personnel error, failure of the required tank gauging system, or an emergency. Power failure could be the sign of an emergency such as a fire, collision or explosion thereby warranting the automatic shutdown of cargo transfer. Furthermore, since automatic closing valves in tank filling lines can be designed to close slowly on the loss of power, the automatic shutdown of cargo transfer should pose no serious problems unless the source of power is unreliable. The requirements that the tank overflow control system be automatic, and activate on loss of power are consistent with the standards adopted by the IMCO under the eighth set of amendments. However, a provision has been added to § 153.408 as described below that will allow an alternative to the automatic tank overflow system.

Numerous countries have expressed concern about the possibility of pipeline pressure surges due to the rapid closing of automatic shutoff valves. As a result IMCO recommended delaying implementation of the eighth amendment standards until 1 October 1982 in order to permit additional study on the matter of tank overflow controls. At the November 1980 meeting of the IMCO Subcommittee on Bulk Chemicals, a proposal for relaxing the IMCO tank overflow requirements was agreed upon. During the April 1981 IMCO meeting of the Marine Safety Committee (MSC), the Committee approved the relaxation of the overflow control requirements as an interim measure pending the development of an acceptable ship/shore linked overflow control system.

IMCO recommends that the tank overflow alarm or control systems be independent of the tank high level alarm and gauging systems. This recommendation exceeds the one system failure concept of Part 153 and has not been incorporated into this rule. The IMCO recommendations incorporated into this revision of § 153.408 are as follows:

(1) The testing and marking requirements for the high level alarms

are removed from § 153.408 and placed in § 153.409.

(2) The interim use of a tank overflow alarm as a replacement for an automatic tank overflow control system is permitted.

(3) In conjunction with the tank overflow alarm, at the cargo transfer conference the persons-in-charge of the vessel and facility must agree to a signal so that sequential shutdown of on-shore pumps and/or valves and of the ship's shutdown valves can be made in sufficient time to prevent the tank from becoming 100 percent liquid full.

These revisions relax the requirements of § 153.408 and impose lesser economic burdens on the shipping industry than requiring the installation of an automatic tank overflow control system.

The independence of the tank overflow control/alarm and the high level alarm system required under this section applies to the sensors, alarm systems, electrical cables and electrical circuits. The systems may have a common power source and electrical feeder panel. A new definition of "independent," as applies to § 153.408, has been added to § 153.2.

Section 153.409 High level alarms. The Coast Guard is transferring requirements to § 153.409 that previously were in § 153.408 to test each high level alarm prior to loading and to mark the high level alarms. The revised § 153.409 is now in conformity with the recommended standards set by IMCO.

Section 153.432 Cooling systems. The Coast Guard is withdrawing the proposed revision to § 153.432(b). The Coast Guard will consider, after further study, a revision of § 153.432(b) in a future rulemaking.

Section 153.436 Heat transfer fluid. The Coast Guard review of a heat transfer fluid included a check of its: (1) suitability of service; (2) chemical compatibility with all cargoes to be carried in the comtainment system serviced by the heat transfer system; and (3) flashpoint and the temperature setting of the high temperature limit device of the thermal fluid heater. The limit on the fluid's flashpoint is from a fire safety standpoint. In the event of a heat transfer pipeline rupture, a fluid released as a liquid presents a lesser fire hazard than a vapor.

Section 153.436 has been rewritten as a performace standard and incorporates the suitability of service, compatibility and flashpoint considerations for heat transfer fluids. Owners/operators should be prepared to show that any heat transfer fluid used meets these criteria.

Section 153.467 Ventilation systems for flammable cargoes. Section 153.467 duplicates the requirements found in Subchapter J for ventilation systems and has been deleted.

Sections 153.520 Special requirements for carbon disulfide; and 153.545 Special requirements for liquid sulfur. All U.S. flag tankships are required to comply with Subchapter J as a prerequisite to obtaining a Certificate of Inspection. Since the proposed revisions to §§ 153.520 and 153.545 require compliance with Subchapter J, they have been found to be redundant and have been deleted.

Sections 153.525 Special requirements for unusually toxic cargoes; and 153.1020 Unusually toxic cargoes. One person suggested that new vessels should be fitted with an independent tank venting system for each cargo tank if the vessel is authorized to carry toxic and non-toxic cargoes simultaneously. The basis for this comment was two-fold: (1) Cargo tank venting systems rarely have the same capabilities for arrangement flexibility as do cargo transfer piping systems; and (2) while company personnel ashore and afloat are usually keenly aware of existing and possible cargo transfer arrangements, they may not always have the same knowledge or concern for cargo tank venting arrangements. The Coast Guard considers it overly restrictive to require independent venting systems for each cargo tank. The intent of section 153.525(a) is to minimize the possibility of contaminating cargo systems of less toxic cargoes. This can be accomplished operationally by using separate venting systems for unusually toxic cargoes. The intent of §§ 153.525(a) and 153.1020(a) can be met without requiring independent tank venting systems.

Section 153.526 Toxic vapor detectors. One comment requested this section be clarified as to: (1) Whether the detectors had to give instantaneous or time weighted average (TWA) vapor concentration readings; and (2) What locations had to be tested. A TWA concentration reading usually requires continuous monitoring of a space with integration of those readings over the monitoring period. This is usually a feature of fixed equipment. Portable detector tube instruments give direct instantaneous readings for a specific location. Since the enclosed spaces within the ship's containment system to be tested for cargo vapor come in varied configurations, multiple locations should be tested prior to allowing personnel to enter the space. Fixed monitoring equipment may be arranged to sample multiple locations within specific spaces; however, a portable unit can be utilized to sample all shipboard spaces. For this reason at least one detector must be portable. Section 153.526 has been revised to state that the toxic vapor readings of any detector must be within the range of the TWA.

Section 153.527 Toxic vapor protection. Two comments recommended that filter type respiratory protection devices be considered as satisfactory substitutes for the emergency escape breathing apparatus (EEBA) described in this section. Problems associated with cartridge or canister filter type respiratory devices are:

(1) The filter type respiratory device does not supply air and cannot be used in an oxygen deficient atmosphere.

(2) These devices utilize cannisters containing chemical sorbents to remove toxic vapors. Once the chemical sorbents are saturated (depleted), the user is no longer protected. Furthermore, the life of the sorbent is a direct function of the vapor concentration.

(3) Channeling of air and toxic vapors may occur at the inner wall of the canister where the irregular sorbent grains touch the smooth cannister walls. This causes the sorbent particles at the outside to become rapidly depleted and reduces the life of the canister.

(4) These devices work on negative pressure. Leakage around the face piece seal, such as around a beard, can result in toxic vapors being inhaled.

(5) Cannisters are generally suitable for only a limited number of cargoes. For a sophisticated parcel tanker a series of cannisters would be required to give adequate protection.

For the reasons discussed above the filter type respiratory protection devices will not be considered substitutes for EEBA's on U.S. flag vessels. However, personnel protection equipment on foreign flag vessels that meet the approval of the tankship's flag administration will be acceptable to the Coast Guard.

Another comment recommended that the required EEBA's should be a one piece apparatus that also provides eye protection instead of permitting a set of goggles to be provided separately. Where the EEBA does not protect the eyes from irritating vapors, a set of goggles used in conjunction with such a device provides the necessary protection in the event of a fire or cargo release. Even though goggles will not increase visibility, they will protect an individual's eyes from smoke and cargo vapors.

One person addressed the need for an operational respiratory protection

requirement for persons working in the cargo area during cargo operations. At present the intent of § 153.527 is to provide for emergency escape from the vessel in the event of a catastrophic toxic chemical release. The Coast Guard agrees that either the intent of § 153.527 should be changed or a similar operational requirement should be made to provide for escape from the immediate vicinity of pipeline rupture or flange leakage in the cargo area during cargo operations. The Coast Guard will consider amending the IMCO Chemical Code and Part 153 in the future.

Section 153.530 Special Requirements for alkylene oxides. New paragraph (q) requires propylene oxide to be carried in independent gravity tanks for vessels contracted for after 1 January 1982. This date conforms to the IMCO implementation date. Since no U.S. vessels currently carry or anticipate to carry propylene oxide, this requirement should have no economic impact.

Section 153.602 Special requirements for cargoes reactive with water. Since table I specifies open venting for sulfuric acid, the requirements of this section will apply to sulfuric acid if it is carried in a containment vent system equipped with a PV valve.

Section 153.809 Procedures for having the Coast Guard examine a vessel for a Letter of Compliance. The Coast Guard has reconsidered the addition of a new § 153.809(e) which would establish a new reporting requirement. The proposed § 153.809(e) is withdrawn.

Section 153.905 Regulations required to be on board. With the incorporation of the cargo compatibility information into 46 CFR Part 150, a copy of Part 150 will also be required to be on board a vessel carrying products subject to Part 153.

Section 153.909 Cargo location plan. The information required by § 153.909 is duplicated in the shipping document requirement, § 153.908. To reduce the paperwork burden on the public, the Coast Guard is deleting § 153.909.

Section 153.934 Entry into spaces containing cargo vapor; and 153.974 Ventilation of cargo handling spaces and pumprooms during cargo transfers. The proposed § 153.974 overlaps § 153.934. The ventilation of cargo handling spaces and pumprooms falls under the responsibility of the master to make sure than an enclosed space is free of toxic vapors and has sufficient oxygen to support life. The Coast Guard is revising § 153.934 by adding the word "pumproom" and is withdrawing the proposed § 153.974.

Section 153.957 Person in charge of cargo transfer. The Coast Guard has published a NPRM in the **Federal Register** of 18 December 1980 (45 FR 83290) that establishes additional requirements for U.S. and foreign flag vessels. Accordingly, the proposed amendment to § 153.957, as contained in the **Federal Register** of 17 July 1980 (45 FR 48058), is withdrawn.

Section 153.968 Cargo transfer conference. Provided the vessel is equipped with the interim tank overflow control system required under § 153.408(c), § 153.968(b)(5) has been added to have the persons-in-charge of the cargo transfer for the vessel and facility to agree to a signal that complies with § 153.408(d).

Section 153.1002 Special operating requirements for heat sensitive cargoes. One comment recommended § 153.1002(a) be expanded to prohibit any operational procedure in an adjacent cargo tank or enclosed space that would cause a localized excessive temperature rise of a heat-sensitive cargo. Although the Coast Guard concurs with this comment conceptually, a further amplification of § 153.1002 would be redundant. The intent of § 153.1002, as written, includes the prohibition of any operational procedure in an adjacent cargo tank or enclosed space that would cause a localized excessive temperature rise of a heat sensitive cargo.

Section 153.1010 Alkylene Oxides. One person mentioned that the requirement that a Coast Guard marine inspector be on board a vessel before each loading of an alkylene oxide will unnecessarily slow turn around time of vessels carrying alkylene oxides. The requirements in § 153.1010(a)(1) parallels the new requirements adopted by IMCO in the second set of amendments to the IMCO Gas Carrier Code, Res. A.328. The Coast Guard concurs with the recommended standards for alkylene oxide carriage since alkylene oxides may be carried on both chemical and gas ships. One minor modification which applies to foreign flag vessels will change the wording in § 153.1010(a)(1)(i) to: "(1)(i) obtain verification, from a Coast Guard marine inspector or from a representative of the tankship's flag administration, that separation of the alkylene oxide piping system complies with alkyene oxide handling plans approved by the Coast Guard or the tankship's flag administration."

Another comment recommended that ships personnel seal the flanges specified in § 153.1010(a)(1)(ii). This is not acceptable because such an arrangement is not consistent with the intent of the recommendations adopted by the IMCO.

CTAC suggested a provision be added to exempt tankships equipped with independent piping from the inspection for piping separation and sealing of flanges requirements in § 153.1010(a) of the proposed rule. Sections 153.1010 (a) and (d) have been rewritten to incorporate this change. Tankships with independent piping must have onboard the vessel approved alkylene oxide handling plans and certification from the Coast Guard or the tankship's flag administration that the vessel has independent piping for alkylene oxides.

One comment stated that §§ 153.1010(c) of the existing rule and 153.1010(d) of the proposed rule overlapped. The Coast Guard has revised section 153.1010(c) to incorporate the proposed § 153.1010(d).

Section 153.1025 Motor fuel antiknock compounds. One comment expressed concern about a Master's ability to calculate a time weighted average (TWA) exposure for a crewman. In industry a dosimeter is normally worn by a person and is sent to a laboratory for exposure analysis. Since this is beyond the facilities of a tankship, the Coast Guard is revising this section to have the space tested for a lead level of 0.075 mg/m^3.

