tractor'', Capacity states that ''this type of truck is designed to operate in a freight yard moving trailers from one terminal entrance to another * * * geared to limited speed [45 mph maximum] and to provide start-up torque for repeated stopping and starting.'' The tractors generally operate at 25 mph.

Because these terminal tractors do not appear manufactured primarily for use on the public roads, ordinarily NHTSA would not consider them to be ''motor vehicles'' to which Standard No. 121 applies. However, Capacity is currently working to fill its third contract with the U.S. Postal Service. Unlike the other two contracts, the present Postal Service contract specifies that the truck tractors be certified to comply with all Federal motor vehicle safety standards applicable to on-road truck tractors, even though Capacity estimates that the tractors will spend ''approximately 5% or less of their life in operation on the public highways.'' Capacity's contract is for 210 vehicles, to be produced between September 1996 and June 1997, and it estimates that the final 60 under the order will be completed by the end of May 1997. It thus seeks an exemption until June 1, 1997, from the antilock brake requirements for the 60 tractors.

One option that it has examined is acceleration of its production schedule so that manufacture of all vehicles could be completed by March 1, 1997. However, this would require an increase in production rates ''by at least 33% two months prior to the March 1, 1997 date.'' The work in part would have to be performed by newly hired and trained employes, increasing its overtime costs by 100%. It estimates that total costs would be greater by far than its net income for the fiscal year ending October 31, 1996. In addition, it would have to lessen its efforts to fill other orders, with a consequent loss of business. This means that, at the completion of the order as of March 1, 1997, it would have to lay off 50% of its work force until more orders were received and an orderly production schedule established. For these reasons, acceleration of the production schedule would cause it substantial economic hardship.

A further option is to delay production of the 60 vehicles until compliance with Standard No. 121 is achieved. Capacity states that ''it will be possible to delay delivery of other customer trucks until testing of ABS truck systems is complete.'' However, delay for conformance is not acceptable to the Postal Service because it would result in a fleet of dissimilar vehicles requiring different spare parts. As Capacity further argues, identical vehicles are desired by the Postal Service because ''all drivers in the fleet can be trained to the same operating procedures'' and ''Fleet maintenance people will be working on these trucks and will be able to maintain all 270 using the same procedures.'' Even if a delay were acceptable to the Postal Service, Capacity would have to absorb the increase in costs since ''the price is fixed by contract and no upward price relief is available.''

In the year preceding the filing of its petition, Capacity produced and certified 47 vehicles for on-road use other than those produced under the postal contract. It also produced less than 500 off-road vehicles. In the same period, its parent corporation, Collins, Inc., manufactured less than 2,000 school buses and less than 2,000 ambulance conversions. Capacity's net income has declined over the past three fiscal years and, in its fiscal year ending October 31, 1996, is far less than $1,000,000.

Capacity argues that a temporary exemption would be in the public interest because the vehicles are produced for the U.S. Postal Service. It believes that an exemption is also consistent with motor vehicle safety because ''NHTSA is using a staggered effectivity date for addition of antilock brakes to tractors, trucks, and buses.'' It points out that ''[t]here will be many vehicles built during the 3 months of this petition that are built under the old standard * * *. The only reason tractors are involved is because they got the first effectivity date instead of buses.''

Interested persons are invited to submit comments on the application described above. Comments should refer to the docket number and notice number, and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW, Washington, DC, 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the application will be published in the Federal Register pursuant to the authority indicated below.

Comment closing date: December 16, 1996.

(49 U.S.C. 30113; delegation of authority at 49 CFR 1.50, 501.8)

Issued on November 8, 1996.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–29362 Filed 11–14–96; 8:45 am]

BILLING CODE 4910–59–P

Research and Special Programs Administration (RSPA), DOT

[Docket No. PS–142; Notice 3]

Program Framework for Risk Management Demonstrations

AGENCY: Office of Pipeline Safety, DOT.

ACTION: Notice and announcement of public meeting.

SUMMARY: The Research and Special Programs Administration's (RSPA) Office of Pipeline Safety (OPS) is considering a program framework for its Pipeline Risk Management Demonstration Program required by the Accountable Pipeline Safety and Partnership Act of 1996. The Demonstration Program will invite pipeline operators to propose risk management projects for one or more parts of their pipeline systems that, upon approval by OPS, will substitute for the existing Federal safety standards in providing the basis for Federal oversight of pipeline safety and environmental protection. This document describes the Demonstration Program, the activities already underway to prepare for it, and the next steps in the process; describes the objectives to be achieved by the demonstration projects; provides needed guidance for pipeline operators who may wish to participate; and invites public involvement in the process through various opportunities for public comment and public meetings. A separate document, the Interim Risk Management Program Standard, provides specific direction to interested operators on developing risk management programs, including the projects in this Demonstration Program.

