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MONDAY, JUNE 27, 1977

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
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Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

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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.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 560, Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period June 17–23, 1977. The amendment recognizes that demand for Valencia oranges has improved since the regulation was issued. This action will increase the supply of oranges available to consumers.

DATES: Weekly regulation period June 17–23, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3545.

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Valencia Orange Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of Valencia oranges as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the Valencia orange markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit orange handlers to ship a larger quantity of Valencia oranges to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 100,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information became available upon which this amendment is based and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Valencia oranges.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i) and (ii) of § 908.860 Valencia Orange Regulation 560 (42 FR 30600) are hereby amended to read as follows:

§ 908.860 Valencia Orange Regulation 560.

* * * * *

(b) * * * (1) * * *

(i) District 1: 308,000 cartons;

(ii) District 2: 442,000 cartons.

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

Dated: June 21, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-18226 Filed 6-24-77;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES AND OTHER OPERATIONS

PART 1464—TOBACCO

Subpart A—Tobacco Loan Program—Flue-Cured Tobacco

AGENCY: Commodity Credit Corporation, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule provides the schedule of grade loan rates which will be used for 1977 crop flue-cured tobacco. This rule is needed to provide the statutory level of support for 1977 crop flue-cured tobacco. Eligible flue-cured tobacco may be delivered for price support at the specified rates.

EFFECTIVE DATE: June 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert P. Hieronymus, Tobacco and Peanut Division, ASCS, USDA, 5752 South Building, P.O. Box 2415, Washington, D.C. 20013, 202–447–5753.

SUPPLEMENTARY INFORMATION: On May 27, 1977 Commodity Credit Corporation (CCC) published in the FEDERAL REGISTER (42 FR 27249) a proposed schedule of grade loan rates for providing price support for 1977 crop flue-cured tobacco at the statutory level of support of 113.8 cents per pound. The proposed rule invited the public to submit written data, views and recommendations to be received by June 10. Forty-nine responses were received: 2 recommended that the proposed schedule be adopted; 21 recommended rates lower than proposed for the grades which are normally exported in large quantities; 7 recommended rates lower than proposed for grades to which the special factor "sand" or "dirt" is added to denote a moderate amount of sand or dirt in excess of normal; 1 recommended the rates as proposed for the grades to which the special factor "sand" or "dirt" is added but recommended, further, that corresponding increases be added to other grades to offset the reductions for the excessive sand or dirt reflected in the rates proposed for the grades bearing the special factors; 1 recommended less difference between the rates for certain primings grades (P grades) and certain lug grades (X grades) as the difference reflected in the proposed rates for such grades exceeds the difference in value; and fifteen recommended that price support not be made available to producers of tobacco because of the health issues associated with the use of tobacco products.

After considering the comments received, it is determined that to reflect proper value relationships, the proposed grade loan rates for the P2F and P2L grades should be increased 3 cents, and the proposed grade loan rates for the P3F and P3L grades should be increased 2 cents with offsetting decreases of 1 cent per pound in the proposed grade loan rates for the X5F, X5L, X4G and M4F grades. It is further determined that no changes should be made in the rates proposed for the other grades. Reductions as recommended in the rates for the grades which are normally exported in large quantity would require increases in the rates for the other grades and such increases could be expected to result in unduly large quantities being delivered for price support. Rates lower than proposed for the grades bearing the special factor "sand" or "dirt" would constitute discounts more than sufficient to reflect the excessive sand or dirt and would require offsetting increases in the grade loan rates for other grades for which many of the respondents recommended decreases. Price support for tobacco is required by Federal law and the grade

loan rates must average the statutory level of support for 1977 crop flue-cured tobacco.

FINAL RULE

Accordingly, 7 CFR 1464.16 is revised to read as set forth below, effective for the 1977 crop of flue-cured tobacco. The material previously appearing under § 1464.16 remains applicable to the crop to which it refers.

(Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714b, 714c), secs. 101, 106, 401, 403, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1445, 1421, 1423).)

NOTE.—The Commodity Credit Corporation has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Signed at Washington, D.C. on June 21, 1977.

KEISTER N. ADAMS,
Acting Executive Vice President, Commodity Credit Corporation.

7 CFR 1464.16 is revised as follows:

§ 1464.16 1977 Crop flue-cured tobacco, types 11–14, loan schedule.[1]

[Cents/lb, farm sales weight]

Grade	Loan rate	Grade	Loan rate	Grade	Loan rate
A1F	147	B3K	125	B3KR	124
A1L	147	B4K	121	B4KR	120
B1L	137	B5K	117	B5KR	116
B2L	133	B6K	112	B4KV	110
B3L	130	B3V	121	B5KV	106
B4L	126	B4V	116	B6KV	101
B5L	122	B5V	112	B4G	111
B6L	117	B3S	118	B5G	107
B1F	137	B4S	114	B6G	102
B2F	133	B5S	110	B5GR	99
B3F	130	B3KL	118	B4GK	108
B4F	126	B4KL	114	B5GK	104
B5F	122	B5KL	111	B6GK	99
B6F	117	B6KL	106	B5GG	95
B1FR	135	B3KF	118	H3L	132
B2FR	131	B4KF	114	H4L	129
B3FR	128	B5KF	111	H5L	124
B4FR	125	B6KF	106	H6L	119
B5FR	121	B3KM	121	H1F	139
B6FR	116	B4KM	118	H2F	135
B4R	117	B5KM	114	H3F	132
B5R	111	B6KM	108	H4F	129
H5F	124	X2L	128	P2F	103
H6F	119	X3L	123	P3F	103
H4FR	127	X4L	118	P4F	97
H5FR	123	X5L	110	P5F	92
H6FR	117	X1F	132	P4G	88
H4K	125	X2F	128	P5G	82
H5K	120	X3F	123	M4F	112
H6K	115	X4F	118	M5F	108
C1L	136	X5F	110	M4KR	107
C2L	133	X3V	115	M4KM	105
C3L	130	X4V	110	M5KM	101
C4L	127	X3S	114	M4GK	100
C5L	123	X4KL	110	M5GK	95
C1F	136	X4KF	110	N1L	84
C2F	133	X4KV	105	N1XL	89
C3F	130	X3KR	120	N1K	95
C4F	127	X4KR	115	N1R	86
C5F	123	X3KM	117	N1GL	78
C4V	118	X4KM	111	N1GF	87
C4S	117	X4G	103	N1GR	82
C4KL	117	X5G	99	N1KV	86
C4KM	118	X4GK	103	N1GG	79
C4KR	122	P2L	108	N1BO	78
C4G	112	P3L	103	N1XO	76
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X1L	132	P5L	92		