Appendix I—List of cargoes not regulated under Part 151, Part 153 or Subchapter D. Five additional cargoes have been evaluated as non-regulated cargoes and have been added to Appendix I. The Coast Guard has recently evaluated sodium chlorate solution and has assigned it to table I of this part. On the basis of chemical similarity, sodium bromate solutions have been deleted from the proposed Appendix I pending further evaluation.

Other comments were received pertaining to sections of Part 153 which were unchanged in the proposed rules. Changes to sections not revised in the proposed rules are beyond the scope of this regulatory project. Although comments on such sections have not been addressed in this preamble, they have been retained on file for use in future regulatory projects to revise and update Part 153.

Besides the changes to the original proposal described in this preamble, the final rule corrects some typographical errors.

Regulatory Evaluation

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). The cost of these regulations have been determined through an incremental cost-benefit analysis for each new requirement taking into consideration the approximate number of affected vessels. An estimation of the cost per vessel can not accurately be determined due to the variation in the cargoes carried on each chemical tankship. For the thirty-three U.S. chemical tankships, the economic impact is expected to be less than $486,000 per year or approximately $14,700 per vessel annually. The benefits to be derived from these regulations take into account the anticipated reductions in deaths, injuries and property damage. The benefits arising from the carriage of new cargoes have not been considered. The overall annual benefit in property preservation is expected to be 1.8 million dollars. Additional details are presented in the Final Regulatory Evaluation which has been included in the public docket. Copies may be obtained from Commandant (G–CMC/44), U.S. Coast Guard, 2100 2nd St., SW., Washington, D.C. 20593.

Regulatory Flexibility Evaluation

Even though the NPRM was published before the effective date of the Regulatory Flexibility Act (94 Stat. 1164), this rulemaking has been evaluated under the Act. It is certified that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects

46 CFR Part 91

Cargo vessels, Marine safety.

46 CFR Part 153

Hazardous materials transportation, Marine safety, Tank vessels.

In consideration of the foregoing, Chapter I of Title 46, Code of Federal Regulations, is hereby amended as follows:

PART 30—GENERAL PROVISIONS

§ 30.25–1 [Amended]

1. By removing "Propyl Ether (iso-)" from the table in § 30.25–1.

PART 91—INSPECTION AND CERTIFICATION

2. By revising § 91.55–15(a) (2) and (3) to read as follows:

§ 91.55–15 Procedure for submittal of plans.

(a) * * *

(2) The plans may be submitted directly to the Commandant (G–MMT), U.S. Coast Guard, Washington, D.C. 20593. In this case, the plans will be returned directly to the submitter, with a copy of the action being forwarded to the interested Officer in Charge, Marine Inspection.

(3) The plans may be submitted directly to one of the following field technical offices:

(i) Commander, 3rd Coast Guard District (mmt), Governors Island, New York, N.Y. 10004, for the geographical area covered by the 1st, 3rd and 5th Coast Guard Districts.

(ii) Commander, 8th Coast Guard District (mmt), Hale Boggs Federal Building, 500 Camp St., New Orleans, LA. 70130, for the geographical area covered by the 2nd, 7th and 8th Coast Guard Districts.

(iii) Commander, 9th Coast Guard District (mmt), 1240 East Ninth Street, Cleveland, Ohio 44199, for the geographical area covered by the 9th Coast Guard District.

(iv) Commander, 12th Coast Guard District (mmt), 630 Sansome St., San Francisco, CA. 94126, for the geographical area covered by the 11th, 12th, 13th, 14th and 17th Coast Guard Districts.

PART 153—SAFETY RULES FOR SELF-PROPELLED VESSELS CARRYING HAZARDOUS LIQUIDS

3. By revising the following definitions in § 153.2 to read as follows:

§ 153.2 Definitions.

* * * * *

"B" means the breadth of the vessel and is defined in § 42.13–15(d) of this chapter.

* * * * *

"Dedicated ballast tank" means a tank that is used only for ballast.

* * * * *

"L" means the length of the vessel and is defined in § 42.13–15(a) of this chapter.

* * * * *

"Letter of Compliance" means a letter issued by the Coast Guard permitting a foreign flag tankship to carry a bulk cargo regulated under this part.

* * * * *

"Restricted gauging system" means a method of gauging the amount of cargo in a tank through an opening of limited size that restricts or prevents the release of cargo vapors from the tank vapor space.

* * * * *

4. By amending § 153.2, by adding in alphabetical sequence the following definitions:

* * * * *

"Cargo area" means that part of a vessel that includes the cargo tanks, spaces adjacent to the cargo tanks and the part of the deck over the cargo tanks and adjacent spaces.

* * * * *

"Independent," as applied to a cargo piping, venting, heating or cooling system means that the system is connected to no other system, and has no means available for connection to another system.

* * * * *

"Independent," as applied to the tank overflow control or alarm system and the high level alarm system required under § 153.408, means that each system must have a separate sensor, alarm, electrical cable and electrical circuit. The system may have a common power source and electrical feeder panel.

* * * * *

"Separate" and "separated," as applied to a cargo piping, venting, heating or cooling system, means either an independent system or one that may be disconnected from all other systems by—

(a) Removing spool pieces or valves and blanking the open pipe ends; or

(b) Blocking each system interconnection with two blind flanges in series and providing a means of detecting leakage into the pipe section between the flanges.

* * * * *

5. By revising § 153.7(b)(4) introductory text and (c) to read as follows:

§ 153.7 Existing tankships.

(b) * * *

(4) The Commandant (G–MHM) considers on a case by case basis endorsing the permit of an existing tankship to carry a cargo listed in table I if—

* * * * *

(c) An existing tankship must meet all the requirements of this part except as provided in paragraphs (c) (3), (4), (5) and (6) of this section.

(1) (Reserved.)

(2) (Reserved.)

(3) The Commandant (G–MHM) considers on a case by case basis endorsing as a type II containment system one that fails to meet §§ 153.21, 153.231(b), and 153.234 if the tankship

and containment system meet the following minimum standards:

(i) The tankship has a loadline certificate.

(ii) The cargo tank is not part of the tankship's shell plating.

(iii) The distance between the bottom plating of the cargo tank and the bottom shell plating of the tankship is at least 76 cm measured parallel to the vertical axis of the tankship.

(4) The Commandant (G–MHM) considers on a case by case basis endorsing a containment system as a type II containment system if—

(i) The containment system is modified to meet § 153.231(b) by adding double bottoms or wing tanks; and

(ii) The tankship can survive the damage described in §§ 153.32 and 153.34 to the parts of the tankship other than machinery spaces.

(5) The Commandant (G–MHM) considers on a case by case basis endorsing as a type III containment system one that does not meet §§ 153.22 and 153.234 if the tankship has a loadline certificate.

(6) The Commandant (G–MHM) considers on a case by case basis endorsing the tankship to carry cargoes listed in table I of this part if the tankship does not meet §§ 153.217, 153.219 and 153.254.

6. By revising table I to Subpart A to read as follows:

TABLE I.—SUMMARY OF MINIMUM REQUIREMENTS

Cargo name[1]	Cargo containment system[2]	Vent height[3]	Vent[4]	Gauge[5]	Fire protection system[6]	Special requirements	Electrical hazard class and group[7]
Acetic acid	III	4m	PV	Restr	A	.238(a), .527, .554	I-D.
Acetic anhydride	II	4m	PV	Restr	A	.238(a), .526, .527, .554	I-D.
Acetone cyanohydrin	II	B/3	PV	Closed	A	.238(a), .316, .336, .408, .525, .526, .527, .912(a)(2), .933, .1002, .1004, .1020, .1035.	NA.
Acetonitrile	II	B/3	PV	Restr	A	.525, .526, .1020	I-D.
Acrylic acid	III	4m	PV	Restr	A	.238(a), .526, .912(a)(1), .1002(a), .1004	I-D.
Acrylonitrile	II	B/3	PV	Closed	A	.236 (a), (c), (d), .316, .408, .525, .526, .527, .912(a)(1), .1004, .1020.	I-D.
Adiponitrile	III	4m	PV	Restr	A	.526	NA.
Alkyl benzene sulfonic acid	III	NR	Open	Open	B	None	NA.
Allyl alcohol	II	B/3	PV	Closed	A	.316, .408, .525, .526, .527, .933, .1020	I-C.
Allyl chloride	II	B/3	PV	Closed	A	.316, .408, .525, .526, .527, .1020	I-D.
Aminoethylethanolamine	III	NR	Open	Open	A	.236 (a), (b), (c), (g)	NA.
Ammonium hydroxide (28 pct or less NH_3)	III	4m	PV	Restr	C	.236 (b), (c), (f), .526, .527	I-D.
Aniline	II	B/3	PV	Closed	A	.316, .408, .525, .526, .933, .1020	NA.
Benzene	III	B/3	PV	Restr	B	.316, .526, .1060	I-D.
Benzyl chloride	II	B/3	PV	Closed	B	.316, .408, .525, .526, .527, .912(a)(2), .1004, .1020.	NA.
(iso-, n-) Butyl acrylate	II	4m	PV	Restr	A	.526, .912(a)(1), .1002 (a), (b), .1004	I-D.
(iso-, n-, sec-, tert-) Butylamine	II	B/3	PV	Closed	A	.236 (b), (c), .316, .408, .525, .526, .527, .1020	I-D[12].
(n-) Butyl ether	III	B/3	PV	Closed	A	.500, .525, .526, .1020	I-C[12].
Butyl methacrylate	III	4m	PV	Restr	B	.526, .912(a)(1), .1002 (a), (b), .1004	I-D[12].
Butyl methacrylate, decyl methacrylate, cetyl eicosyl methacrylate mixture.	III	4m	PV	Restr	A, C, D	.912(a)(1), .1002 (a), (b), .1004	I-D.
(iso-, n-, crude) Butyraldehyde	III	4m	PV	Open	A	.526	I-C.
Camphor oil	III	4m	PV	Open	B	None	I-D.
Carbolic oil	II	B/3	PV	Closed	A	.408, .525, .526, .933, .1020	NA.
Carbon disulfide	II	B/3	PV	Closed	C	.236(c), .252, .408, .500, .515, .520, .525, .526, .527, .1020, .1040.	I-A.
Carbon tetrachloride	III	B/3	PV	Closed	NSR	.316, .409, .525, .526, .527, .1020	NA.
Cashew nut shell oil (untreated)	III	4m	PV	Restr	B	.526, .933	NA.
Caustic potash solution	III	NR	Open	Open	NSR	.236 (a), (c), (g), .933	NA.
Caustic soda solution	III	NR	Open	Open	NSR	.236 (a), (c), (g), .933	NA.
(mono-) Chlorobenzene	III	4m	PV	Restr	B	.526	I-D.
Chloroform	III	B/3	PV	Restr	NSR	.525, .526, .527, .1020	NA.
(crude) Chlorohydrins	II	B/3	PV	Closed	A	.408, .525, .526, .1020	I-D.
2- or 3-Chloropropionic acid	III	NR	Open	Open	A	.238(a), .554	NA.
Chloroprene	II	B/3	PV	Closed	B	.316, .525, .526, .527, .912(a)(1), .1002(a), (b), .1004, .1020.	I-D[12].
Chlorosulfonic acid	I	B/3	PV	Closed	NSR	.408, .525, .526, .527, .554, .555, .602, .933, .1000, .1020, .1045.	I-B[10].
Coal tar naphtha	III	4m	PV	Restr	A	.526	I-D.
Creosote	III	NR	Open	Open	B	.409	NA.
Cresols	III	NR	Open	Open	B	None	NA.
Crotonaldehyde	II	B/3	PV	Restr	A	.316, .525, .526, .527, .1020	I-C.
Cyclohexanone	III	4m	PV	Restr	A	.236 (a), (b), .526	I-D.
Cyclohexylamine	III	4m	PV	Restr	A	.236 (a), (b), (c), (g), .526	I-D[12].
(iso-, n-) Decyl acrylate	III	NR	Open	Open	A, C	.236 (b), (c), .912(a)(1), .1002 (a), (b), .1004	NA.
Dibutylamine	III	4m	PV	Restr	B	.236 (b), (c), .526	I-C[12].
Dichlorobenzene	III	4m	PV	Restr	B	.236 (a), (b), .526	NA.
1,1-Dichloroethane	III	4m	PV	Restr	B	.526, .527	I-D[12].
2,2'-Dichloroethyl ether	II	4m	PV	Restr	A	.236 (a), (b), .526	I-D.
Dichloromethane	III	4m	PV	Restr	NSR	.526	NA.
1,1-, 1,2-, or 1,3-Dichloropropane	II	B/3	PV	Restr	B	.525, .526, .1020	I-D.
1,3-Dichloropropene	II	B/3	PV	Closed	B	.316, .336, .408, .525, .526, .527, .1020	I-D.
Diethanolamine	III	NR	Open	Open	A	.236 (b), (c)	NA.
Diethylamine	III	B/3	PV	Restr	A	.236 (a), (b), (c), (g), .525, .526, .527, .1020	I-C.
Diethylenetriamine	III	NR	Open	Open	A	.236 (b), (c)	NA.
Diethylethanolamine	III	4m	PV	Restr	A	.236 (a), (b), (c), (g), .526	I-C[12].
Diisobutylamine	II	4m	PV	Restr	B, D	.236 (a), (b), (c), (g), .409, .525 (a), (c), (d), (e), .526, .1020.	I-C.
Diisopropanolamine	III	NR	Open	Open	A	.236 (b), (c)	NA.
Diisopropylamine	II	B/3	PV	Closed	A	.236 (b), (c), .408, .525, .526, .527, .1020	I-C.
Dimethylamine (40 pct or less)	III	B/3	PV	Restr	A, C	.236 (a), (b), (c), (d), .525, .526, .527, .1020	I-C.
Dimethylehanolamine	III	4m	PV	Restr	A	.236 (b), (c), .526	I-C[12].
Dimethylformamide	III	4m	PV	Restr	A	.236(b), .526	I-D[12].
Diphenyl methane diisocyanate[11]	II	B/3	PV	Closed	C, D	.236 (a), (b), .316, .409, .500, .501, .525, .526, .602, .1000, .1020.	NA.