DATES: *Meetings.* (1) January 28, 1997, from 8:00 a.m. to 5:00 p.m. in New Orleans, Louisiana—public meeting. For more information, contact Janice Morgan at (202) 366–2392.

(2) Through approximately March 31, 1997, at individual pipeline operators' sites—informational meetings with OPS. For more information, contact Bruce Hansen at (202) 366–8053.

Written comments. (3) Written comments on this notice should be submitted on or before (Insert 60 days from publication date).

(4) Written comments on the Interim Risk Management Program Standard

(available on the World Wide Web at http://ops.dot.gov, by contacting Doug Read at (202) 682–8588, or through the DOT docket associated with this notice) should be submitted to Mr. Read at the American Petroleum Institute (API) on or before (Insert 30 days from publication date). For more information, contact Mr. Read at (202) 682–8588.

ADDRESSES: *Meetings.* (1) The public meeting will be held at the New Orleans Hilton Riverside Hotel, Poydras at the Mississippi River, New Orleans, Louisiana, 70140.

(2) Informational meetings between OPS and operators are typically held at each company's office.

Written Comments. (3) Send comments on this notice in duplicate to the Dockets Unit, Room 8421, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001. Identify the docket and notice number stated in the heading of this notice. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped postcard. All comments and docketed material will be available for inspection and copying in room 8421 between 8:30 a.m. and 5 p.m. each business day. Contact the Dockets Unit, (202) 366–5046, for docket material.

(4) Send comments on the Interim Risk Management Program Standard to Doug Read, American Petroleum Institute, 1220 L Street, NW, Washington, DC, 20005. Comments sent to Mr. Read will be available for inspection and copying through the DOT docket associated with this notice.

FOR FURTHER INFORMATION CONTACT: Elizabeth M. Callsen, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington D.C. 20590–0001, telephone 202–366–4572.

SUPPLEMENTARY INFORMATION:

I. Overview

Section 5 of the Accountable Pipeline Safety and Partnership Act of 1996 (Pub. L. 104–304, Oct. 12, 1996) requires OPS to establish the Pipeline Risk Management Demonstration Program and sets forth requirements for carrying out risk management projects. In a memorandum issued when the statute was enacted, the President directed the Secretary of Transportation to use his discretion to administer the Demonstration Program with certain safeguards in place. The safeguards identified in the President's memorandum to the Secretary include making provisions for:

- Accepting projects that can achieve superior public safety and environmental protection.
- Enabling full and meaningful participation by affected communities and constituencies in risk management project approval.
- Using orders ensuring that the requirements of risk management projects are subject to full enforcement authority.
- Limiting the number of demonstration projects to ten (10).
- Limiting participation to operators with clear and established records of compliance with respect to safety and environmental protection.

The statutory requirements, the President's memorandum to the Secretary, comments on previous framework concepts (published in 60 FR 49040, September 21, 1995, and 60 FR 65725, December 20, 1995), and other stakeholder input were used to develop the present framework, which provides guidance to operators who may decide to participate in the demonstration projects that are expected to begin in 1997.

Risk management can provide pipeline owners and operators greater flexibility in their choice of safety-related activities than is possible within OPS's present universally applicable regulatory program. Risk management enables a company to customize its safety program to address its pipeline's particular risks. Furthermore, risk management is a dynamic process, with built-in features for evaluating and improving safety activities as experience is gained.

The demonstration projects will test whether allowing operators the flexibility to allocate safety resources through risk management is an effective way to improve safety, environmental protection, and reliability. They will also provide data on how to administer risk management as a permanent feature of the Federal pipeline safety program, should risk management prove to be a viable regulatory alternative. The new standards, technologies, and communication processes developed by operators and OPS for the risk management demonstration projects will be adapted to support the range of risk-based regulatory, compliance, and research and development activities OPS presently has under development.

OPS expects that risk management methods and the formalized process of interactions and negotiation between regulators and company personnel will result in superior public safety and environmental protection than could otherwise be attained through existing regulatory requirements. Risk management is, by OPS definition, a more systematic and thorough assessment of risk and risk control options, with the intended result of superior decision making. As a result of improved assessment, OPS believes there is a potential to identify more risk than may have been found using existing practices.