[1] The loan rates listed are applicable to tied and untied flue-cured tobacco which is (1) eligible tobacco as defined in the regulations and (2) identified by a marketing card which does not bear the notation "Discount Variety-Limited Support." Rates for eligible tobacco identified by a marketing card, which bears the notation "Discount Variety-Limited Support," are 50 percent of the loan rates listed plus fifty cents ($0.50) per hundred pounds. Any grade to which the special factor "sand" or "dirt" is added (denoting a moderate amount of sand or dirt in excess of normal) may be accepted at 90 percent, rounded to the nearest cent, of the loan rate listed. Tobacco graded "W" (doubtful keeping order), "U" (unsound), "N2", "No-G", "No-G-F", "No-G-F-sand", "No-G-F-dirt" or "scrap" will not be accepted. Tobacco is eligible for advance only if consiged by the original producer. The cooperative association through which advances are made available is authorized to deduct 1 cent per pound to apply against overhead costs.

[FR Doc.77-18209 Filed 6-24-77;8:45 am]

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE

REALIGNMENT OF AGENCY AND PROGRAM RESPONSIBILITIES

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to establish a new chapter in the Code of Federal Regulations for the new Food Safety and Quality Service that was established in the Department of Agriculture on March 14, 1977. Certain functions relating to standardization and inspection and grading of agricultural products formerly under the Agricultural Marketing Service were assigned to the new agency. A new chapter has been designated for the purpose of recodification of these functions.

EFFECTIVE DATE: June 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Mary K. Ritter, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-5401.

SUPPLEMENTARY INFORMATION: On April 18, 1977, a notice was published in the FEDERAL REGISTER (42 FR 20165) transferring the responsibilities relating to meat grading and standardization; grading and standardization of poultry, shell eggs, and rabbits; standardization and inspection and grading of dairy products; standardization and inspection of fresh and processed fruit and vegetable products; and functions authorized by the Egg Products Inspection Act and by Section 32 of the Act of August 24, 1935, as supplemented by the Act of June 28, 1937, and related legislation from the Agricultural Marketing Service to the Food Safety and Quality Service. Accordingly, under Title 7 of the Code of Federal Regulations a new Chapter XXVIII has been designated for the purpose of recodification of these functions.

It has been determined that this document does not substantially affect any member of the public. Under the administrative procedure provisions in 5 U.S.C. 553, it is found to be impracticable, unnecessary, and contrary to the public interest to delay the effectiveness of this rule until 30 days after publication in the FEDERAL REGISTER in that (1) no substantive rule or change of rule is involved, and (2) recodification in the Code of Federal Regulations is an editorial change only.

Accordingly, all applicable references to the Agricultural Marketing Service will be changed to read the Food Safety and Quality Service. Pursuant to said notice and the statutory authority under which the provisions were issued the following functions are hereby transferred from Chapter I to Chapter XXVIII of Title 7:

Current 7 CFR Part	Changed to 7 CFR Part	
SUBCHAPTER A—COMMODITY STANDARDS AND STANDARDS CONTAINER REGULATIONS		
42	2842	Standards for Condition of Food Containers.
43	2843	Standards for Sampling Plans.
44	[1] 2844	Standards for Determining Net Weight of Food Products.
SUBCHAPTER B—MARKETING OF PERISHABLE AGRICULTURAL COMMODITIES		
----------	[2] 2850	Rules of Practice Governing Withdrawal of Inspection and Grading Services.
SUBCHAPTER C—REGULATIONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946		
51	2851	Fresh Fruits, Vegetables, and Other Products (Inspection, Certification, and Standards).
52	2852	Processed Fruits, Vegetables, Processed Products Thereof, and Certain Other Processed Food Products.
----------	2853	[Reserved]
55	2855	Voluntary Inspection of Egg Products and Grading.
56	2856	Grading of Shell Eggs and U.S. Standards, Grades, and Weight Classes for Shell Eggs.
58	2858	Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products.
59	2859	Inspection of Eggs and Egg Products (Egg Products Inspection Act of 1970).
70	2870	Voluntary Grading of Poultry Products and Rabbit Products and U.S. Classes, Standards, and Grades.
SUBCHAPTER G—PROCESS OR RENOVATED BUTTER		
171	2871	Sanitary Inspection of Process or Renovated Butter.

[1] To be codified in the CFR books when a final rule is issued.
[2] Also appears as pt. 50 in ch. I.

Dated: June 21, 1977.

WILLIAM T. MANLEY,
Acting Deputy Administrator, Commodity Operations.

Part 2850 will read as follows:

PART 2850—RULES OF PRACTICE GOVERNING WITHDRAWAL OF INSPECTION AND GRADING SERVICES

Subpart A—General

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2850.1 Meaning of words.
2850.2 Definitions.
2850.3 Scope and applicability of this part.

Subpart B—Conditional Withdrawal of Service Proceedings

2850.11 General.
2850.12 Notice.

Subpart C—Rules Applicable To Disciplinary Withdrawal Proceedings

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AUTHORITY: Sec. 205, 60 Stat. 1090 as amended (7 U.S.C. 1624).

Subpart A—General

§ 2850.1 Meaning of words.

As used in this part words in the singular form shall be deemed to import the plural, and vice versa, as the case may require.

§ 2850.2 Definitions.

(a) The term "Act" means the Agricultural Marketing Act of 1946, approved August 14, 1946, and any legislation amendatory thereof (7 U.S.C. 1621–1627).

(b) "Administrator" means the Administrator, Food Safety and Quality Service, U.S. Department of Agriculture, or any officer or employee to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in his stead.

(c) "Division" means the Division of the Food Safety and Quality Service initiating the withdrawal proceedings.