TABLE I.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name[1]	Cargo containment system[2]	Vent height[3]	Vent[4]	Gauge[5]	Fire protection system[6]	Special requirements	Electrical hazard class and group[7]
1,4-Dioxane	II	B/3	PV	Closed	A	.408, .525, .526, .1020	I-C.
Dodecyl diphenyl oxide disulfonate solution	III	NR	Open	Open	NSR	None	NA.
Epichlorohydrin	II	B/3	PV	Closed	A	.316, .408, .525, .526, .527, .1020	I-C.
Ethanolamine	III	NR	Open	Open	A	.236 (b), (c), .526	NA.
Ethyl acrylate	II	4m	PV	Restr	A	.526, .527, .912(a)(1), .1002 (a), (b), .1004	I-D.
Ethylene chlorohydrin	II	B/3	PV	Closed	A, C	.316, .408, .525, .526, .527, .933, .1020	I-D[12].
Ethylene cyanohydrin	III	NR	Open	Open	A	None	NA.
Ethylenediamine	II	4m	PV	Restr	A	.236 (b), (c), .526	I-D.
Ethylene dibromide	II	B/3	PV	Closed	NSR	.408, .525, .526, .527, .1020	NA.
Ethylene dichloride	II	4m	PV	Restr	B	.408, .526	I-D.
Ethyl ether	II	4m	PV	Closed	A	.236(g), .252, .408, .440, .500, .515, .526, .527	I-C.
2-Ethylhexyl acrylate	III	NR	Open	Open	A	.912(a)(1), .1002 (a), (b), .1004	NA.
2-Ethylhexylamine	II	B/3	PV	Restr	A	.236 (b), (c), .525, .526, .1020	I-C.
Ethyl methacrylate	III	4m	PV	Restr	B	.526, .912(a)(1), .1002 (a), (b), .1004	I-D[12].
2-Ethyl-3-propyl acrolein	III	4m	PV	Restr	A	.526	I-C[13].
Formaldehyde solution (37 to 50 pct)	III	4m	PV	Restr	A	.526, .527	I-C.
Formic acid	III	4m	PV	Restr	A	.238 (b), (c), .526, .527, .554	I-D[12].
Furfural	III	4m	PV	Restr	A	.526	I-C[13].
Hexamethyleneimine	II	4m	PV	Restr	A, C	.236 (a), (b), (c), (g), .526	I-C.
Hydrochloric acid	III	4m	PV	Restr	NSR	.252, .526, .527, .554, .557, .933, .1045, .1052	I-B[10].
2-Hydroxyethyl acrylate	II	B/3	PV	Closed	A	.408, .525, .526, .912(a)(1), .933, .1002 (a), (b), .1004, .1020.	NA.
Isoprene	III	4m	PV	Restr	B	.440, .912(a)(1), .1002 (a), (b), .1004	I-D[12].
Isophorone diamine	III	4m	PV	Restr	A	.236 (b), (c), . 526	NA.
Isophorone diisocyanate[11]	III	B/3	PV	Closed	C, D	.236 (a), (b), .316, .409, .525, .526, .602, .1000, .1020.	NA.
Mesityl oxide	III	4m	PV	Restr	A	.409, .526	I-D.
Methyl acrylate	II	4m	PV	Restr	B	.526, .527, .912(a)(1), .1002 (a), (b), .1004	I-D.
Methacrylic acid	III	4m	PV	Restr	A	.238(a), .526, .912(a)(1), .1002(a), .1004	NA.
2-Methyl-5-ethyl pyridine	III	NR	Open	Open	A	.236(b)	NA.
Methyl formate	II	B/3	PV	Restr	A	.408, .440, .525, .526, .527, .1020	I-D.
Methyl methacrylate	II	4m	PV	Restr	B	.526, .912(a)(1), .1002 (a), (b), .1004	I-D.
(alpha-) Methyl sytrene	III	4m	PV	Restr	B	.526, .912(a)(1), .1002 (a), (b), .1004	I-D[12].
Moropholine	III	4m	PV	Restr	A	.236 (b), (c)	I-C.
Motor fuel anti-knock compounds (containing lead alkyls).	II	B/3	PV	Closed	B, C	.252, .336, .408, .525, .526, .527, .933, .1020, .1025.	I-D[12].
Naphthalene (liquid)	III	4m	PV	Restr	B, C	None	NA.
Nitric acid (70 pct or less)	III	4m	PV	Restr	NSR	.408, .526, .527, .554, .555, .559, .933, .1045	I-B[10].
(mono-) Nitrobenzene	II	B/3	PV	Closed	B, C	.316, .336, .408, .525, .933, .1020	NA.
(o-) Nitrophenol	II	B/3	PV	Closed	A, C, D	.409, .440, .525, .526, .1020	NA.
1- or 2-Nitropropane[8]	III	4m	PV	Restr	A[8]	.526	I-C.
(o-, p-) Nitrotoluene	II	B/3	PV	Closed	B	.316, .408, .525, .526, .1020	NA.
Oleum	II	B/3	PV	Closed	NSR	.316, .408, .526, .527, .554, .555, .556, .602, .933, .1000, .1045, .1052.	I-B[10].
Paraldehyde	III	4m	PV	Restr	A	None	I-C[12].
Pentachloroethane	III	B/3	PV	Restr	NSR	.316, .525, .526, .1020	NA.
1,3-Pentadiene	III	4m	PV	Restr	B	.526, .912(a)(1), .1002, .1004	I-D.
Perchloroethylene	III	4m	PV	Restr	NSR	.526	NA.
Phenol	II	B/3	PV	Closed	A	.408, .525, .526, .933, .1020	NA.
Phosphoric acid	III	NR	Open	Open	NSR	.554, .555, .558, .1045, .1052	I-B[10].
Phthalic anhydride (liquid)	III	4m	PV	Restr	D	None	NA.
Polyethylene polyamines	III	NR	Open	Open	A	.236 (b), (c)	NA.
Polymethylene polyphenyl isocyanate[11]	II	B/3	PV	Closed	C, D	.236 (a), (b), .409, .500, .501, .525, .526, .602, .1000, .1020.	NA.
(iso-, n-) Propanolamine	III	NR	Open	Open	A	.236 (b), (c), . 526	NA.
Propionaldehyde	III	4m	PV	Restr	A	.316, .526, .527	I-C.
Propionic acid	III	4m	PV	Restr	A	.238(a), .527, .554	I-D.
Propionic anhydride	III	4m	PV	Restr	A	.238(a), .556	NA.
(iso-) Propylamine	II	B/3	PV	Closed	C	.236 (b), (c), .408, .440, .525, .526, .527, .1020	I-D.
(n-) Propylamine	II	B/3	PV	Closed	C	.236 (b), (c), .408, .500, .525, .526, .527, .1020	I-D.
Propylene oxide[9]	II	B/3	PV	Closed	A	.252, .408, .440, .500, .526, .530, .1010, .1011	I-B.
(iso-) Propyl ether	III	4m	PV	Restr	A	.409, .500, .515, .912(a)(1)	I-D.
Pyridine	III	4m	PV	Restr	A	.236(b)	I-D[12].
Sodium hydrosulfide solution (45 pct or less)	III	4m	PV	Restr	NSR	.526, .933	NA.
Sodium hypochlorite solution (15 pct or less)	III	4m	PV	Restr	NSR	.236 (a), (b)	NA.
Styrene	III	4m	PV	Open	B	.912(a)(1), .1002 (a), (b), .1004	I-D.
Sulfur (liquid)	III	NR	Open	Open	NSR	.252, .440, .526, .545	I-C[13].
Sulfuric acid	III	NR	Open	Open	NSR	.554, .555, .556, .602, .933, .1000, .1045, .1046, .1052.	I-B[10].
1,1,2,2-Tetrachloroethane	III	B/3	PV	Restr	NSR	.316, .525, .526, .1020	NA.
Tetraethylenepentamine	III	NR	Open	Open	A	.236 (b), (c)	NA.
Tetrahydrofuran	III	4m	PV	Restr	A, D	.526, .912(a)(2), .1004	I-C.
Toluene diisocyanate[11]	II	4m	PV	Closed	C, D	.236(b), .316, .408, .500, .501, .525, .526, .527, .602, .1000, .1020.	NA.
1,1,2-Trichloroethane	III	B/3	PV	Restr	NSR	.526	I-D.
Trichloroethylene	III	B/3	PV	Restr	NSR	.316, .525, .526, .1020	I-D.
Tricresyl phosphate (containing 1 pct or more of the ortho- isomer).	II	4m	PV	Closed	B	.408, .525 (a), (c), (d), (e), .1020	NA.
Triethanolamine	III	NR	Open	Open	A	.236 (a), (b), (c), (g)	NA.
Triethylamine	II	B/3	PV	Restr	B	.236 (b), (c), .525, .526, .527, .1020	I-C.
Triethylenetetramine	III	NR	Open	Open	A	.236 (a), (b), (c)	NA.
Urea, ammonium nitrate solution (containing more than 2 pct NH_3).	III	4m	PV	Restr	A	.236(b), .526	I-D.
(iso-, n-) Valeraldehyde	III	4m	PV	Restr	A	.500, .526	I-C.
Vinyl acetate	III	4m	PV	Open	A	.912(a)(1), .1002 (a), (b), .1004	I-D.
Vinyl ethyl ether	II	4m	PV	Closed	A	.236 (b), (f), (g), .408, .440, .500, .515, .526, .527, .912(a)(1), .1002 (a), (b), .1004.	I-C[13].
Vinylidene chloride	II	4m	PV	Restr	B	.236 (a), (b), .440, .500, .526, .527, .912(a)(1), .1002 (a), (b), .1004.	I-D.

TABLE I.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name[1]	Cargo containment system[2]	Vent height[3]	Vent[4]	Gauge[5]	Fire protection system[6]	Special requirements	Electrical hazard class and group[7]
Vinyl neodecanate	III	NR	Open	Open	B	.912(a)(1), .1002 (a), (b), .1004	NA.
Vinyl toluene	III	4m	PV	Restr	B	.236 (a), (c), (g), .912(a)(1), .1002 (a), (b), .1004	I-D.
Xylenols	III	NR	Open	Open	B	None	NA.

For details see these sections:
[1] Cargoes must be stowed in accordance with Part 150, Subpart A—Compatibility of Cargoes, of this chapter.
[2] 152.230–153.232.
[3] 153.350–153.351.
[4] 153.355.
[5] 153.400–153.406.
[6] 153.460.
[7] Subchapter J of this chapter.
[8] Dry chemical extinguishers should not be used on nitropropane fires because some dry chemicals may react with nitropropane and make the fire worse.
[9] 153.530(q).
[10] I–B electrical hazard classification does not apply to weather deck locations.
[11] Although water is suitable for extinguishing open air fires involving chemicals to which this footnote applies, water should not be allowed to contaminate closed tanks containing these chemicals because of the risk of hazardous gas generation.
[12] Effective date: at the first drydock examination after July 16, 1982 or not later than July 16, 1984.