OPS plans to select companies for demonstration projects with a demonstrated commitment (1) to work in partnership to evaluate merits of risk management processes and technologies and (2) to develop risk management as an integral part of company day-to-day business practices, at least related to the demonstration project. The selection criteria favors projects showing potential for more comprehensive risk management applications. All participants will be focused on improving safety and environmental results, prioritizing resources more effectively, and enhancing the ability of government and industry to effect positive outcomes. OPS will have clear profiles of its assessment of pipeline integrity before and after the demonstration program. At the program conclusion, OPS fully expects to have a better understanding of individual pipeline risks and to be in a better position to evaluate risk control options.

Finally, OPS expects risk management to be able to provide better accountability for safety and environmental protection, and a better basis to communicate with the public. To assure that safety and environmental protection improve, OPS will measure local, project-specific data such as current physical data, new test data, comparison with similar segments, outcomes from risk control actions, precursor or ''anticipative'' event measures, level of risk awareness, history of service interruptions and incident data. OPS also expects to measure improvements in communications, understanding, and resulting increased ability of government and industry to effect desired safety and environmental project outcomes. OPS and operators participating in the Demonstration Program will report to the public periodically during the four year period.

OPS will be accepting into the Demonstration Program those projects, as proposed or ultimately negotiated, that are expected to achieve superior public safety and environmental protection than is currently being achieved through regulatory compliance. Because of the nature of the risk management process, OPS believes

that operators choosing to participate will be able to propose projects demonstrating such protection.

Each demonstration project is expected to have a four-year duration. Participation in risk management demonstrations will be voluntary and subject to OPS approval based on criteria set forth later in this notice. Eligibility for the demonstration projects beginning in 1997 is limited to interstate natural gas transmission and hazardous liquid pipeline companies. RSPA may later broaden eligibility to include distribution and other intrastate operators.

II. Activities Presently Underway and Next Steps

The December 20, 1995, Federal Register notice gave the background for OPS's consideration of company-specific risk management projects as an alternative to the existing regulations. The notice described many of the safety, environmental, legislative, technical, public perception, and economic factors driving government, corporate, and public interest in risk management.

Since December 1995, OPS has been working with ''joint risk management quality teams'' (JRAQT) composed of representatives of state pipeline regulatory agencies, the oil and gas industries, and local public safety and environmental representatives to develop the five primary components of the Pipeline Risk Management Demonstration Program. These components include the Interim Risk Management Program Standard, the guidance for assessing risk management as a regulatory alternative using general industry data, the training protocols for instructing government and corporate participants about their new roles under risk management, a plan for productive communication between all participants and the public, and the regulatory framework presented in this notice. The standard and the regulatory framework are now ready for public comment. The guidance for assessing risk management as a regulatory alternative will be ready for public comment in November.

The Interim Risk Management Program Standard will serve as a common ground upon which the pipeline industry can develop and refine effective risk management demonstration projects that regulators can approve and monitor. It defines certain elements that all programs should contain, but allows flexibility to each company to customize its project to fit its particular needs and corporate practices, and allows projects to evolve as experience is gained. The standard will also provide companies guidance for selecting performance measures to ensure that safety and environmental protection are safeguarded in demonstration projects. Directions for obtaining and commenting on the standard are at the front of this notice.

The regulatory framework component presented in this notice guides pipeline companies in how they can gain OPS approval of their risk management projects and describes how OPS would monitor the plans. The framework presented here will guide the demonstration projects that begin in 1997. The experience gained from the demonstration projects will help OPS to later develop a permanent procedure for approving risk management projects, if risk management proves to be a viable regulatory alternative. Directions for public comment on the regulatory framework are also at the front of this notice.

To help ensure that the Demonstration Program components provide the flexibility to fairly and consistently evaluate and support actual risk management projects, OPS has been conducting a series of meetings with individual operators since August 1996. The topics of discussion include risk management projects the operator has in place or under consideration and criteria OPS might use to evaluate them. During the meetings, operators also learn about and comment on the Demonstration Program components under development. Companies interested in such a meeting should see the front of this notice for contact information.

OPS has held two public meetings on risk management demonstration projects and will hold a third on Tuesday, January 28, 1997, in New Orleans, Louisiana (see the front of this notice for scheduling and lodging information). At that meeting, OPS and the JRAQT will present the Interim Risk Management Program Standard that operators will use during the demonstration projects. OPS will also present prototype risk management projects to illustrate the documentation needed and the types of issues to be addressed during project review, approval and monitoring. After the meeting, OPS will publish a Federal Register notice to begin the project approval process described in Section IV of this notice. Between now and the January meeting, OPS will continue to refine the Demonstration Program components based on public comment on this notice, meetings with individual operators, national public, environmental and other interested organizations, and continued interaction with industry and the States through the JRAQT teams.