(d) "Director" means the Director of the Division or any officer or employee to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(e) "Department" means the United States Department of Agriculture.

(f) "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(g) "General Counsel" means the General Counsel of the Department or any employee of the Office of the General Counsel to whom the authority to act in his stead has heretofore been or may hereafter be delegated.

(h) "Conditional withdrawal of service" means the withdrawal, not involving disciplinary action, of grading or inspection service from a person for a correctable cause such as failure to pay bills for service, interference with the grading or inspection personnel in the performance of their duties, insanitary or other unsatisfactory plant conditions.

(i) "Disciplinary withdrawal of service" means the withdrawal of grading or inspection service for any reason (other than a conditional withdrawal) due to a violation of the Act or the regulations issued thereunder. The term includes termination of service contracts for cause even though the contract may provide for the unilateral termination by the Food Safety and Quality Service under certain specified conditons.

(j) "Adminstrative Law Judge." In connection with disciplinary proceedings, the terms "Administrative Law Judge" or "Judge" mean any Administrative Law Judge appointed pursuant to 5 U.S.C. 3105, assigned to conduct the proceeding.

(k) "Initial decision": In connection with disciplinary proceedings, "initial decision" or "decision" means the initial decision of an Administrative Law Judge, and includes the Administrative Law Judge's (1) findings of fact and conclusions with respect to all material issues of fact, law or discretion, as well as the reasons or basis therefor, (2) order, and (3) rulings on findings, conclusions and order submitted by the parties.

(l) "Hearing Clerk" means the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250.

(m) "Party" includes the Department in those instances in which a proceeding is instituted upon moving papers filed by an officer or employee of the Department in an official capacity.

(n) "Complainant" means the party upon whose moving paper the proceeding is instituted.

(o) "Respondent" means the party proceeded against.

(p) "Moving paper" means any formal complaint, petition or notice, issued by the Director, by virtue of which a formal proceeding under the Act is instituted.

§ 2850.3 Scope and applicability of this part.

The rules of practice in this part shall govern all withdrawals of inspection and grading service furnished by the Food Safety and Quality Service pursuant to the Act. They do not modify existing procedures for refusing to inspect, grade, or certify a specific lot of a product because of adulteration, improper preparation or improper presentation of the lot for grading, or because of failure to comply with any similar requirements set forth in applicable regulations.

Subpart B—Conditional Withdrawal of Service Proceedings

§ 2850.11 General.

The Director may withdraw grading or inspection service from a person for a correctable cause. Such service, after appropriate corrective action is taken, will be restored immediately, or as soon thereafter as a grader or inspector can be made available.

§ 2850.12 Notice.

Written notice shall be given to the person concerned, in advance of a conditional withdrawal, whenever it is feasible to do so. If advance written notice is not given, the conditional withdrawal action shall be promptly confirmed in writing and the reason therefor shall be stated, except in instances where the person has already corrected the deficiency.

Subpart C—Rules Applicable to Disciplinary Withdrawal Proceedings

§ 2850.21 Stipulations and consent orders.

(a) At any time prior to the issuance of the moving paper, the Director may enter into a stipulation with the prospective respondent whereby the latter agrees to discontinue the acts or practices which are violative of the Act and also may agree to withdrawal of grading or inspection service. Such stipulations shall be admissible as evidence of such acts and practices in any subsequent proceeding against such person before the Secretary.

(b) At any time after the issuance of the moving paper and prior to the hearing in any proceeding, the Director, in his discretion, may allow the respondent to consent to an order. In so consenting, the respondent must submit, for filing in the record, a stipulation or statement in which he admits at least those facts necessary to the Secretary's jurisdiction and agrees that an order may be entered against him. Upon a record composed of the moving paper and the stipulations or agreement consenting to the order, the Judge shall enter the order consented to by the respondent, which shall have the same force and effect as an order made after oral hearing.

§ 2850.22 Formal complaints and other moving papers.

(a) *Filing; service; and number of copies.* A formal complaint or other form of moving paper shall be filed, in triplicate, with the Hearing Clerk, who shall promptly serve a true copy thereof upon the respondent, in the manner provided in § 2850.36.

(b) *Who may file.* Disciplinary withdrawal proceedings may be instituted only upon moving papers filed by the Director.

(c) *Contents.* A moving paper shall state briefly and clearly the allegations of fact which constitute a basis for the proceeding and shall specify with particularity the matters or things in issue. Moving papers shall not include charges,

implied charges, or requirements phrased generally in the words of the Act, but the words of the Act may be identified and quoted or used in preliminary recitals. Moving papers which propose to deny applications, petitions, or requests shall specify the reason for denial and shall, so far as practicable, contain suggestions as to further procedures or alternatives available to the persons involved.

(d) *Amendments.* At any time prior to the close of the hearing, the moving paper may be amended, but, in case of an amendment adding new provisions, the hearing shall, at the request of the respondent, be adjourned for a reasonable time to be determined by the Judge. Amendments subsequent to the first amendment or subsequent to the filing of an answer by the respondent may be made only with leave of the Judge or with the written consent of the adverse party.

§ 2850.23 Docket number.

Each proceeding, immediately following the institution, shall be assigned a docket number by the Hearing Clerk, and thereafter the proceeding may be identified by such number.

§ 2850.24 Judges.

(a) *Assignment.* No Judge shall be assigned to serve in any proceeding who (1) has any pecuniary interest in any matter or business involved in the proceeding, (2) is related within the third degree by blood or marriage to any part to the proceeding, or (3) has participated in the investigation preceding the institution of the proceeding or in the determination that it should be instituted or in the preparation of the complaint or in the development of the evidence to be introduced therein.

(b) *Request for disqualification of Judge.* (1) Any party may file with the Hearing Clerk a timely request, in affidavit form, for the disqualification of the Judge, which requests shall set forth with particularity the grounds of alleged disqualification. After such investigation or hearing as the Secretary may deem necessary, he shall either deny or grant the request. If the request is granted, another Judge shall be assigned to the proceeding. If such request is denied, the request, any record made thereon, and the finding and order of the Secretary thereon shall be made a part of the record.