NOTES ON TABLE I:
Cargo containment system—The containment system type, either I, II, or III, is listed. See § 153.230 through 153.232.
Vent heights—The location and height of the vent riser is described in terms of vent height, either B/3 or 4m. See sections 153.350 and 153.351.
Vent—The type of venting control valve, either pressure vacuum (PV) or open, is listed. See section 153.355.
Gauge—The type of gauge, either closed, restricted (Restr.), or open, is listed. See sections 153.400 through 153.406.
Fire protection system—The type of fire protection system is shown where:
A is a foam system for water soluble cargoes (polar solvent foam),
B is a foam system for water insoluble cargoes (non-polar solvent foam),
C is a water spray system,
D is a dry chemical system, and
NSR means there is no special requirement for a fire protection system.
When table I specifies more than one type of fire protection system, any one of the listed options will satisfy the requirements for a fire protection system under this part. Unless table I specifies a dry chemical (D) system as an option, a dry chemical system may be substituted for an A or B type system only if the Commandant (G–MMT) approves the substitution.
Special requirement—The special requirements are shown by the digits of the section numbers, without the "153" part number preceding them.
Electrical Hazard Class and Group—This column is for use with Subchapter J (Electrical Engineering) of this chapter. Under this column NA means that the electrical hazard classes and groupings in Subchapter J do not apply to this cargo.

NOTE.—See app. I of this part for a list of cargoes to which neither this part nor Subchapter D (Tank Vessels) of this chapter apply.

7. By revising § 153.208(c) and adding a new (d) to read as follows:

§ 153.208 Ballast tank arrangements.

* * * * *

(c) Except as prescribed in paragraph (d) of this section, pumps, piping, vent lines, overflow tubes and sounding tubes serving dedicated ballast tanks must not be located within a cargo containment system.

(d) Each vent line, overflow tube and sounding tube that serves a dedicated ballast tank and that is located within a cargo containment system must meet § 32.60–10(e)(2) of this chapter.

8. By revising § 153.214 (b)(1) and (c) to read as follows:

§ 153.214 Personnel emergency and safety equipment.

* * * * *

(b) * * *

(1) A 30 minute self-contained breathing apparatus of the pressure demand type, approved by the Mining Safety and Health Administration (formerly the Mining Enforcement and Safety Administration) and the National Institute for Occupational Safety and Health, or the tankship's flag administration with five refill tanks or cartridges of 30 minutes capacity each.

* * * * *

(c) First aid equipment.

9. By revising § 153.215(c) to read as follows:

§ 153.215 Safety equipment lockers.

* * * * *

(c) The second safety equipment locker must be adjacent to the second emergency shutdown station required by § 153.296. This locker must contain the remaining equipment required by § 153.214 (a) and (b).

* * * * *

10. Section 153.216 is amended by redesignating paragraphs (b) and (c) as (c) and (d), and adding a new paragraph (b) to read as follows:

§ 153.216 Shower and eye wash fountains.

* * * * *

(b) Maintain the water at a temperature between 0°C and 40°C (approx. 32°F and 104°F);

(c) Are located on the weatherdeck; and

(d) Are marked "EMERGENCY SHOWER" as described in § 153.955 (c), (d), and (e), so that the legend is visible from work areas in the part of the deck where the cargo containment systems are located.

11. By revising § 153.217 to read as follows:

§ 153.217 Access to enclosed spaces and dedicated ballast tanks.

An access opening to an enclosed space or a dedicated ballast tank must meet the requirements for a cargo tank access in § 153.254 (b), (c), and (d) if—

(a) The enclosed space or dedicated ballast tank is located within the cargo area of the vessel; or

(b) A part of a cargo containment system lies within the enclosed space or dedicated ballast tank.

12. By adding a new section § 153.219 to read as follows:

§ 153.219 Access to double bottom tanks serving as dedicated ballast tanks.

(a) Except as prescribed in paragraph (b) of this section, access openings to double bottom tanks serving as dedicated ballast tanks must not be located within a cargo containment system.

(b) Each access opening to a double bottom tank that is a dedicated ballast tank and that is located within a cargo containment system must be:

(1) Enclosed in an access trunk extending to the weatherdeck;

(2) Separated from the cargo containment system by two manhole coverings; or

(3) Approved by the Commandant (G–MMT).

13. By revising § 153.239 to read as follows:

§ 153.239 Use of cast iron.

(a) Cast iron used in a cargo containment system must meet the requirements of § 56.60–10(b) of this chapter.

(b) For purposes of this section, the term "lethal products" in § 56.60–10(b) means those cargoes that table I references to § 153.525 or § 153.527.

14. By revising § 153.251 to read as follows:

§ 153.251 Independent cargo tanks.

All independent cargo tanks must meet §§ 38.05–10(a)(1), (b), (d) and (e)(1) of this chapter.

15. By revising § 153.252 to read as follows:

§ 153.252 Special requirement for an independent cargo tank.

When table I refers to this section, the cargo tank must be an independent tank that meets §§ 38.05–2(d) and 38.05–4(g) of this chapter. (See also § 153.256(b)).

16. By removing § 153.253.

17. By revising § 153.281 to read as follows:

§ 153.281 Piping to independent tanks.

Piping for an independent cargo tank must penetrate the tank only through that part of the tank or dome extending above the weatherdeck.

18. By adding § 153.283(f) to read as follows:

§ 153.283 Valving for cargo piping.

* * * * *

(f) If the cargo exerts a gravity head pressure on a valve required by this section, the valve must be a positive shutoff valve that meets § 56.50–60(d) of this chapter.

19. By revising § 153.284 to read as follows:

§ 153.284 Characteristics of required quick closing valves.

A remotely actuated quick closing shutoff valve required by § 153.530(n) must—

(a) Be positive shutoff valve;

(b) Be of the fail-closed type that closes on loss of power;

(c) Be capable of local manual closing;

(d) Close from the time of actuation in 30 seconds or less; and

(e) Be equipped with a fusible element that melts at less than 104°C (approx. 220°F) and closes the valve.

20. By adding a new section § 153.292 to read as follows:

§ 153.292 Separation of piping systems.

Cargo piping systems must be arranged so that operations necessary to provide separate systems can be accomplished in a cargo handling space or on the weatherdeck.

21. By revising § 153.296(c) to read as follows:

§ 153.296 Emergency shutdown stations.

* * * * *

(c) A second emergency shutdown station must be located so that one of the two stations is accessible from any part of the weatherdeck if a break in a cargo piping system or hose causes spraying or leaking.

* * * * *

22. By revising § 153.314(b) to read as follows:

§ 153.314 Ventilation of spaces not usually occupied.

* * * * *

(b) Each enclosed space within the cargo area that does not have a permanent ventilation system meeting § 153.312 must have—

* * * * *

23. By revising § 153.336 to read as follows:

§ 153.336 Special cargo pump or pumproom requirements.

(a) When table I refers to this section—

(1) The cargo pump must be an intank cargo pump;

(2) The cargo pumproom must be on or above the weatherdeck; or

(3) The cargo pumproom must have the specific approval of the Commandant (G–MHM).

(b) For a cargo pumproom described in paragraph (a)(2) or (a)(3) the tankship must—

(1) Have a low pressure breathing quality air supply system for use with the breathing apparatus in the pumproom; or

(2) Meet any requirements specified by the Commandant (G–MHM).

(c) A low pressure air supply system described in paragraph (b)(1) of this section must—

(1) Run from fixed air bottles to the pumproom;

(2) Have an air compressor to recharge the fixed air bottles;

(3) have hose connections in the pumproom suitable for use with the breathing apparatus required in § 153.214(b)(1); and

(4) have the air capacity to enable two men to work in the pumproom for at least one hour each without using the cartridges for the breathing apparatus required in § 153.214(b)(1).

24. By revising § 153.350 to read as follows:

§ 153.350 Location of B/3 vent discharges.

Except as prescribed in § 153.353, a B/3 venting system must discharge:

(a) At the highest of the following points:

(1) 6m (approx. 19.7 ft) above the weatherdeck.

(2) B/3 above the weatherdeck.

(3) 6m (approx. 19.7 ft) above a walkway, if the walkway is within a 6m (approx. 19.7 ft) horizontal radius from the vent discharge.

(b) At least 15m (approx. 49.2 ft) from air intakes for, or openings into, accommodation and service spaces.

25. By revising § 153.351 to read as follows:

§ 153.351 Location of 4m vent discharges.

Except as prescribed in § 153.353, a 4m venting system must discharge:

(a) At least 4m (approx. 13.1 ft) above the higher of—

(1) the weatherdeck; or

(2) any walkway that is within a 4m (approx. 13.1 ft) horizontal radius from the vent discharge.

(b) At least 10m (approx. 32.8 ft) from air intakes for, or openings into, accommodation or service spaces.

26. By revising § 153.353 to read as follows:

§ 153.353 High velocity vents.

The discharge point of a B/3 or 4m venting system must be located at least 3m (approx. 10 ft) above the weatherdeck or walkway if—

(a) the discharge is a vertical, unimpeded jet;

(b) the jet has a minimum exit velocity of 30 m/sec (approx. 98.4 ft/sec); and

(c) the high velocity vent has been approved by Commandant (G–MMT).

27. By revising § 153.361 to read as follows:

§ 153.361 Arrangements for removal of valves from venting having multiple relief valves.

A venting system having multiple relief valves may be arranged to allow the removal of a valve (for repair, as an example) provided the venting system—

(a) has valves that are interlocked, so that the removal of a valve does not reduce the venting system relieving capacity below the minimum relieving capacity required by § 153.358; and

(b) is arranged so that cargo vapor will not escape through the opening left after a valve has been removed.

28. By adding a new section § 153.365 to read as follows:

§ 153.365 Liquid overpressurization protection.

(a) Except as noted in paragraph (b) of this section, a containment system requiring closed or restricted gauging must—

(1) be designed to withstand the maximum pressure that develops during an overfill of the densest cargo endorsed for the containment system; or

(2) have an overflow control system that meets § 153.408; or

(3) meet the requirements specified by the Commandant (G–MHM).

(b) A containment system requiring restricted gauging, except for those cargoes that reference §§ 153.525 or 153.527, may be equipped with a spill valve that—

(1) is specifically approved by the Commandant (G–MMT); and

(2) limits the maximum pressure during liquid overfill at a specified cargo loading rate to that which the containment system is able to withstand (see §§ 153.294(b) and 152.977(b)).

§ 153.336 [Removed]

29. By removing § 153.366.

30. By revising § 153.408 to read as follows:

§ 153.408 Tank overflow controls.

(a) When table I refers to this section, a cargo containment system must have—

(1) a cargo high level alarm that meets § 153.409;

(2) a continuous tank cargo level indicator; and

(3) not later than 1 October 1982, a tank overflow control system that—

(i) operates automatically;

(ii) is independent of the high level alarm system;

(iii) prevents a cargo tank from becoming 100 percent liquid full; and

(iv) activates on the loss of power.

(b) If the tank overflow control system has either an automatic shutoff value or an automatic stop valve to prevent overfilling of a cargo tank, the automatic valve must close without creating surge pressures that exceed the pressure prescribed in § 153.294(b).

(c) As an interim alternative to the automatic overflow system required in paragraph(a)(3) of this section, the cargo containment system may be equipped not later than 1 October 1982 with a tank overflow alarm—

(1) that is independent of the high level alarm system;

(2) that gives an audible and visual alarm such that there is sufficient time to stop tank loading before the tank fills to 100 percent liquid full;

(3) that can be seen and heard where cargo transfer is controlled and on the open deck;

(4) that activates on loss of power;

(5) whose operation can be checked prior to each loading; and

(6) that must be marked as described in § 153.955 (c), (d) and (e) with the legend "Tank Overflow Alarm" so that the legend is visible from work areas in the part of the deck where the cargo containment systems are located.

(d) In conjunction with the tank overflow alarm described in paragraph(c) of this section, during the cargo transfer conference provisions must be made for an agreed signal for sequential shutdown of on-shore pumps and valves and of the ship's shutdown valves without creating surge pressures that exceed the pressure prescribed in § 153.294(b).

31. By revising § 153.409 to read as follows:

§ 153.409 High level alarms.