III. Risk Management Demonstration Project Objectives and Policies

The objectives of the Pipeline Risk Management Demonstration Program, which stem from the statutory requirements and the Presidential directive, are to accomplish the following:

- To show that more effective allocation of resources can result in improved safety and environmental protection over what is presently achieved through regulatory compliance.
- To address risks not addressed by regulations by capitalizing on features inherent to the risk management process, such as improved quality and integration of safety data and, as a result, more comprehensive assessment of threats.
- To systematically test risk management as a regulatory alternative through objective evaluation under a broad range of conditions.
- To establish a common framework for productive communication with public safety officials and the public, and for getting meaningful public input into the risk management process.
- To develop and apply new risk assessment models, processes and technologies.

OPS believes that the following elements need to be structured into the Demonstration Program:

(1) Operators participating in the Pipeline Risk Management Demonstration Program will need to provide sufficient data and background information to enable OPS to determine whether risk management is an effective regulatory alternative that provides superior safety and environmental protection.

Implicit in a company's participation in the Demonstration Program should be the commitment to work in partnership with OPS to determine whether and how risk management might become a permanent feature of the Federal pipeline safety program. OPS will ask for evidence that risk management, as it relates to the proposed demonstration project, is or will be developed and implemented as an integral part of the day-to-day business practices of the company. OPS will also periodically ask companies for suggested refinements to the primary program components.

In keeping with the Interim Risk Management Program Standard, the operator must identify project-specific performance measures that demonstrate the effectiveness of the risk-control decisions being made. During the project approval process, OPS will

determine whether these local project-specific performance measures appear appropriate and adequate. Throughout a demonstration project, the operator will evaluate local and broader program measures and ensure that the performance measures are appropriate and adequate. The operator would periodically report on these project-specific performance measurements to OPS.

OPS is developing guidance for additional more general measures operators would report during the four-year demonstration period to enable OPS to determine the effectiveness of risk management as a regulatory alternative. These measures will help OPS answer the following questions:

- Does risk management result in a greater safety, environmental protection, and service reliability than would otherwise be achieved through compliance with the safety regulations?
- Are resources being better prioritized and more effectively applied under risk management?
- Has agency and industry involvement in the discussion of risks and risk control options, and the agency and industry's ability to impact desired outcomes, increased under risk management?

(2) Operators will be allowed to reallocate resources geographically, as long as safety is adequately safeguarded at each location along a demonstration site.

OPS will allow operators the flexibility in a risk management demonstration project to reallocate safety resources across several pipeline segments. An operator may substitute one or more activities for others, or do away with redundant activities altogether, as long as the basic safety and environmental protection along the pipeline is safeguarded at each point. However, it is still expected that the overall demonstration project performance will result in superior safety and environmental protection.

(3) OPS will consider approving demonstration projects of various scopes and complexities.

The scope of a risk management demonstration project may be an entire pipeline system and all safety activities, or may be focused on parts of a system and specific activities.

Since operators have different levels of experience with, and confidence in, risk management, OPS expects some proposals to begin with approaches that are limited in scope. Therefore, an operator may propose a phased entry into a demonstration project, broadening the scope of the project as experience is gained. During the project approval process, OPS will favor projects showing a potential for expansion and more comprehensive application of risk management. OPS expects to work with companies to develop a profile which compares the demonstration site to the rest of the pipeline.

OPS recognizes that significant benefits can accrue from even the less sophisticated applications of risk management. Because no single risk management approach will be universally appropriate for every situation, OPS is looking for those that match the level of risk management with the complexity of the risks being managed. However, any operator who participates in the Demonstration Program must have in place the program elements defined in the Interim Risk Management Program Standard. The program elements provide the structure for the limited scope proposal.

When an operator proposes risk control alternatives to implement during a demonstration project, the operator should demonstrate a knowledge and understanding of the range of risks along the demonstration site and show that it has considered significant failure modes. An operator may draw on corporate experience, skills, and available documentation to support the proposed alternatives.

(4) OPS considers an operator's compliance with the provisions of an OPS-approved risk management project to be an equivalent and acceptable alternative to compliance with the regulations.