(2) A Judge shall ask to be withdrawn from any proceeding in which he deems himself disqualified for any reason.

(c) *Conduct.* The Judge shall conduct the proceedings in a fair and impartial manner and, save to the extent required for the disposition of ex parte matters as authorized by law, he shall not consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate.

(d) *Powers.* Subject to review by the Secretary, as provided elsewhere in the regulations in this part, the Judge in any proceeding assigned to him, shall have power to:

(1) Rule upon motions and requests;

(2) Set the time and place of hearing, adjourn the hearing from time to time, and change the time and place of hearing;

(3) Administer oaths and affirmations and take affidavits;

(4) Examine witnesses and receive evidence;

(5) Take, or order (over the facsimile signature of the Secretary) the taking, of depositions;

(6) Admit or exclude evidence;

(7) Hear oral argument on facts or law;

(8) Do all acts and take all measures necessary for the maintenance of order at the hearing and for the efficient conduct of the proceeding.

(e) *Who may act in absence of Judge.* In case of the absence of the Judge or his inability to act, the powers and duties to be performed by him under these rules of practice in connection with a proceeding may, without abatement of the proceeding unless otherwise ordered by the Secretary, be assigned to any other Judge.

§ 2850.25 The answer.

(a) *Filing and service.* Within 20 days after the service of the moving paper, the respondent shall file, in triplicate, with the Hearing Clerk, an answer, signed by the respondent or his attorney: *Provided*, That the Secretary may order that the hearing be held without answer or other pleading. The answer shall be served upon the complainant, and any other party of record, by the Hearing Clerk.

(b) *Contents; failure to file.* Such answer shall (1) contain a statement of the facts which constitute the grounds of defense, and shall specifically admit, deny, or explain each of the allegations of the moving paper unless the respondent is without knowledge, in which case the answer shall so state; or (2) state that the respondent admits all of the allegations of the moving paper. The answer may contain a waiver of hearing. Failure to file an answer to, or plead specifically to, any allegation of the moving paper shall constitute an admission of such allegation.

(c) *Procedure upon admission of facts.* The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the moving papers shall constitute a waiver of hearing. Upon such admission of facts, complainant shall file in triplicate a proposed decision, along with a motion for the adoption thereof, which motion and proposed decision shall be served upon the respondent by the Hearing Clerk. Within 20 days after service of such motion and proposed decision, the respondent may file with the Hearing Clerk objections thereto. In not less than 30 days after service of complainant's motion and proposed decision, the Judge shall issue an initial decision without further procedure or hearing. Absent a waiver by the parties of service of the Judge's initial decision, it shall be served upon them by the Hearing Clerk. The parties shall be given an opportunity to file appeals to the initial decision, to file briefs in support of such appeals, and to make oral arguments thereon before the Secretary in accordance with § 2850.32.

§ 2850.26 Motions and requests.

(a) *General.* (1) All motions and requests shall be filed with the Hearing Clerk, except that those made during an oral hearing may be stated orally and made a part of the transcript.

(2) The Judge shall rule upon all motions and requests filed or made prior to the issuance of the initial decision. The Secretary shall rule upon all motions and requests field in connection with an appeal of the initial decision to the Secretary.

(b) *Certification to Secretary.* The submission or certification of any motion, request, objection, or other question to the Secretary prior to the issuance of an initial decision shall be in the discretion of the Judge.

§ 2850.27 Oral hearing before Judge.

(a) *Request for oral hearing.* (1) Any party may request an oral hearing on the facts by including such request in the moving paper or answer or by a separate request in writing filed with the Hearing Clerk.

(2) Waiver of oral hearing shall not be deemed to be a waiver of the right to make oral argument before the Secretary upon appeal of the Judge's initial decision.

(b) *Time and place.* If and when the proceeding has reached the state where oral hearing is to be held, the Judge, upon motion of any of the parties, jointly or individually, stating that the matter is at issue and is ready for hearing, shall set a time and place for hearing giving careful consideration to the convenience of the parties, and shall file with the Hearing Clerk a notice stating the time and place of hearing. If any change in the time or place of the hearing becomes necessary it shall be made by the Judge and notice of such change shall be served upon the parties.

(c) *Appearances*—(1) *Representation.* In any proceeding under the Act, the parties may appear in person or by the counsel or other representative. The Department, if represented by counsel, shall be represented by an attorney assigned by the General Counsel.

(2) *Debarment of counsel or representative.* (i) Whenever, while a proceeding is pending before him, the Judge finds that a person acting as counsel or representative for any party to the proceeding is guilty of unethical or unprofessional conduct, the Judge may order that such person be precluded from further acting as counsel or representative in such proceeding. An appeal to the Secretary may be taken from any such order, but the proceeding shall not be delayed or suspended pending disposition of the appeal: *Provided*, That the Judge may suspend the proceedings for a reasonable time for the purpose of en-

abling the party to obtain other counsel or representative.

(ii) In case the Judge has issued an order precluding a person from further acting as counsel or representative in the proceeding, the Judge, within a reasonable time thereafter, shall submit to the Secretary a report of the facts and circumstances surrounding the issuance of the order and shall recommend what action the Secretary should take respecting the appearance of such person as counsel or representative in other proceedings before the Secretary. Thereafter, the Secretary may, after notice and an opportunity for hearing, issue such order respecting the appearance of such person as counsel or representative in proceedings before the Secretary as the Secretary finds to be appropriate.

(3) *Failure to appear.* (i) If any party to the proceeding, after being duly notified, fails to appear at the hearing, he shall be deemed to have waived the right to an oral hearing in the proceeding. In the event that a party appears at the hearing and no party appears for the opposing side, the Judge may determine whether the party who is present shall present his evidence, in whole or in part, in the form of affidavits or by oral testimony before the Judge.

(ii) Failure to appear at a hearing shall not be deemed to be a waiver of the right to be served with a copy of the Judge's initial decision, to appeal therefrom to the Secretary, and to make oral argument before the Secretary with respect thereto.

(d) *Order of proceeding.* Except as may be determined otherwise by the Judge, the moving party shall proceed first at the hearing.