When table I refers to this section or requires a cargo to have a closed gauging system, the cargo's containment system must have a high level alarm—

(a) that gives an audible and visual alarm before the tank fills to 97 percent of its capacity;

(b) that can be seen and heard where cargo transfer is controlled and on the open deck;

(c) whose operation can be checked prior to each loading; and

(d) that must be marked as described in § 153.408(c)(6) with the legend "High Level Alarm."

32. By revising § 153.430(b) to read as follows:

§ 153.430 Heat transfer systems; general.

Cargo cooling and heating systems must—

* * * * *

(b) have valving that enables the system to be separated from all other cooling and heating systems; and

* * * * *

33. By revising § 153.432(a) to read as follows:

§ 153.432 Cooling systems.

(a) Each cargo cooling system must have an equivalent standby unit that is installed and that can be placed in operation immediately after failure of the primary cooling system.

* * * * *

34. By revising § 153.434 to read as follows:

§ 153.434 Heat transfer coils within a tank.

When a cargo tank contains any quantity of cargo, a cargo cooling or heating system having coils within the tank must keep the heat transfer fluid at a pressure greater than the pressure exerted on the heating or cooling system by the cargo.

35. By revising § 153.436 to read as follows:

§ 153.436 Heat transfer fluid.

A heat transfer fluid used in a cargo tank heat transfer system must—

(a) Be suitable for its intended use;

(b) Be chemically compatible with any cargo carried in those cargo tanks serviced by the heat transfer system; and

(c) Have a flashpoint that does not exceed the temperature setting of the high temperature limit device on the thermal fluid heater.

36. By revising § 153.440 to read as follows:

§ 153.440 Cargo temperature sensors required.

(a) Except as prescribed in paragraph (c) of this section, when table I refers to this section, the containment system must meet the following requirements:

(1) A heated or refrigerated cargo tank must have a remote reading thermometer sensing the temperature of the cargo at the bottom of the tank.

(2) A refrigerated tank must have a remote reading second thermometer near the top of the tank and below the maximum liquid level allowed by § 153.981.

(b) A readout for each remote thermometer required by this section must be at the point where cargo transfer is controlled.

(c) No portable thermometers that are lowered into the tank may be substituted for the temperature sensors required by paragraph (a) of this section, unless—

(1) The cargo requires either open or restricted gauging.

(2) In the case of restricted gauging, they are lowered into the tank through a gauging tube that meets § 153.407.

§ 153.464 [Removed]

37. By removing § 153.464.

§ 153.467 [Removed]

38. By removing § 153.467.

39. By removing and reserving § 153.520(b):

§ 153.520 Special requirements for carbon disulfide.

* * * * *

(b) [Reserved]

* * * * *

40. By revising § 153.525 (a), (d) and (f) to read as follows:

§ 153.525 Special requirements for unusually toxic cargoes.

(a) Cargo piping and venting systems must be designed so that they can be separated from any containment system endorsed for a cargo not covered by this section.

* * * * *

(d) A heat transfer system for the cargo must—

(1) Be independent of other ship service systems, except for other cargo heat transfer systems, and not enter the engine room;

(2) Be totally external to the cargo containment system; or

(3) Be approved by the Commandant (G-MHM) for use with toxic cargoes.

* * * * *

(f) A cargo containment system must have a vapor return connection.

41. By revising § 153.526 to read as follows:

§ 153.526 Toxic vapor detectors.

(a) When table I refers to this section, a tankship must have two toxic vapor detectors, at least one of which must be portable, each able to measure vapor concentrations in the range of the time weighted average (TWA) for the cargo. The portable detector may be a direct reading detector tube instrument. These vapor detectors may be combined with those required by § 153.465.

(b) When the toxic vapor detectors required by paragraph (a) of this section are not available and the cargo referenced to this section is transferred through a cargo pumproom, the tankship must meet § 153.336(b).

42. By revising § 153.527 to read as follows:

§ 153.527 Toxic vapor protection.

When table I refers to this section, a tankship must have on board for each crew member:

(a) An emergency escape breathing apparatus (EEBA) approved by the Mining Safety and Health Administration (formerly the Mining Enforcement and Safety Administration) and the National Institute for Occupational Safety and Health, or the tankship's flag administration.

(b) Where the emergency escape breathing apparatus does not protect the eyes from vapors, a set of goggles that either—

(1) Meet the specifications of ANSI Practice for Occupational and Educational Eye and Face Protection, Z-87.1(1979); or

(2) Are approved by the tankship's flag administration.

43. By revising § 153.530 (e), (f), (g)(3), (h), (l) and (n) to read as follows:

§ 153.530 Special requirements for alkylene oxides.

* * * * *

(e) The tank's relief valve setting must not be less than 21 kPa gauge (approx. 3 psig).

(f) If the containment system is equipped with a cooling system, the cooling system must—

(1) Not compress the cargo; and

(2) Regulate the cargo temperature automatically and allow manual regulation.

(g) * * *

(3) Be assembled from valves, fittings, and accessories having a pressure rating of not less than 1030 kPa gauge (approx. 150 psig) (American National Standards Institute); and

* * * * *

(h) The cargo containment system and those spaces listed in paragraphs (k) and (l) must have an arrangement for monitoring the oxygen content of the space as prescribed by § 153.1010(c).

* * * * *

(l) Cofferdams, cargo tanks, double bottom spaces, void spaces and other enclosed spaces adjacent to an integral cargo tank must have an inert gas system meeting the requirements that apply to the inert gas system of a containment system in § 153.500.

* * * * *

(n) The cargo discharge piping system must have a remotely actuated quick closing shutoff valve that meets § 153.284 at the cargo transfer hose connection.

* * * * *

44. By adding a new paragraph § 153.530(q) to read as follows:

§ 153.530 Special requirements for alkylene oxides.

* * * * *

(q) On a tankship for which a building contract is let after 1 January 1982, an alkylene oxide cargo tank must be an independent tank.

45. By revising § 153.555 to read as follows:

§ 153.555 Special requirements for inorganic acids.

When table I refers to this section, a tankship's shell plating must not be a part of the cargo tank.

§ 153.600 [Removed]

46. By removing § 153.600.

47. By adding a new § 153.602 to read as follows:

§ 153.602 Special requirements for cargoes reactive with water.

When table I refers to this section, the air inlet to the pressure-vacuum valve for the cargo tank must be located at least 2m (approx. 6.6 ft) above the weatherdeck.

48. By revising § 153.808 to read as follows:

§ 153.808 Examination required for a Letter of Compliance.

To be issued a Letter of Compliance, a vessel must call at a U.S. port and be examined by the Coast Guard as prescribed in § 153.809.

§ 153.900 [Amended]

49. By changing the footnote numbers in § 153.900 (a) and (b) and that of the corresponding footnote to read "5."

50. By revising § 153.905 to read as follows:

§ 153.905 Regulations required to be on board.

No person may operate a tankship unless the most recent editions of this part, and parts 35 and 150 of this chapter are on board.

§ 153.909 [Removed]

51. By removing § 153.909.

52. By revising § 153.910 (d) and (e) and adding a new (f) to read as follows:

§ 153.910 Cargo piping plan.

* * * * *

(d) Shows any modifications necessary to a containment system that is to be separated as prescribed under Part 150 of this subchapter, or §§ 153.525 and 153.1020;

(e) Emphasizes the piping and equipment described in paragraphs (a), (b) and (d) of this section by using contrasting colors, line widths, or similar methods; and

(f) Shows the cargo loading rates chosen under § 153.365(b) for all applicable cargo lines.

53. By revising § 153.932(b)(2) to read as follows:

§ 153.932 Goggles and protective clothing.

* * * * *

(b) * * *

(2) In a cargo pumproom, an enclosed space adjacent to a cargo tank, or a space containing part of a cargo containment system.

* * * * *

54. By revising § 153.934(a) and the introductory text of (b) to read as follows:

§ 153.934 Entry into spaces containing cargo vapor.

(a) No person may enter a cargo tank, cargo handling space, pumproom or enclosed space in the cargo area without the permission of the master.

(b) Before permitting anyone to enter a cargo tank, cargo handling space, pumproom or other enclosed space in the cargo area, the master shall make sure that—

* * * * *

55. By revising § 153.935(c) to read as follows:

§ 153.935 Opening of tanks and cargo sampling.

* * * * *

(c) The master shall make sure that cargoes requiring closed gauging are sampled only through the controlled sampling arrangement required by § 153.404(d).

56. By adding a new § 153.935a to read as follows:

§ 153.935a Storage of cargo samples.

(a) The master shall make sure that any cargo samples are stored in—

(1) A designated and ventilated space in the cargo area of the vessel; or

(2) An area approved by the Commandant (G–MHM) or the tankship's flag administration for the stowage of cargo samples.

(b) The master shall make sure that cargo sample bottles are stored—

(1) In a way that prevents shifting of the sample bottles when the vessel is at sea;

(2) In bins or containers constructed of materials that are resistant to the cargo samples; and

(3) Apart from other sample bottles containing incompatible liquids (See Part 150, Subpart A).

57. By revising § 153.940(b)(3) to read as follows:

§ 153.940 Standards for marking of cargo hose.

* * * * *

(b) * * *

(3) Date of the last test made as prescribed in paragraph (e) of this section; and

* * * * *

58. By revising § 153.968(b)(2) and adding a new paragraph § 153.968(b)(5) to read as follows:

§ 153.968 Cargo transfer conference.

* * * * *

(b) * * *

(2) The cargo loading rates marked on the cargo piping plan or the maximum safe transfer rates.

* * * * *

(5) The signal to be used to prevent a tank overflow as required by § 153.408(d).

* * * * *

59. By revising § 153.975(f) to read as follows:

§ 153.975 Preparation for cargo transfer.

* * * * *

(f) The cargo high level alarms, tank overflow alarms and overflow control systems are functioning correctly when the cargo is loaded.

* * * * *

60. By revising § 153.977 to read as follows:

§ 153.977 Supervision of cargo transfer.

The person in charge of cargo transfer shall—

(a) Supervise the operation of cargo system valves;

(b) Monitor the cargo loading rate to ensure it does not exceed that stated on the cargo piping plan; and

(c) Monitor the cargo level in the tanks to make sure they do not overflow.

61. By adding a new section § 153.980 to read as follows:

§ 153.980 Isolation of automatic closing valves.

The person in charge of cargo transfer may isolate automatic closing valves described in § 153.408(b) from a cargo containment system if the following conditions are met:

(a) The containment system carries products to which § 153.408 does not apply.

(b) The valves are isolated by—

(1) Removing the valves; or

(2) Installing removable pipes and blind flanges to by-pass the valves.

62. By adding a new section § 153.1002 to read as follows:

§ 153.1002 Special operating requirements for heat sensitive cargoes.

When table I refers to this section, the master shall make sure that—

(a) The cargo temperature is maintained below the temperature that would induce polymerization, decomposition, thermal instability, evolution of gas or reaction of the cargo;

(b) Any heating coils in the cargo tank are blanked off; and

(c) The cargo is not carried in uninsulated deck tanks.

63. By adding a new section § 153.1004 to read as follows:

§ 153.1004 Inhibited and stabilized cargoes.

(a) Before loading a cargo containment system with a cargo referenced to this section in table I, the person in charge of cargo transfer shall make sure that the cargo containment system is free of contaminants that could—

(1) Catalyze the polymerization or decomposition of the cargo; or

(2) Degrade the effectiveness of the inhibitor or stabilizer.

(b) The master shall make sure that the cargo is maintained at a temperature which will prevent crystallization or solidification of the cargo.

64. By revising § 153.1010 (a) and (c) and adding a new paragraph (d) to read as follows:

§ 153.1010 Alkylene oxides.

(a) Before each loading of a cargo containment system with a cargo referenced to this section in table I, the person in charge of cargo transfer shall—

(1) Unless the tankship is equipped with independent cargo piping that meets paragraph (d) of this section—

(i) Obtain verification from a Coast Guard Marine Inspector or from a representative of the tankship's flag administration that separation of the alkylene oxide piping system complies with alkylene oxide handling plans approved by the Coast Guard or the tankship's flag administration; and

(ii) Make sure that each spectacle flange and blank flange connection that is required to separate alkylene oxide piping systems from other systems has a wire and seal attached by a Coast Guard Marine Inspector or a representative of the tankship's flag administration.

(2) Purge the containment system until the oxygen content of the cargo tank is less than 2% by volume.

* * * * *

(c) While alkylene oxides are onboard the vessel, the master shall make sure that the oxygen content of the vapor space above the alkylene oxide and those spaces specified in § 153.530 (k) and (l) is maintained below 2% by volume.