OPS considers the provisions of an approved risk management project to be a regulatory commitment. The terms and conditions of the project will be incorporated into an order that is subject to enforcement authority. By this order, an operator conducting risk management activities in an approved project will be exempt from regulations corresponding to the stated scope of the project, but will be required to comply with the provisions of the project. An operator not complying with the provisions of its OPS-approved project will be subject to the same civil penalties administered under existing regulations.

OPS has the authority to exempt, by order, an owner or operator participating in a risk management demonstration project from all or a portion of the regulatory requirements, and from any new regulations, applying to the covered pipeline facility. OPS could issue orders exempting participating operators from any but the reporting requirements in 49 CFR Parts 192 or 195, but expects that the projects approved in 1997 will require exemptions from only one or a portion of the regulations.

When the project concludes at the end of four years, or if it is terminated earlier, consideration will be given to installations or facility modifications made during the demonstration project that conflict with existing or future regulatory actions. Actions taken by the operator in good faith in an approved risk management project could be ''grandfathered'' and exempt from future regulatory compliance, provided safety and environmental protection are not compromised.

(5) The Operator Is Responsible for Active Communication With State and Local Officials Regarding Risk Management. OPS Will Ensure That Such Communication Is Part of the Operator's Demonstration Project Plan and That the Communication Is Carried Out.

OPS sees potential for risk management to provide better accountability to the public for safety and environmental programs. OPS is beginning to explore appropriate strategies for productive communication with public safety officials and the public, and for getting meaningful public input into the risk management process. Similarly, OPS realizes the importance of training and other information exchange in supporting the institutional change that would occur under risk management.

Companies must establish appropriate dialogue with state and local public safety and environment officials. At a minimum, these public officials should be aware that a risk management demonstration project is underway on the pipeline, that OPS is monitoring the project, and who functions as a point-of-contact. Such a dialogue would enable local officials to reassure the public that an appropriate regulatory presence is in place and how the overall safety and environmental protection are enhanced by risk management. OPS will discuss external communications with the operator during a consultation prior to formal application.

IV. Process for Selecting Projects

OPS is providing the following as guidance for operators to seek approval of their risk management demonstration projects. OPS plans to formally solicit operators to voluntarily participate in the risk management demonstration projects via a Federal Register Notice in first quarter 1997. That notice will give

target dates for the various steps described below.

(1) Letter of Intent

Operators would notify OPS of interest in participating in a demonstration project, and OPS would screen operators to ensure that only companies whose demonstration project concepts have a reasonable likelihood of being approved expend the resources to develop formal applications. OPS will screen Letters of Intent to identify no more than ten projects as candidates for selection in the Demonstration Program. Ten is the maximum number OPS can reasonably expect to evaluate and, if selected, to monitor. OPS would accept Letters of Intent during a 60-day window in early 1997. A Letter of Intent is an expression of a company's interest, but does not obligate a company to participate in a demonstration.

OPS would require that a demonstration project cover any part or all of a pipeline system that is covered by either 49 CFR Part 192 or 195, is under federal oversight or oversight by a participating interstate agent, and is currently in operation or under conversion to service. Operators should commit to a project duration of at least four years, and provide evidence that they will address all considerations raised in the Interim Risk Management Program Standard. This includes providing a description of the means by which the company would communicate with local officials regarding its demonstration project.

OPS would like to choose operators who provide evidence of consistent corporate commitment to risk management. This could be demonstrated by a corporate officer, who controls the resource allocation for the demonstration project and competing operations, signing the Letter of Intent.

The Letter of Intent would include a general discussion of risk management principles as part of a company's operating philosophy. To provide OPS adequate data to choose a diverse set of demonstration projects, the Letter would provide a brief system profile of the pipeline, including product(s) transported, pipeline age and operating history, types of population distributions and geographic conditions in proximity of the pipeline, and any other features the operator thinks are notable. The Letter would also describe the scope of the project as defined per the Interim Risk Management Program Standard and any new technologies and processes to be developed or deployed during the demonstration phase.

In making its choice, OPS would consider those operators who have clear records of safety and environmental compliance, based on OPS records and consultation with other interested agencies. OPS will also limit selection to projects which would achieve superior safety and environmental protection. Operators should have completed any OPS-initiated corrective actions.

OPS will publish for public comment a Federal Register notice describing proposals of selected companies and the demonstration sites under consideration. OPS will also follow through with national public, environmental and other interested organizations about the sites under consideration so that local officials can be notified and informed.