(e) *Evidence*—(1) *In general.* (i) The testimony of witnesses at a hearing shall be on oath or affirmation, subject to cross-examination, and shall be reported verbatim.

(ii) Any witness may, in the discretion of the Judge, be examined separately and apart from all other witnesses except those who may be parties to the proceeding.

(iii) The Judge shall exclude, insofar as practicable, evidence which is immaterial, irrelevant, or unduly repetitious, or which is not of the sort upon which responsible persons are accustomed to rely.

(2) *Objections.* (i) If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination, he shall state briefly the grounds of such objections, whereupon an automatic exception will follow if the objection is overruled by the Judge. The transcript shall not include argument or debate thereon except as ordered by the Judge. The ruling of the Judge on any objection shall be a part of the transcript.

(ii) Only objections made before the Judge may subsequently be relied upon in the proceeding.

(3) *Depositions.* The deposition of any witness shall be admitted, in the manner provided in and subject to the provisions of § 2850.28.

(4) *Affidavits.* Except as is otherwise provided in the regulations in this part, affidavits may be admitted only if the evidence is otherwise admissible and the parties agree (which may be determined by their failure to make timely objections) that affidavits may be used.

(5) *Proof and authentication of official records or documents.* An official record or document, if admissible for any purpose, shall be admissible in evidence without the production of the person who made or prepared the same. Such record or document shall be evidenced by an official publication thereof or by a copy attested by the person having legal authority to make such attestation. The person attesting the copy shall make a certificate showing such authority.

(6) *Exhibits.* (i) All written statements, charts, tabulations, or similar data offered in evidence at the hearing shall, after identification by the proponent and upon a satisfactory showing of the admissibility of the contents thereof, be numbered as exhibits, received in evidence, and made a part of the record. Unless the Judge finds that the furnishing of copies is impracticable, a copy of each exhibit shall be filed with the Judge for the use of each other party to the proceeding. The Judge shall advise the parties as to the exact number of copies which will be required to be filed and shall make and have noted on the record the proper distribution of the copies.

(ii) If the testimony of a witness refers to a statute, a report, document, or transcript, the Judge, after inquiry relating to the identification of such statute, report, document, or transcript, shall determine whether a copy of the same shall be produced at the hearing and physically be made a part of the evidence as an exhibit, or whether it shall be incorporated into the evidence by reference. If relevant and material matter offered in evidence is embraced in a report, document, or transcript containing immaterial or irrelevant matter, such immaterial or irrelevant matter shall, insofar as practicable, be designated by the party and segregated and excluded.

(7) *Official notice.* Official notice shall be taken of such matters as are judicially noticed by the courts of the United States and of any other matter of technical, scientific, or commercial fact of established character: *Provided*, That the parties shall be given adequate notice of matters so noticed, and shall be given adequate opportunity to show that such facts are erroneously noticed.

(8) *Offer of proof.* Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the transcript. The offer of proof shall consist of a brief statement describing the evidence to be offered. If the evidence consists of a brief oral statement or of an exhibit, it shall be inserted into the transcript in toto. In such event, it shall be considered a part of the transcript if the Secretary decides that the Judge's ruling in excluding the evidence was erroneous. The Judge shall not allow the insertion of such evidence in toto if the taking of such evidence will consume a considerable length of time at the hearing. In the latter event, if the Secretary decides that the Judge erred in excluding the evidence, and that such error was substantial, the hearing will be reopened to permit the taking of such evidence.

(f) *Oral argument before Judge.* Oral argument before the Judge shall not be allowed unless the Judge finds that the denial of such argument will be likely to deprive the parties of an adequate opportunity for oral argument subsequently in the proceeding. Such argument, which shall be reduced to writing and made part of the transcript, may be limited by the Judge to any extent that he finds necessary for the expeditious disposition of the proceeding.

§ 2850.28 Depositions.

(a) *Procedure in lieu of deposition.* Before taking testimony by deposition, a party may execute and submit to the other party an affidavit which shall set forth the facts to which the witness would testify, if the deposition should be taken. If, after examination of such affidavit, the other party agrees to the use of the affidavit in lieu of a deposition, the Judge shall admit the affidavit in evidence and shall not order the deposition to be taken.

(b) *Application for taking deposition.* Upon the application of a party to the proceeding, the Judge may, at any time after the filing of the moving papers, order, over the facsimile signature of the Secretary, the taking of testimony by deposition. The application shall be in writing, shall be filed with the Hearing Clerk, and shall set forth: (1) The name and address of the proposed deponent; (2) the name and address of the person (referred to hereinafter in this section as the "officer") qualified under the regulations in this part to take depositions, before whom the proposed examination is to be made; (3) the proposed time and place of the examination, which shall be at least 15 days after the date of the mailing of the application; and (4) the reasons why such deposition should be taken.

(c) *Judge's order for taking deposition.* If, after examination of the application, the Judge is of the opinion that the deposition should be taken, he shall order its taking. The order shall be filed with the Hearing Clerk, shall be served upon the parties, and shall state: (1) The time and place of the examination (which shall not be less than 7 days after the filing of the order); (2) the name of the officer before whom the examination is to be made; (3) the name of the deponent. The officer and the time and place need not be the same as those suggested in the application.

(d) *Qualifications of officer.* The deposition shall be made before the Judge or before an officer authorized by the law of the United States or by the law of the place of the examination to administer oaths, or before an officer authorized by the Secretary to administer oaths.

(e) *Procedure on examination.* (1) Deponent shall be examined under oath or affirmation and shall be subject to cross-examination. The testimony of the deponent shall be recorded by the officer or by some person under his direction and in his presence. In lieu of oral examination, parties may transmit written questions to the officer prior to the examination and the officer shall propound such questions to the deponent.

(2) The applicant shall arrange for the examination of the witness either by oral examination or by written questions. If the place of business of the opposing party is more than 100 miles from the place of the examination, the applicant will be required to conduct the examination by means of written questions, unless the parties otherwise agree. If the examination is conducted by means of written questions, copies of the questions shall be served upon the other party to the proceeding at least 10 days prior to the date set for the examination unless otherwise agreed, and the other party shall be afforded an opportunity to file with the officer cross-questions at any time prior to the time of the examination.