(d) Tankships with independent piping for alkylene oxides must have onboard—

(1) Alkylene oxide handling plans approved by the Coast Guard or the tankship's flag administration; and

(2) Certification from the Coast Guard or the tankship's flag administration that the cargo piping for alkylene oxides is independent.

65. By revising § 153.1011 to read as follows:

§ 153.1011 Changing containment systems and hoses to and from alkylene oxide service.

(a) The person in charge of cargo transfer shall make sure that—

(1) No alkylene oxide is loaded into a containment system that last carried a cargo other than an alkylene oxide unless the containment system has been cleaned to remove heavy rust accumulations and all traces of previous cargoes;

(2) No alkylene oxide is loaded into a containment system that within the previous three loadings carried a cargo listed in paragraph (b) of this section unless the containment system has been cleaned to the satisfaction of a Coast Guard Marine Inspector or a person specifically authorized by the Commandant (G–MHM) to approve alkylene oxide tank cleaning;

(3) No cargo but an alkylene oxide is loaded into a containment system which last carried an alkylene oxide unless the containment system has been cleaned of alkylene oxide to the satisfaction of a Coast Guard Marine Inspector or person

specifically authorized by the Commandant (G–MHM) to approve alkylene oxide tank cleaning; and

(4) No hose marked "For Alkylene Oxide Transfer Only" is used for the transfer of a cargo other than an alkylene oxide.

(b) The following cargoes are particularly reactive with alkylene oxides:

(1) Non-oxidizing mineral acids (e.g. hydrochloric, phosphoric);

(2) Sulfuric acid;

(3) Nitric acid;

(4) Organic acids (e.g. acetic, formic);

(5) Halogenated organic acids (e.g. chloroacetic);

(6) Sulfonic acids (e.g. alkyl benzene sulfonic);

(7) Caustic alkalies (e.g. caustic soda, caustic potash; sodium hydrosulfide);

(8) Ammonia and ammonia solutions;

(9) Aliphatic amines;

(10) Alkanolamines; and

(11) Oxidizing substances.

66. By revising § 153.1020(a) to read as follows:

§ 153.1020 Unusually toxic cargoes.

(a) No person may load or carry a cargo referenced to this section in table I unless the cargo's piping and venting systems are separated from piping and venting systems carrying cargoes not referred to this section.

* * * * *

67. By revising § 153.1025(b)(1) to read as follows:

§ 153.1025 Motor fuel antiknock compounds.

* * * * *

(b) * * *

(1) The pumproom or void space atmosphere has been analyzed for its lead (as Pb) content and found to be less than 0.075 mg/m^3; or

* * * * *

68. By revising § 153.1052 to read as follows:

§ 153.1052 Carriage of other cargoes in acid tanks.

No person may load or carry other cargoes in a cargo containment system endorsed to carry sulfuric acid, hydrochloric acid, or phosphoric acid without specific authorization from the Commandant (G–MHM).

§ 153.1055 [Removed]

69. By removing § 153.1055.

70. By revising Appendix I to read as follows:

Appendix I—List of Cargoes Not Regulated Under Part 151, Part 153 or Subchapter D

The following bulk liquid cargoes may be carried in tank vessels having neither a Certificate of Inspection under Subchapter D (Tank Vessels) nor a Letter of Compliance under Part 153:

Ammonium nitrate solution (34% or less)
Ammonium nitrate, urea, water solution, 2% or less NH_3
Ammonium phosphate solution
Ammonium phosphate, urea, water solution
Ammonium polyphospate
Ammonium sulfate solution (20% or less)
Apple juice
Calcium bromide solution
Calcium chloride in water
2-Chloro-4-ethylamino-6-isopropylamino-5-triazine, water solution
Choline chloride solutions
Glucose solution
Hexamethylene diamine adipate
Kaolin clay slurry
Lignin liquor (Calcium lignosulfonate, water solution)
Magnesium chloride solution
Magnesium hydroxide suspensions in water
Molasses
Pentasodium salt of Diethylene triamine pentaacetic acid, water solution
Sewage sludge, treated so as to pose no additional decomposition and fire hazard
Sludge (stable, non-corrosive, non-toxic, non-flammable)
Sodium carbonate solutions
Sodium lignosulfonates, Sodium hydroxide (not exceeding 1% by weight), water solutions
Sodium naphthenate solutions (free alkali content, 3% or less)
Sodium polyacrylate solution
Sodium silicate solution
Sorbitol in water
Tetrasodium salt of Ethylene diamine tetraacetic acid, water solution
1,1,1-Trichloroethane (Methyl chloroform)
1,1,2-Trichloro-1,2,2-trifluoroethane
Trisodium salt of n-hydroxyethyl ethylenediamine triacetic acid, water solution
Urea in water
Water
Zinc bromide/Calcium bromide solution
Mixtures solely of the cargoes in this list.

Appendix III [Amended]

71. Appendix III to Part 153 is amended in the column headed *Equivalent to English or Common Metric* by revising the entry reading "1×10^{-2}kg/cm^2" to read "1.02×10^{-2}kg/cm^2".

(46 U.S.C. 170; 46 U.S.C. 391a; 49 U.S.C. 1803; 49 CFR 1.46 (n)(4) and (t))

Dated: May 3, 1982.

Clyde T. Lusk,

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

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Part IV

Department of Justice

Antitrust Division

United States of America v. Western Electric Company, Inc., et al. and United States of America v. American Telephone & Telegraph Company et al.; Notice Concerning Public Comments and Response

DEPARTMENT OF JUSTICE

Antitrust Division

United States of America v. Western Electric Company, Inc., et al., Civil Action No. 82-0192 (D.D.C.) and United States of America v. American Telephone & Telegraph Company, et al., Civil Action No. 74-1698 (D.D.C.); Notice Concerning Public Comments and Response Thereto

Notice is hereby given that on May 10, 1982, the United States Department of Justice issued the following announcement concerning the proposed Modification of Final Judgment in *United States* v. *Western Electric Company, Inc., et al.*, Civil Action No. 82-0192 (D.D.C.):

Text of Announcement

The Justice Department announced today that the U.S. District Court for the District of Columbia, where the United States' antitrust litigation against AT&T is pending, has (1) permitted an extension of time for the Department to file its response to comments on the proposed Modification of Final Judgment, and (2) approved certain procedures to be used in lieu of **Federal Register** publication of all comments on the proposed modification.

The new date for filing with the court of the Department's response to comments is May 20, 1982, with **Federal Register** publication of the response to occur no later than May 27.

The court also approved the Department's request to be relieved of the obligation to publish in the **Federal Register** the approximately 8,750 pages of comments it has received. the comments would have filled about 1,500 pages of the **Federal Register** at a cost to the Antitrust Division of more than $600,000.

The Department, in order to insure that the comments are available to interested persons, will:

(1) Publish in the **Federal Register** by May 27, 1982, the name and address of each person filing a comment, with a statement of the number of pages in the comment;

(2) Make available for inspection by the public at each of the 27 District Courts listed below a copy of each comment received;

(3) Within fifteen days of receipt, provide to any person requesting it a copy of any designated comment or comments, at the nominal charge of one cent per page;

(4) Within fifteen days of receipt, provide to any person requesting it a copy of any or all of the microfilm reels containing the comments, at a charge of $15.00 per reel.

Requests for copies of the comments should be directed to: Eric Donovan, U.S. Department of Justice, Antitrust Division, Room 1028 SAFE, Washington, D.C. 20530.

Telephone requests should be directed to Donovan on (202) 724-5790. Written requests should include a check or money order in the proper amount made payable to the Treasurer of the United States.

The U.S. District Courts at which the full text of the comments may be inspected are in the following cities:

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Alto Philadelphia and Pittsburgh, Pennsylvania; Dallas and Houston, Texas; Richmond, Virginia; Seattle, Washington; and Milwaukee, Wisconsin.

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17 letters by anonymous parties (pgs. 48).

Persons desiring copies of any designated comment or comments are requested to direct their request to the number given in the announcement set forth above.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

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federal register

Monday
May 17, 1982

Part V

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Formula Grants for Juvenile Justice; Final Rule With Request for Comments

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

Formula Grants for Juvenile Justice

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of final rule with request for comments.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is publishing for public comment a regulation to implement the Valid Court Order amendment to Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended.

This regulation establishes a basic framework within which State law or procedure may permit non-criminal juvenile offenders who violate valid court orders to be placed in secure facilities.

DATE: All comments are due on or before June 16, 1982. Unless final comments raise major issues not already considered by OJJDP which result in modification of the regulation, the regulation will become effective on July 1, 1982.

ADDRESS: Send all comments to David D. West, Director, Formula Grants and Technical Assistance Division, OJJDP, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: Frank M. Porpotage, II, Formula Grants and Technical Assistance Division, OJJDP, 633 Indiana Ave., N.W., Washington, D.C. 20531 Telephone: (202) 724-5911.

SUPPLEMENTARY INFORMATION: On December 31, 1981, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) published in the **Federal Register** final regulations to implement the formula grant program authorized by Part B, Subpart I, of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. These regulations, 28 CFR Part 31, reserved § 31.303(i)(3), Valid Court Order, because of the substantial comment and criticism received in response to the draft of this section of the regulation. The reserved regulation would implement the Valid Court Order amendment to Section 223(a)(12)(A) of the JJDP Act. The Juvenile Justice Amendments of 1980 (Pub. L. 96-509, December 8, 1980) amended this provision of the JJDP Act to exempt juveniles who commit offenses which constitute violations of a valid court order from the scope of the deinstitutionalization requirement.

On February 9, 1982, OJJDP published in the **Federal Register** a notice of public hearings and request for additional written comment on proposals to implement the Valid Court Order amendment. In response to this notice, 31 written comments were received. In addition, 16 individuals testified at public hearings held in Washington, D.C. and Denver, Colorado. OJJDP has reviewed all written comments and testimony in the preparation of the revised valid court order regulation.

At the outset, there are several matters of which interested parties should be aware in reviewing the regulation. First, some commentators expressed opposition to publication of any regulation providing a Valid Court Order exception to the deinstitutionalization requirement, expressing the opinion that there is a danger that their State's progress since 1974 in removing non-criminal children from secure confinement could be undermined by such an exception. Congress debated this matter at length in considering the Juvenile Justice Amendments of 1980. There was vigorous subcommittee, committee, and floor debate in the House of Representatives. The House approved the amendment by a vote of 235-123. The Senate subsequently passed the House bill without amendment. Thus, there is no option in the matter of developing guidance to the States in the implementation of this change in the Federal statute.

Second, in developing the regulation, OJJDP has been mindful of the need to formulate a regulation which will preserve the deinstitutionalization thrust of the JJDP Act yet provide juvenile and family courts with the ability to enforce their lawful orders. Congress clearly did not intend to reverse the substantial progress that participating States have made in achieving deinstitutionalization. Further, the legislative history of the amendment clearly indicates that Congress wanted the exception applied to status offenders who chronically fail to follow court orders and anticipated that juvenile and family court judges would use the exception only where necessary to preserve the courts' authority to enforce their orders and to carry out their responsibility to rehabilitate and protect juvenile offenders.

Third, it is important to note that the Valid Court Order exception language to Section 223(a)(12)(A) does not grant any *legal* authority to State and local governments or to juvenile courts to place juveniles in secure incarceration. The granting or withholding of such authority, as well as the attendant procedures and due process protections, are matters of State law and policy, applicable Constitutional protections, court rules, and proceedings. The JJDP Act establishes minimum requirements which must be met for a State to be eligible for a formula grant award. The scope of these requirements is established by the law itself and OJJDP's implementing policies and regulations. The latter are restricted by Congressional intent as expressed in the legislative history and guided by the Congressional purposes and objectives which provide the framework for all of OJJDP's programs. Thus, the Valid Court Order regulation should be viewed as establishing a basic framework within which States can act, if they so choose, to permit non-criminal juvenile offenders who violate valid court orders to be placed in secure facilities under Section 223(a)(12)(A). If individual State laws and procedures operate in a manner that is consistent with this regulation, the State will be in compliance with the Section 223(a)(12)(A) plan requirement. If not, then the State may be in noncompliance and be ineligible for funding under the Act. OJJDP views its role as establishing minimum constraints consistent with Congressional intent, the purposes of the JJDP Act, and established principles of due process. If States and their juvenile courts wish to permit the exercise of judicial authority consistent with the valid court order exception, the regulation provides a starting point from which they may further consider the matter. OJJDP will not attempt to structure a regulation which anticipates or speculates on possible judicial positions on complex due process legal issues which may or may not arise under a variety of potential regulatory positions.