(2) Consultation

OPS would invite each operator submitting a promising Letter of Intent to a consultation within 60 days of receipt of the Letter of Intent. The purpose of the consultation would be to familiarize OPS and affected States with specific aspects of an operator's risk management project concept, to provide guidance to the operator on what refinements (if any) are needed for OPS to approve the concept as a demonstration project, to enable regulators to plan the expected level of monitoring based on the company's own audit process, and to enable regulators and the operator to agree on the roles and responsibilities of each throughout the project duration. OPS intends that the consultation begin a negotiation process that results in a demonstration project that OPS could approve.

OPS will provide notification that encourages local officials and the public with questions about demonstration projects to raise them with state pipeline safety officials who can raise them in the consultation process.

OPS would constitute a Project Review Team (PRT) to consult with the operator, keep abreast of any subsequent discussions, and provide technical input on whether a demonstration project could be approved. OPS would customize the make-up of each PRT to the company and project. The PRT members‘‘ roles would be defined in OPS-developed protocols, designed to ensure rigorous yet fair and consistent treatment of all operators throughout plan negotiation, approval, and monitoring. The mix of states and OPS regional personnel on the PRTs, as well as any outside technical expertise consulted, would vary from project to project depending on the demonstration's technical focus and geographic location. Some of the same OPS headquarters staff would be on all PRTs to ensure consistent application of policy throughout the project and to follow all issues raised during the consultations to their resolution.

The consultation would focus on the design, operations, and maintenance practices that would replace practices required by 49 CFR Part 192 or 195, and that would achieve superior overall safety and environmental protection. The operator would provide the rationale for these risk control alternatives by generally describing the specific risk management models, processes, and sources of data supporting their selection.

Other consultation discussion topics would include the program goals, the project scope defined per the Interim Risk Management Program Standard, the project-specific performance measures, the operator's auditing plan, a plan for OPS audits, proprietary issues, provisions for public communication, and the outline for a work plan including benchmarks, risk assessment processes, new technologies applied, points-of-disclosure, and mechanisms for monitoring and refinement.

(3) Formal Application and Approval

An operator would submit an application formally indicating its intent to enter into a risk management demonstration project. Consistent with the program standard's intent for an efficient information flow among appropriate stakeholders, a summary of this formal application would be published in the Federal Register, and the application itself would be made available for review and comment in the docket. OPS will again communicate with national public, environmental and other interested organizations about the sites in which we intend to approve demonstration projects so that local officials can be notified and informed.

The formal application, including a detailed work plan, would document operator/PRT resolution of issues raised during the consultation and any subsequent discussions. It would also provide assurance of a corporate commitment to implement the project in accordance with the operator's risk management application. Other issues may be included at the operator's discretion, such as how to return to compliance with the regulations should a demonstration be terminated.

OPS would review the application and comments, and decide whether to approve the project. If OPS decides to approve the project, OPS would issue the operator a written order. The order,

in addition to exempting an operator from the applicability of specified pipeline safety regulatory requirements for the period of the demonstration, would set forth the terms and conditions for the operator's participation in the demonstration project. The order would be enforceable.

(4) Implementation

A risk management project would start as soon as OPS approves the formal application and work plan, issues the order, and notifies the public through the Federal Register that the order is in effect. Regulators and operators would monitor risk management demonstration projects for compliance with the order. OPS would provide each participating operator with a plan describing the regulators'' expected level of effort in monitoring the demonstration, including the type of audits, their frequency, the participants, the audit scope, and the operator's means of addressing those aspects of the demonstration site remaining in compliance with the regulations, but this plan would not limit OPS's statutory authority to inspect a pipeline facility during the period of the demonstration. Planned OPS audits would coincide with the operator's data taking at key decision points, such as when the operator evaluates the effectiveness of safety activities or considers modifying safety activities.

An operator would notify OPS of any intent to make substantive modifications to the risk management project once a demonstration is underway. The PRT may reconvene to renegotiate project approval or to resolve other significant issues. Provisions will be made for public review and comment on renegotiated projects.

OPS could, through appropriate administrative action, address any unsafe conditions that arise during the demonstration period to ensure that such conditions are quickly addressed. OPS would also administer civil penalties within the provisions of the existing regulations for operators not complying with the order.

(5) Termination

OPS intends that, where a risk management demonstration project is determined to have been successful, the operator could, in lieu of switching to compliance with the regulations, continue to exercise risk management on that part of the system that was covered by the demonstration. However, this determination could not be made until the end of the demonstration period. Upon conclusion of the project, or if it is terminated earlier, consideration would be given to installations or facility modifications made during the demonstration project that conflict with future regulatory actions.