(f) *Certification by officer.* The officer shall certify on the deposition that the deponent was duly sworn by him and that the deposition is a true record of the deponent's testimony. He shall then securely seal the depositions, together with one copy thereof (unless there are more than two parties in a proceeding, in which case there should be another copy for each additional party), in an envelope and mail the same by registered mail to the Hearing Clerk.

(g) *Use of depositions.* A deposition ordered and taken in accordance with the provisions of this section may be used in a proceeding under the Act if the Judge finds that the evidence is otherwise admissible and (1) that the witness is dead; or (2) that the witness is at a distance greater than 100 miles from the place of hearing, unless it appears that the absence of the witness was procured by the party offering the deposition; or (3) that the witness is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or (4) that the party offering the deposition has endeavored to procure the attendance of the witness, but has been unable to do so; or (5) that such exceptional circumstances exist as to make it desirable, in the interests of justice, to allow the deposition to be used. If a deposition has been taken and the party upon whose application it was taken refuses to offer it in evidence, the other party may offer the deposition or any part thereof in evidence.

§ 2850.29 Prehearing conferences.

In any proceeding in which it appears that such procedure will expedite the proceeding, the Judge, at any time prior to or during the course of the oral hearing, may request the parties or their counsel to appear at a conference before him to consider (a) the simplification of issues; (b) the necessity or desirability of amendments to pleadings; (c) the possibility of obtaining stipulations of fact and of documents which will avoid unnecessary proof; (d) the limitation of the number of expert or other witnesses; and (e) such other matters as may expedite and aid in the disposition of the proceeding. No transcript of such conference shall be made, but the Judge shall prepare and file for the record a written summary of the action agreed upon or taken at the conference, which shall incorporate any written stipulations or agreements made by the parties at the conference or as a result of the conference. If the circumstances are such that a conference is impracticable, the Judge may request the parties to correspond with him for the purpose of accomplishing any of the objects set forth in this section. The Judge shall forward copies of letters and documents to the parties as the circumstances require. Correspondence in such negotiations shall not be a part of the record, but the Judge shall submit a written summary for the record if any agreement is reached or action is taken.

§ 2850.30 Post-hearing procedure.

(a) *Corrections to and certification of transcript.* (1) At such time as the Judge may specify, but not later than the time fixed for filing proposed findings of fact, conclusions and order, or briefs, as the case may be, the parties may file with the Judge proposed corrections to the transcript.

(2) As soon as practicable after the filing of proposed findings of fact, conclusions and orders, or briefs, as the case may be, the Judge shall file with the hearing clerk his certificate indicating any corrections to be made in the transcript, and stated that, to the best of his knowledge and belief, the transcript, as corrected, is a true, correct, and complete transcript of the testimony given at the hearing, and that the exhibits are all the exhibits properly a part of the hearing record. The original of such certificate shall be attached to the original transcript and copy of such certificate shall be served upon each of the parties by the Hearing Clerk who shall also enter onto the transcript (without obscuring the text) any correction noted in the certification.

(b) *Proposed findings of fact, conclusions, orders, and briefs.* Each party may file with the Hearing Clerk proposed findings of fact, conclusions and orders, based solely upon the record, and on matters subject to official notice, and a brief in support thereof. The Judge shall announce at the hearing a definite calendar day as the time within which these documents may be filed.

(c) *Administrative Law Judge's initial decision.* The Judge, within a reasonable time after the termination of the period allowed for the filing of proposed findings of fact, conclusions and orders, and briefs in support thereof, shall prepare, upon the basis of the record and on matters officially noticed and shall file with the Hearing Clerk, his initial decision, a copy of which shall be served by the Hearing Clerk upon each of the parties. Such decision shall become final without further proceedings 35 days after the date of service thereof, unless there is an appeal to the Secretary by a party to the proceeding pursuant to § 2850.31(a): *Provided, however,* That no decision shall be final for purposes of judicial review except a final decision of the Secretary upon appeal.

§ 2850.31 Appeal to Secretary.

(a) *Filing of petition.* Any party who disagrees with a Judge's decision, or any part thereof, may appeal the decision to the Secretary by transmitting an appeal petition to the Hearing Clerk within 30 days after service of said decision upon said party. Each issue set forth in the appeal, and the arguments thereon, shall be separately numbered; shall be plainly and concisely stated; and shall contain detailed citations of the record, statutes, regulations and authorities being relied upon in support thereof. The appeal petition shall be served upon the other party to the proceeding by the Hearing Clerk.

(b) *Response to appeal petition.* Within 20 days after the service of an appeal brought by a party to the proceeding, any other party may file with the Hearing Clerk a response in support of or in opposition to such appeal which shall be served upon the appellant.

(c) *Transmittal of record.* Whenever an appeal of an initial decision is filed and a response thereto has been filed or the time for filing a response has expired, the Hearing Clerk shall transmit to the Secretary the record of the proceeding. Such record shall include: The pleadings; motions, and requests filed and ruling thereon; the transcript of the testimony taken at the hearing, together with the exhibits filed therein; any documents or papers filed in connection with prehearing of fact, conclusions and orders, and briefs in support thereof, as may have been filed in connection with the hearings; the judge's initial decision; and the appeal petition; briefs in support thereof and responses thereto as may have been filed in the proceeding.

§ 2850.32 Argument before Secretary.

(a) *Oral argument.* A party bringing an appeal may request, within the prescribed time period for filing such appeal, an opportunity for oral argument before the Secretary. Failure to make such request in writing, within the prescribed time period shall be deemed a waiver of roal argument. The Secretary, in his discretion, may grant, refuse, or limit any request for oral argument on appeal.

(b) *Briefs.* The Secretary may allow or refuse to allow briefs to be filed, either in lieu of or in addition to oral argument.

(c) *Scope of argument.* Argument to be heard on appeal whether oral or in a written brief, shall be limited to the issues raised in the appeal, except that if the Secretary determines that additional issues should be argued, the par-

ties shall be given reasonable notice of such determination, so as to permit preparation of adequate arguments on all issues to be argued.

§ 2850.33 Consideration of appeal by the Secretary and issuance of final order.