Fourth, the Valid Court Order exception is not necessarily based on a juvenile court's exercise of its common law or inherent criminal or civil contempt power, the exercise of statutory contempt power, or the existence of a juvenile code provision which categorizes a violation of a valid court order as a "delinquent" offense. One rationale for the amendment was to obviate the need for courts to use their criminal contempt power as a means of obtaining compliance with court orders. Further, OJJDP's legal counsel has ruled that a violation of a court order by a status offender is an insufficient legal basis to categorize the juvenile as a criminal-type or delinquent offender, thus removing the juvenile from the

deinstitutionalization requirement. As OJJDP views it, the amendment simply provides that if a State wants to allow a juvenile who has been adjudicated for an act which would not be criminal if committed by an adult to be placed in secure detention for the violation of a juvenile or family court order resulting from such adjudication, it may make provision in State law, policy or procedure for such detention in a manner that would not be inconsistent with the Section 223(a)(12)(A) deinstitutionalization requirement of the JJDP Act. The details of how a State would provide for this, if at all, are left up to the State to determine within the basic framework established by the regulation.

Fifth, OJJDP believes it is unnecessary to regulate in a manner that presumes bad faith on the part of State or local officials and juvenile and family court judges. We believe that underlying trust is required and that the record of the vast majority of the States in implementing the Act since 1974 fully justifies such trust. State and local officials and juvenile and family court judges have consistently demonstrated a commitment to implementing the JJDP Act's mandates and objectives. We are confident that this commitment will result in careful and rational implementation and use of the valid court order exception in those jurisdictions which choose to provide their juvenile courts with this authority.

Sixth, OJJDP has consulted and used the Standards adopted by the National Advisory Committee for Juvenile Justice and Delinquency Prevention in reviewing comments and testimony and in adopting some of the changes in the proposed regulation. Although the Standards do not authorize secure detention or confinement for a violation of a valid court order pursuant to an adjudication for non-criminal behavior (status offenses), the Standards were used to determine appropriate procedural protections consistent with the legislative history and other provisions of the Act.

Finally, readers are advised to note carefully the distinctions to be drawn between the words "must" and "should" throughout the guideline and explanatory text. Use of the word "must" indicates mandatory matters, while the word "should" is directory or suggestive only. Other matters which were the subject of comment and worthy of review and consideration by States and juvenile and family court judges are briefly discussed in the "other comments" Section.

Explanation of Changes

The following discusses the changes proposed to be made to the draft regulation published in the **Federal Register** on September 3, 1981. The changes are based on substantial and persuasive comments presented to OJJDP in written testimony and at the public hearings held in Washington, D.C. and Denver, Colorado.

(1) Subparagraph (iii) of § 31.303(i)(3) is changed to require that the judge provide, at the initial adjudicatory/dispositional hearing, a written warning of the consequences of violating the court order. At the time the order is issued, this warning must be provided to both the juvenile and his/her attorney and/or legal guardian. It should clearly state that a violation of the court order could result in the secure incarceration of the juvenile and/or other consequences. If an attorney is representing the juvenile, the attorney must be provided a copy of the written warning. The warning must also be reflected in the court record and proceedings.

This change in the draft regulation is based on Standard 3.188, Dispositional Hearings, contained in the *Standards for the Administration of Juvenile Justice, Report of the National Advisory Committee for Juvenile Justice and Deliquency Prevention* (hereafter referred to as the NAC Standards). This standard states that the family court judge should explain the terms of the disposition and should state, on the record, the facts and reasons underlying the dispositional decision. Having the judge explain the terms of the order and the facts and reasons on which the disposition is based, followed by a written warning of the possible consequences of violating the court order, constitutes, in OJJDP's view, the adequate and fair warning anticipated by the amendments and legislative history. The court's articulation of the reasons underlying the court order and the consequences of violating that order will serve to avoid misunderstandings of both the conditions imposed and the potential consequences of violating the order.

(2) Subparagraph (iv) of § 31.303(i)(3) is changed to clarify and delineate the conditions which must be present to securely detain, beyond the 24-hour "grace period," a status offender accused of violating a valid court order. First, a hearing must be held and a judicial determination made within 24 hours of a juvenile being placed in secure custody (exclusive of Saturdays, Sundays, and legal holidays) that there is probable cause to believe the juvenile violated the court order. Second, the court must also determine that the juvenile has a recent record of willful failure to appear at family court proceedings or a recent record of violent conduct resulting in physical injury to self or others.

This modification is based on NAC Standard 3.155, Initial Review of Detention Decisions, which provides that in delinquency proceedings, a probable cause (or detention) hearing should be held before a family court judge no more than twenty-four hours after a juvenile has been taken into custody. At that hearing, the State should establish that there is probable cause to believe that a violation of the terms of the order was committed by the juvenile subject to the order. If probable cause is established, the court should next review the necessity for continued detention. Unless the State demonstrates by clear and convincing evidence that continued secure detention is warranted pending the violation hearing, the court should place the juvenile in the least restrictive form of release consistent with the purposes and factors set forth in NAC Standard 3.153, Criteria and Procedures for Detention and Release—Noncriminal Misbehavior.

At the inception of the hearing, the judge should assure that the juvenile understands his/her right to counsel, should appoint an attorney to represent the juvenile if the juvenile is not already represented by counsel, and meets the eligibility requirements set forth in NAC Standard 3.132, Representation by Counsel—For the Juvenile.

OJJDP's position, strongly supported by the comment and testimony, is that status offenders, including those accused or found to have violated a valid court order, will seldom need to be detained in secure detention or correctional facilities. Such juveniles should, whenever possible, be released to a parent or legal guardian or be placed in a foster home or shelter facility pending an adjudicatory violation, or dispositional hearing or as a dispositional alternative.

The legislative history of the "valid court order" amendment reflects the fact that this exception was intended by the Congress to give the juvenile or family court judge the ability to enforce valid court orders by authorizing secure incarceration of those status offenders who "continually flout the will of the court," who "chronically refuse voluntary treatment," or who are considered "chronic offenders" as the result of a pattern of continued violations of the court's orders. The

legislative history also states that the judicial discretion to securely detain a status offender for violating a valid court order "would be rarely used as far as a juvenile judge would go." Thus, consistent with NAC Standard 3.152, Criteria for Detention in Secure Facilities, and the legislative history, the regulation was modified.

The regulation now provides that, where it has been judicially determined that there is probable cause to believe a status offender violated a valid court order, secure detention pending the violation hearing may be authorized if the juvenile has a demonstrable recent record of willful failure to appear in court *or* a demonstrable recent record of violent conduct resulting in physical injury to self or others. This provision of the regulation is consistent with the basic principles regarding the use of short-term secure settings pending adjudication or disposition. Secure detention prior to a violation hearing should only be used when it is needed to assure appearance in court or for protective purposes and should not be used as a punitive measure. If a juvenile accused of violating a valid court order has no recent history of failing to appear in court, then there is no need to securely hold the juvenile to assure court appearance. Similarly, if the juvenile has no recent record of violent conduct resulting in physical harm to self or others, there is no need to securely detain the juvenile for protective purposes. The term "demonstrable record" is not intended to require introduction of a certified copy of a prior adjudication order or certified documents that the juvenile has recently and willfully failed to appear at family court proceeding, but should include more than mere allegations of prior failure to appear or violent conduct.

(3) Subparagraph (iv) of § 31.303(i)(3) is modified to provide that the period of time a status offender may be held after the probable cause hearing and pending a violation hearing should be such period of time provided by State law but in no event *should* detention prior to the violating hearing exceed 72 hours exclusive of Saturdays, Sundays, and legal holidays. The use of the term "should" in this section of the regulation provides States with the flexibility to accommodate existing State law and policy. State laws vary on the maximum length of secure detention permitted before and adjudicatory or fact-finding hearing must be held. Clearly, a factor in determining the time frame between the probable cause hearing (if any) and the hearing on the valid court order violation would include adequate time to obtain counsel and prepare witnesses and evidence for the hearing. The factual issues would generally not be complex. Therefore, OJJDP's position is that if secure detention based on a probable cause determination is to be permitted in the specific circumstances, the detention should not exceed 72 hours exclusive of nonjudicial days. OJJDP is establishing the 72-hour benchmark based upon a substantial number of comments and recommendations which supported a 72-hour time frame. Some States have already considered this question and established time frames. Neither the statute nor the legislative history would support any Federal regulation interference in these enactments.

(4) Subparagraph (vi) of § 31.303(i)(3) is modified to require that the judge presiding over an initial probable cause hearing, and at a violation hearing, determine on the record that all the elements of a valid court order, and the full range of *Gault* rights, have been afforded the juvenile before any order is entered which results in secure confinement. The regulations also require a judicial determination on the record that there is no less restrictive alternative appropriate to the needs of the juvenile and the community before an order is entered authorizing secure placement either pending the violation hearing or as a disposition after a determination that the juvenile violated a valid court order. These two determinations assure that the court has provided full due process. Before a juvenile can be placed in secure detention based on a finding of probable cause, the judge must determine on the record that all due processs rights (*Gault*) were afforded the juvenile at the initial adjudicatory hearing which resulted in the order or at the probable cause hearing itself. All the due process rights must be provided the juvenile at the violation hearing and the judge must determine on the record that these rights were afforded the juvenile prior to or at the time of entering an order authorizing a disposition of placement in a secure facility.

The basis for the requirement of a judicial determination that there is no less restrictive alternative appropriate to the needs of the juvenile is based upon both the legislative history of the valid court order amendment and specific statutory language contained in Section 223(a)(12)(B) of the JJDP Act, as amended. As stated in the supplemental views on the Juvenile Justice Amendments of 1980 from the Report of the House Committee on Education and Labor, the purpose of the JJDP Act is "to discourage the placement of juveniles in secure facilities unless there is no rational alternative to incarceration." The Report further states that the intent of the Act is to provide sufficient resources and incentives to insure that alternatives are available and "that there would be few, if any, instances where juvenile status offenders or non-offenders would be incarcerated."

(5) A new subparagraph (vii) is added to § 31.303(i)(3) of the regulation to provide that a non-offender such as an abused, dependent, or neglected child cannot be placed in a secure detention or correctional facility for the violation of a valid court order. The House debate on the valid court order amendment and the specific wording of the amendment to Section 223(a)(12)(A) appear to exclude non-offenders from the coverage of the amendment. Further, we are convinced by the testimony and comments that the potential harm to this group of children from secure incarceration far outweighs any foreseeable need for a court to require the sanction of a secure placement for a child who is before the court as a victim rather than an offender.

The prohibition on placing non-offenders in secure facilities is consistent with NAC Standard 3.154, which states that juveniles subject to the neglect and abuse jurisdiction of the family court should not be placed in detention or correctional facilities.

Discussion of Other Comments

The OJJDP received many recommendations which, while serving to add to the protection of status offenders subject to secure placement, are matters which can more appropriately be addressed by State law, policy, and procedure, or which are not supported by the legislative history of the Amendment. A brief explanation of these recommendations and OJJDP's rationale for *not* including the proposals in the final regulation follows.

1. *Recommendation:* At the initial adjudication or other court proceeding in which the court order regulating future conduct was entered, require that the full range of due process rights specified in *In re Gault* be provided the juvenile status offender or, at a minimum, that the juvenile have the right to counsel at the proceeding.

OJJDP Response: This recommendation is not supported by the legislative history of the Amendment. Had Congress intended to restrict the valid court order exception to those States which provide the full range of due process rights at all status offender

proceedings which result in a court order regulating conduct, it would have done so clearly and explicitly.

Although many States provide a right to counsel for juveniles alleged to be status offenders, others have not extended the right to counsel to non-criminal proceedings, taking a narrow view of the Supreme Court's holding in *In re Gault*. OJJDP takes the position that Congress intended that full due process be provided to the juvenile prior to any secure placement and has provided in the revised regulation that full due process must be provided at either the adjudicatory hearing or the probable cause hearing in order to support a temporary detention pending a violation hearing and at the violation hearing itself.

2. *Recommendation:* The regulation should allow a "grace period" for the detention of status offenders alleged to have violated a court order of 48 or 72 hours rather than OJJDP's existing 24 hour time frame.