OPS may consider terminating a demonstration project if:

(i) The operator requests termination due to changed circumstances;

(ii) The operator does not comply with the terms and conditions of the approved risk management project;

(iii) Safety has been compromised; or

(iv) OPS and the operator fail to agree on a substantive modification to a risk management project.

V. Summary of Means of Achieving Meaningful Public and Community Involvement

OPS is providing numerous opportunities for public participation in the design and implementation of the Pipeline Risk Management Demonstration Program. One of OPS's objectives for the demonstrations is to establish a common framework for productive communication with public safety officials and the public, and for getting meaningful public input into the risk management process. OPS believes meaningful public input is essential if the demonstrations are to be successful.

The public was invited to comment on early regulatory framework concepts via Federal Register notices published in 60 FR 49040, September 21, 1995, and 60 FR 65725, December 20, 1995. OPS is soliciting public comment on the latest framework concepts via this notice. In addition to the notices, OPS has held two public meetings in preparation for the demonstrations and has scheduled a third for January 28, 1997, in New Orleans, LA. The previous public meetings were held on November 7, 1995, in McLean, Virginia, and on April 14–15, 1996, in Houston, TX. At the third meeting, OPS plans to present the final framework and supporting documents, and to demonstrate the review and approval process using prototype risk management projects.

This notice directs interested members of the public to the docket, to the American Petroleum Institute (API), or to a website to obtain and comment on the latest draft of the Interim Risk Management Program Standard. The standard describes the elements that OPS, its state partners, and industry agree must be common to all demonstration projects. One requirement is an external communications element, in which regulator and other stakeholder interests and concerns are understood, and program goals and results are communicated to and discussed with the public, as well as Federal, state, and local regulators, and other stakeholders as appropriate. The docket associated with this notice will have available for review any comments received on the standard and on the regulatory framework.

This notice also describes the numerous opportunities OPS is offering the public for comment during the demonstration review and approval process. Before formal applications are due, OPS will publish for public comment a Federal Register notice describing the demonstration projects under consideration and each company's concept for communicating with local safety officials should OPS approve its demonstration project. The public will be noticed again once the formal application is received and approval is imminent. At this time, a summary of the formal application will be published in the Federal Register, and the application itself will be made available for review and comment through the docket. At each opportunity for notice in the Federal Register, OPS will communicate with national public, environmental and other interested organizations about the sites under consideration so that local officials can be notified and informed about planned program activities.

Affected states will be a part of the Project Review Team (PRT) recommending whether or not OPS should approve a demonstration project. OPS will provide notification that encourages local officials and the public with questions about demonstration projects to raise them with state pipeline safety officials who can raise them with the PRT.

OPS and industry's communications effort focusing on public and environmental officials and other interested organization representatives is intended to provide these officials with adequate information to reassure the public that an appropriate regulatory presence is in place during the demonstrations, and to describe how safety and environmental protection will be enhanced by risk management. OPS would appreciate comments on whether these mechanisms are adequate to ensure public and community involvement, and if not, what OPS and operators choosing to participate in the demonstration projects can do to achieve such involvement.

VI. Report to Congress

By March 31, 2000, OPS will submit a Report to Congress on the results of the demonstration projects, evaluating how effectively safety, environmental

protection, and reliability have been improved by participating operators, the feasibility of risk management in general, and recommending whether and in what form risk management should be incorporated into the Federal pipeline safety program on a permanent basis.

Issued in Washington, DC, on November 8, 1996.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 96–29367 Filed 11–14–96; 8:45 am]

BILLING CODE 4910–60–P

Surface Transportation Board

[STB Finance Docket No. 33220]

CSX Corporation and CSX Transportation, Inc.—Control and Merger—Conrail Inc. and Consolidated Rail Corporation

AGENCY: Surface Transportation Board.

ACTION: Decision No. 3; notice of proposed procedural schedule.

SUMMARY: The Board invites comments from interested persons on a proposed procedural schedule.

DATES: Written comments on the proposed schedule must be filed with the Board no later than December 6, 1996. Applicants' reply is due by December 16, 1996.