As soon as practicable after the receipt of the record from the Hearing Clerk, or, in case oral argument was had, as soon as practicable thereafter, the Secretary, upon the basis of and after due consideration of the record, shall rule on the appeal. If the Secretary decides that no change or modification of the Judge's decision is warranted, he may adopt the Judge's decision as the final order of the Secretary, preserving any right of the party bringing the appeal to seek judicial review of such decision in the proper forum.

(a) *Issuance of final order.* A final order issued by the Secretary shall be filed with the Hearing Clerk, who shall serve it forthwith upon the parties.

§ 2850.34 Rehearing, reargument, reconsideration of orders, and reopening of hearings.

(a) *Petitions to rehear, reargue, and reconsider.* A petition for rehearing or reargument of the proceeding, or for reconsideration of the order, shall be made by petition to the Secretary filed with the Hearing Clerk within 10 days after the date of service of the order. Every such petition shall state specifically the matters claimed to have been erroneously decided and the alleged errors. If the Secretary concludes that the questions raised by the petition have been sufficiently considered in the issuance of the order, he shall dismiss the petition without service on the other party. Otherwise he shall direct that a copy of the petition be served upon such party. The filing of a petition to rehear or reargue a proceeding or to reconsider an order shall automatically operate to set aside the order pending final action on the petition.

(b) *Petition to reopen.* A petition to reopen a hearing to take further evidence may be filed at any time prior to the issuance of the final order. Every such petition shall state briefly the nature and purpose of the evidence to be adduced, shall show that such evidence is not merely cumulative, and shall set forth a good reason why such evidence was not adduced at the hearing. Every such petition shall be served by the Hearing Clerk on the other party in the proceeding.

(c) *Procedure for disposition of petitions.* Within 20 days following the service of any petition provided for in this section, the other party to the proceeding may file with the Hearing Clerk an answer thereto. In the event that any such petition is granted the applicable rules of practice shall be followed.

§ 2850.35 Filing; extensions of time; effective date of filing; computation of time.

(a) *Filing; number of copies.* Except as is provided otherwise herein, all documents or papers required or authorized by the regulations in this part to be filed with the Hearing Clerk shall be filed in triplicate: *Provided*, That, where there are more than two parties to the proceeding, a sufficient number of copies shall be filed so as to provide for service upon all the parties to the proceeding. Any document or paper required or authorized by the regulations in this part to be filed with the Hearing Clerk shall, during the course of an oral hearing, be filed with the Judge.

(b) *Extensions of time.* The time for the filing of any document or paper (except an informal complaint) required or authorized under the regulations in this part to be filed may be extended by the Judge (before the transmittal of the record to the Secretary) or by the Secretary (after such transmittal) upon request, if, in the judgment of the Judge or the Secretary, as the case may be, there is good reason for the exetension.

(c) *Effective date of filing.* Any document or paper required or authorized under the regulations in this part to be filed shall be deemed to be filed when it reaches the Hearing Clerk.

(d) *Computation of time.* Sundays and holidays shall be included in computing the time allowed for the filing of any document or paper: *Provided*, That when such time expires on a Sunday or Federal holiday, the period shall be extended to include the next following business day.

§ 2850.36 Service; proof of service.

Service of all papers and documents required to be served on the parties in any proceeding under these rules shall be made by the Hearing Clerk, unless otherwise provided herein or directed by a Judge or the Secretary, and shall be made either (a) by registering or certifying and mailing a copy of the document or paper, addressed to the individual, partnership, corporation, organization, or association, or to his or its attorney or agent of record, at his or its last known principal office, place of business, or residence; or (b) if such registered or certified matter is returned undelivered for any reason, by mailing by regular mail a copy of the document or paper, addressed to such individual, partnership, corporation, organization, or association, or to his or its attorney or agent of record, at his or its last known principal office, place of business, or residence; or (c) by leaving a copy of the document or paper at the principal office, or place of business, or residence, of such individual, partnership, corporation, organization, or association, or of his or its attorney or agent of record and by mailing by regular mail another copy to such person at such address; or (d) by delivering a copy of the document or paper to the individual to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or any director of the corporation, organization, or association to be served, or to the attorney or agent of record of such individual, partnership, corporation, organization, or association. Proof of service hereunder by a person other than an employee of the Department or a United States Marshal or his deputy shall be made by the affidavit of the person who actually made the service. Proof of service hereunder by an employee of the Department or a United States Marshal or his deputy shall be made by the certificate of the person who actually made the service: *Provided*, That if the service be made by registered or certified mail, as outlined in paragraph (a) of this section, proof of service shall be made by the return post-office receipt, except that, if the registered or certified matter is returned undelivered for any reason, proof of service may be made by the certificate of the person who thereafter mailed the same matter by regular mail. The affidavit, certificate, or post-office receipt contemplated herein shall be filed with the Hearing Clerk.

§ 2850.37 Rule applicable to all proceedings.

The Secretary may act in the place and stead of an examiner or Judge in any proceeding hereunder. When he so acts, the Hearing Clerk shall transmit the record to the Secretary at the expiration of the period provided for the filing of proposed findings of fact, conclusions and orders, and the Secretary shall thereupon, after due consideration of the record, issue his final order in the proceeding: *Provided*, That he may issue a tentative order in which event the parties shall be afforded an opportunity to file exceptions before the issuance of the final order.

§ 2850.40 Summary action, general.

(a) *General.* In any situation where the integrity of the service would be seriously jeopardized if service were continued pending a decision in the proceeding, service to respondent may be suspended effective on or after the third day after mailing of notice thereof to respondent's last known or designated address or upon actual receipt of such notice, whichever is earlier.

(b) *Actual or threatened physical violence.* In any case of actual or threatened physical violence to an inspector or grader, service to respondent may be suspended prior to the transmittal of written notice to respondent. A written notice shall be given as promptly as circumstances permit.

[FR Doc.77-18241 Filed 6-24-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 16960; Amdt. 39-2938]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corporation BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires inspection and replacement, if necessary, of the whiffletree lever in the

rudder feel unit on certain British Aircraft Corporation BAC 1–11 airplanes. The AD is based on the results of fatigue tests and is directed at preventing possible whiffletree lever failures that could result in a loss of rudder feel capability which could adversely affect the airplane's controllability.