OJJDP Response: The 24-hour "grace period," which permits temporary custody of non-criminal children for up to 24 hours, exclusive of non-judicial days (i.e., holidays or weekends), has been a longstanding policy of the JJDP Act program. It is a monitoring exception intended solely to provide for investigation, processing, and release to home or other non-secure alternative. A probable cause hearing involving readily determinable and narrow factual issues or release of the juvenile to a non-secure setting should be possible within the 24-hour time frame.

3. *Recommendation:* The term "court of competent jurisdiction" (§ 31.303(i)(3)(iv)) should be defined so that a juvenile would only be subject to valid court order violation proceedings before the *same judge* in the *same court* in which the order was entered.

OJJDP Response: The regulation has not been modified to provide that the juvenile is subject to valid court order violation proceeding only before the same judge or the same court. Commentators generally disagreed with the proposal to limit the proceedings before the same judge. A different judge may add an element of objectivity needed in a State where the violation hearing is the court's criminal contempt power. Further, in some rural jurisdictions there may only be a single judge available. In either event, a Federal regulation could never specify which judge should be used in any proceeding without creating unreasonable problems for some jurisdictions. No basis in the statute or legislative history exists for either position.

4. *Recommendation:* The regulation should establish some gravity guidelines (i.e., chronicity standards) to be used by the courts in determining whether the behavior of the alleged violator is sufficiently serious to warrant a finding of a violation of a valid court order.

OJJDP Response: This is a matter for the individual States to consider. Congress clearly did not intend that courts use the valid court order exception for trivial matters or trivial violations. However, States are in a far better position to establish appropriate guidelines, court rules or law to regulate this type of matter. A Federal regulation on such a matter would only serve to create legal issues as States tried to implement it and conform State substantive or procedural law to subjective criteria or a Federal regulatory position with no clear statutory basis.

5. *Recommendation:* The regulation should specify the type of *evidence* necessary to initiate or prove that a court order has been violated.

OJJDP Response: See response No. 4.

6. *Recommendation:* The regulation should address the question of who would have *standing* to allege a violation of a valid court order. To safeguard against unsupported and insubstantial allegations, only a person directly aggrieved by the alleged violative conduct should be able to bring a violation petition.

OJJDP Response: See response No. 4.

7. *Recommendation:* The regulations should mandate that in order for a child to be found to have violated a valid court order, it must be proven that the behavior was *intentional, voluntary,* and *without just cause.*

OJJDP Response: See response No. 4.

8. *Recommendation:* Any duly authorized officer of the court, acting on behalf of a judge, should be empowered to determine a valid court order violation.

OJJDP Response: The determination of a valid court order violation, to support a sanction of secure placement, must be the result of a judicial and not an administrative proceeding. For example, if a referee in a particular jurisdiction has the authority to assert the court's jurisdiction over a status offender, hold a hearing on the facts, determine the legal rights of the parties in a judiciable controversy, and enter a judgment and/or remedy in accordance with established legal principles, then a referee could, like a judge, be authorized to order secure confinement of a juvenile under the valid court order amendment. Also, refer to response No. 4.

9. *Recommendation:* Any court order violation on which a subsequent disposition of incarceration is based should bear "a reasonable relationship to the underlying status offense."

OJJDP Response: While OJJDP believes that the conduct required by a court order should reasonably relate to the status offense on which the adjudication and order are based, we have concluded that this matter is best addressed by State law and procedure. See response No. 4.

10. *Recommendation:* In deciding the disposition of a juvenile found to have violated a valid court order, the judge should be required to find "beyond a reasonable doubt" that there is no less restrictive alternative available than secure confinement.

OJJDP Response: The standard of proof for judicial determinations or dispositions is a matter of law which should be determined by State law and court decision. See response No. 4.

11. *Recommendation:* The regulations should prohibit the commingling of those persons found to have violated a valid court order from juveniles charged with crimes or adjudicated as a juvenile criminal-type offender.

OJJDP Response: There is no congressional intent to prohibit such commingling of these types of offenders in detention or correctional facilities. See discussion in No. 12 below.

12. *Recommendation:* Status offenders found to have violated a valid court order should never be placed in adult jails or lockups.

OJJDP Response: The Office agrees with the recommendation. However, each of the major provisions of the Act limiting the placement of juveniles in detention or correctional facilities has its own legislative history and thus requires one to view each provision separately. For example, the deinstitutionalization provision (Section 223(a)(12)(A)) requires full compliance within five years for participating States and longstanding OJJDP policy allows a 24-hour grace period for the detention of status offenders held in a secure detention or correctional facility. Further, the separation provision (Section 223(a)(13)) requires immediate implementation by the States and allows no more than haphazard or incidental contact between adults and juveniles held in secure detention or correctional facilities. Finally, the jail removal provision (Section 223(a)(14)) requires full compliance within five years and provides for a six-hour grace period for juvenile criminal-type offenders to be held in adult jails or lockups.

Thus, in a specific jurisdiction, the following scenario would exist with regard to the placement of a valid court order violator in an adult jail or lockup:

(a) For compliance purposes with Section 223(a)(12)(A), the placement would be permissible for up to 24 hours exclusive of non-judicial days. However, after that period, it would be reported as a violation of this requirement.

(b) For compliance purposes with Section 223(a)(13), the placement would be permissible *only* if there was no sight or sound contact between the subject juvenile and incarcerated adults.

(c) For compliance purposes with Section 223(a)(14), the placement would be in violation of the jail removal requirement.

Each State monitors and reports on compliance with each provision of the Act separately. For example, most participating States have reached or nearly reached the statutory time frame for Section 223(a)(12)(A) but participating States are now just beginning to address the jail removal provision. In summary, this recommendation did not become part of the regulations due to the unique nature of each provision.

13. *Recommendation:* The OJJDP should establish within the regulations a maximum number of status offenders who can be held as valid court violators in any single jurisdiction.

OJJDP Response: This recommendation finds no support in the legislative history and would be impractical to implement. The Office will, however, review the use of this authority through individual State monitoring reports. If these reports demonstrate a pattern or practice of substantial overuse, the situation would be reported to the Congress for possible legislative action. See response No. 4.

14. *Recommendation:* The OJJDP should regulate the maximum length of secure confinement for a valid court order violator, i.e., ten days or until the juvenile agrees to follow the order.

OJJDP Response: Again, the recommendation lacks a basis in Congressional intent. The Office expects that the States will address this matter through State law, court rules, or policy. See response No. 4.

15. *Recommendation:* The OJJDP regulations should address the time limits on secure detention of out-of-state runaways.

OJJDP Response: This issue is beyond the scope of the valid court order provision. The experience of the States has shown that there are few instances where the out-of-state runaway needs to be held beyond the 24-hour grace period. For those instances when it is necessary, the criteria for de minimis exceptions to full compliance with Section 223(a)(12)(A) (See 46 FR 2566–2569) has a provision to consider the holding of out-of-state runaways as an exceptional circumstance when such holding meets specified criteria. See response No. 4.

This announcement does not constitute a "major" rule as defined by Executive Order 12291 because it does not result in: (a) An effect on the economy of $100 million or more; (b) a major increase in any costs of prices; or (c) adverse effects on competition, employment, investment, productivity, or innovation among American enterprises.

List of Subjects in 28 CFR Part 31

Grant programs—law, Juvenile delinquency.

Finally, because this regulation will not have significant economic impact on a substantial number of small entities, no analyses of the impact of these rules on such entities is required by the Regulatory Flexibility Act, U.S.C. 601, *et seq.*, 28 CFR Part 31 is accordingly amended by adding a new § 31.303(i)(3) to read as follows:

PART 31—FORMULA GRANTS

§ 31.303 Substantive requirements.

* * * * *

(i) * * *

(3) *Valid Court Order.* For the purpose of determining whether a valid court order exists and a juvenile has been found to be in violation of that valid order all of the following conditions must be present prior to secure incarceration:

(i) The juvenile must have been brought into a court of competent jurisdiction and made subject to an order issued pursuant to proper authority. The order must be one which regulates future conduct of the juvenile.

(ii) The court must have entered a judgment and/or remedy in accord with established legal principles based on the facts after a hearing which observes proper procedures.

(iii) The juvenile in question must have received adequate and fair warning of the consequences of violation of the order at the time it was issued and such warning must be provided to the juvenile *and to his attorney and/or to his legal guardian* in writing *and* be reflected in the court record and proceedings.

(iv) All judicial proceedings related to an alleged violation of a valid court order must be held before a court of competent jurisdiction. A juvenile accused of violating a valid court order may be held in secure detention beyond the 24-hour grace period permitted for a noncriminal juvenile offender under OJJDP monitoring policy, only if: (A) There has been a judicial determination, based on a hearing *during the 24-hour grace period,* that there is probable cause to believe the juvenile violated the court order; *and* (B) *the juvenile has a demonstrable recent record of willful failure to appear at family court proceedings or a demonstrable recent record of violent conduct resulting in physical injury to self or others.* In such case the juvenile may be held pending a violation hearing for such period of time as is provided by State law, but in no event should detention prior to a violation hearing exceed *72 hours exclusive of nonjudicial days.* A juvenile found in a violation hearing to have violated a court order may be held in a secure detention or correctional facility.

(v) Prior to and during the violation hearing the following full due process rights must be provided:

(A) The right to have the charges against the juvenile in writing served upon him a reasonable time before the hearing;

(B) The right to a hearing before a court;

(C) The right to an explanation of the nature and consequences of the proceedings;

(D) The right to legal counsel, and the right to have such counsel appointed by the court if indigent;

(E) The right to confront witnesses;

(F) The right to present witnesses;

(G) The right to have a transcript or record of the proceedings; and

(H) The right of appeal to an appropriate court.

(vi) In entering any order that directs or authorizes disposition of placement in a secure facility, the judge presiding over an initial probable cause hearing or violation hearing must determine *on the record* that all the elements of a valid court order (paragraphs (i)(3), (i), (ii), (iii) of this section) and the applicable due process rights (paragraph (i)(3), (v) of this section) were afforded the juvenile *and the judge must determine on the record that there is no less restrictive alternative appropriate to the needs of the juvenile and the community.*

(vii) *A non-offender such as a dependent or neglected child cannot be placed in secure detention or correctional facilities for violating a valid court order.*

Charles A. Lauer,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
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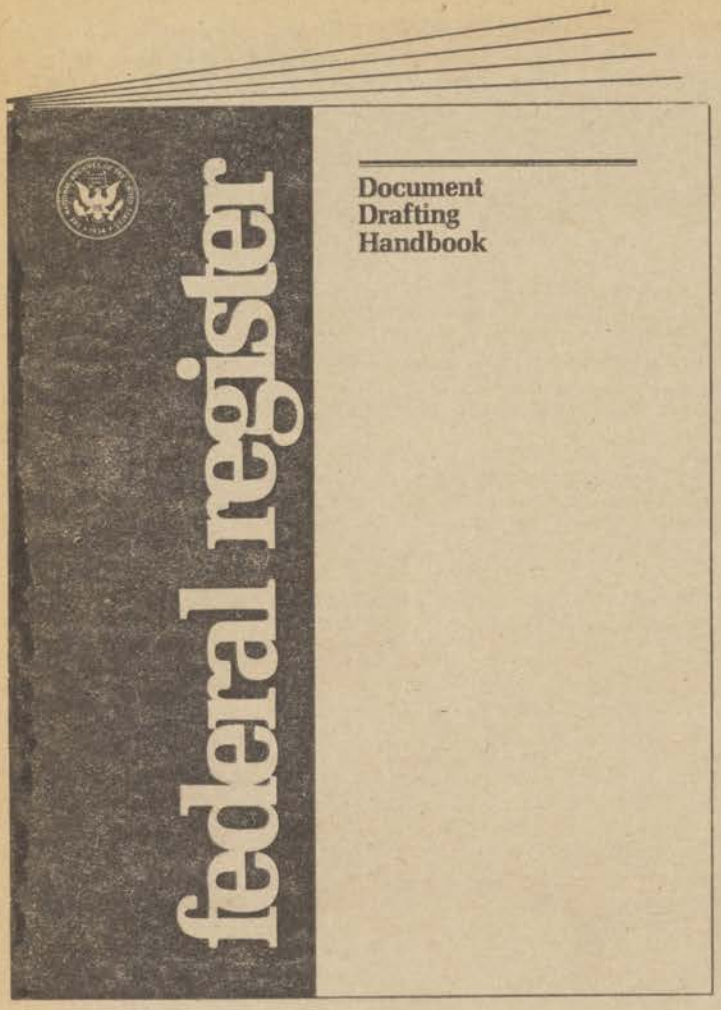
Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

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.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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