ADDRESSES: An original and 25 copies of all documents must refer to STB Finance Docket No. 33220 and must be sent to the Office of the Secretary, Case Control Branch, ATTN: STB Finance Docket No. 33220, Surface Transportation Board, 1201 Constitution Avenue, NW., Washington, DC 20423.[1] In addition, one copy of all documents in this proceeding must be sent to each of the applicants' representatives: (1) Dennis G. Lyons, Esq., Arnold & Porter, 555 12th Street, NW., Washington, DC 20004–1202; and (2) Paul A. Cunningham, Esq., Harkins Cunningham, Suite 600, 1300 Nineteenth Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Julia M. Farr, (202) 927–5352. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: In Decision No. 2, served and published in the Federal Register on November 15, 1996, the Board issued a notice to the public that, pursuant to 49 CFR 1180.4(b), CSX Corporation (CSXC), CSX Transportation, Inc. (CSXT), Conrail Inc. (CRI), and Consolidated Rail Corporation (CRC)[2] had filed on October 18, 1996, a notice of their intent to file an application seeking authority under 49 U.S.C. 11323–25 for: (1) the acquisition of control of CRI by Green Acquisition Corp. (Acquisition), a wholly owned subsidiary of CSXC; (2) the merger of CRI into Acquisition; and (3) the resulting common control of CSXT and CRI and CSXC. The Board found this to be a major transaction as defined in 49 CFR part 1180. Applicants intend to file their application on or before March 1, 1997.

Applicants also filed on October 18, 1996, a petition to establish a procedural schedule (CSX/CR–3). Applicants' proposed procedural schedule is as follows:

Applicants' Proposed Procedural Schedule

F Primary application and related applications filed.

F+30 Board notice of acceptance of primary application and related applications published in the Federal Register.

F+45 Notification of intent to participate in proceeding due.

F+60 Description of anticipated inconsistent and responsive applications due; petitions for waiver or clarification due with respect to such applications.

F+120 Inconsistent and responsive applications due. All comments, protests, requests for conditions, and any other opposition evidence and argument due. Comments by U.S. Department of Justice (DOJ) and U.S. Department of Transportation (DOT) due.

F+135 Notice of acceptance (if required) of inconsistent and responsive applications published in the Federal Register.

F+150 Response to inconsistent and responsive applications due. Response to comments, protests, requested conditions, and other opposition due. Rebuttal in support of primary application and related applications due.

F+165 Rebuttal in support of inconsistent and responsive applications due.

F+185 Briefs due, all parties (not to exceed 50 pages).

F+215 Oral argument (at Board's discretion).

F+217 Voting conference.

F+255 Date of service of final decision.

Under applicants' proposal, immediately upon each evidentiary filing, the filing party shall place all documents relevant to the filing (other than documents that are privileged or otherwise protected from discovery) in a depository open to all parties, and shall make its witnesses available for discovery depositions. Access to documents subject to the protective order shall be appropriately restricted. Parties seeking discovery depositions may proceed by agreement. Relevant excerpts of transcripts will be received in lieu of cross-examination, unless cross-examination is needed to resolve material issues of disputed fact. Discovery on responsive and inconsistent applications will begin immediately upon their filing. The Administrative Law Judge assigned to this proceeding will have the authority initially to resolve any discovery disputes.[3]

The proposed schedule is substantially similar to that adopted in *Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railway Company (UP/SP),* Finance Docket No. 32760 (see Decision No. 6, ICC served Oct. 19, 1995; and Decision No. 9, ICC served Dec. 27, 1995).

Applicants' proposal is the first major consolidation transaction presented to the Board under the ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803 (ICCTA), enacted December 29, 1995, and effective January 1, 1996. The Board is seeking comments from the public on applicants' proposed procedural schedule, as modified by us below to adhere more closely to the provisions of ICCTA. In ICCTA,

[1] In addition to submitting an original and 25 copies of all documents filed with the Board, the parties are encouraged to submit all pleadings and attachments as computer data contained on a 3.5-inch floppy diskette which is formatted for WordPerfect 5.1 (or formatted so that it can be converted into WordPerfect 5.1) and is clearly labeled with the identification acronym and number of the pleading contained on the diskette [49 CFR 1180.4(2)]. The computer data contained on the computer diskettes submitted will be subject to the protective order entered in Decision No. 1, served on October 25, 1996, in this proceeding, and is for the exclusive use of Board employees reviewing substantive matters in this proceeding. The flexibility provided by such computer file data will facilitate expedited review by the Board and its staff.

[2] CSXC and CSXT are referred to collectively as CSX. CRI and CRC are referred to collectively as Conrail. CSX and Conrail are referred to collectively as ''applicants.''

[3] As we stated in Decision No. 2, the process of assigning an ALJ to this proceeding is underway, and we will leave all discovery matters, including the adoption of any guidelines governing discovery initially, to the discretion of the ALJ. A decision naming that judge will be issued as soon as possible.