DATES: Effective July 7, 1977. Compliance schedule as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from British Aircraft Corporation, Inc., 399 Jefferson Davis Highway, Arlington, Virginia 22202, telephone 703–979–1400. A copy of the service bulletin is contained in the Rules Docket Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU–100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: There has been a report of a failure of a British Aircraft Corporation BAC 1–11 airplane whiffletree lever in the rudder feel unit during the manufacturer's continuing fatigue test program. The fatigue failure was due to the production standards related to the notch effect of a transverse groove in the radius runout at the lug end of the whiffletree lever. Levers manufactured to the same production standards could be installed on BAC 1–11 airplanes in service or stocked as spare parts. These levers could fail in service resulting in a loss of rudder feel capability and an adverse effect on the airplane's controllability. Since this condition is likely to exist or develop on other airplanes of the same type design, an AD is being issued to require an inspection and replacement, if necessary, of the whiffletree levers of the rudder feel units of BAC 1–11 airplanes.

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

The principal authors of this document are Mr. J. F. Karnowski, Europe, Africa, and Middle East Region; Mr. E. S. Newberger, Flight Standards Service; and Mr. S. Podberesky, Office of the Chief Counsel.

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 Airworthiness Directive:

BRITISH AIRCRAFT CORPORATION. Applies to BAC 1–11 200 and 400 series airplanes certificated in all categories.

Compliance is required as indicated.

To prevent possible failure of the whiffletree lever and subsequent loss of rudder feel capability, accomplish the following:

(a) Within 80 landings after the effective date of this AD, unless already accomplished, visually inspect the whiffletree lever, P/N CH504–009, in the rudder feel simulator unit, in accordance with the paragraphs designated 1. and 2. of paragraph 2.1.1 of British Aircraft Corporation Alert Service Bulletin 27–A–PM5407, Issue 1, dated April 9, 1976 (hereinafter referred to as BAC ASB), or an FAA-approved equivalent.

(b) If a defect appearing as a well-defined transverse groove, notch, or undercut in the radius of the lever is found during the inspection required by paragraph (a) of this AD, within the next 25 landings test and inspect the whiffletree lever for cracks in accordance with the paragraph designated as 3.(A) of paragraph 2.1.1. of the BAC, ASB, or an FAA-approved equivalent, and—

(i) If a crack is found, before further flight, replace the defective lever with a new lever of the same part number, or an FAA-approved equivalent; or

(ii) If no crack is found, within the next 250 landings replace the whiffletree lever with a new lever of the same part number, or an FAA-approved equivalent.

If a replacement lever of the same part number is used it must be tested and inspected prior to installation in accordance with paragraph (a) of this AD and this paragraph and must be found free of the defects specified in this AD and cracks.

(c) For whiffletree levers used as replacements that were obtained from Lucas Aerospace, England, as part of the Lucas repair kit for the whiffletree lever, and were installed in accordance with the kit installation instructions, Lucas Repair Scheme LRS 8114, at or before the next overhaul after installation modify the lever by replacing the bolts used in Lucas Repair Scheme LRS 8114 with rivets in accordance with the Lucas Overhaul Manual, as referred to in paragraphs 2.1.3 and 2.2 of the BAC ASB, or an FAA-approved equivalent.

(d) For the purpose of complying with this AD, subject to acceptance by the assigned FAA maintenance inspector, the number of landings may be determined by dividing each airplane's hours time in service by the operator's fleet average time from takeoff to landing for the airplane type.

This amendment becomes effective July 7, 1977.

(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 Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., on June 17, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77–18002 Filed 6–24–77;8:45 am]

[Docket No. 16961 Amdt. 39–2937]

PART 39—AIRWORTHINESS DIRECTIVES

Mitsubishi Heavy Industries, Ltd. Model MU–2B Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires an inspection and modification, as necessary, of the wing strobe light conduit assemblies on certain Mitsubishi Heavy Industries, Ltd., Model MU–2B airplanes to prevent possible wing tip fuel tank explosion due to fuel leakage in the wing tip tank strobe light installation.

DATES: Effective July 7, 1977. Compliance required within the next 50 hours time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service bulletin may be obtained from Mitsubishi Heavy Industries, Ltd., 10, Oyecho, Minato-ku, Nagoya, Japan, or Mitsubishi Aircraft International, Inc., P.O. Box 3848, San Angelo, Texas 76901. A copy of the service bulletin is contained in the Rules Docket Rm. 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Gary K. Nakagawa, Chief, Engineering and Manufacturing District Office, APC–210, Pacific-Asia Region, Federal Aviation Administration, P.O. Box 4009, Honolulu, Hawaii 98613, telephone 808–955–0340, after July 1, 1977, 808–546–8650.

SUPPLEMENTARY INFORMATION: There has been a report of fuel entering the wing tip tank strobe light installation due to damage to the conduit tube which houses the strobe electrical wiring on certain Mitsubishi Model MU–2B airplanes that could permit electrical arcing in the presence of fuel vapors and result in a possible wing tip tank explosion. Since this condition is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive is being issued to require an inspection and modification, as necessary, of the wing tip tank strobe light installation on certain Mitsubishi Model MU–2B airplanes.

Since a condition 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.

The principal authors of this document are Mr. G. K. Nakagawa, Pacific-Asia Region, Mr. J. F. Zahringer, Flight Standards Service, and Mr. Podberesky, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, and 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:

MITSUBISHI HEAVY INDUSTRIES, LTD. *Applies to Models MU–2B–25 and 26 airplanes (S/Ns 239 through 328) and MU–2B–30, –35, and –36 airplanes (S/Ns 501, 504, and 548 through 673) certificated in all categories.*

NOTE.—This AD does not apply to MU–2B airplanes having a serial number with the suffix "SA".

Compliance is required as indicated.

To prevent fuel or fuel vapors from entering the wing tip strobe light installation, accomplish the following:

Within the next 50 hours time in service after the effective date of this AD, unless already accomplished, inspect and modify, as necessary, the strobe light conduit tube installation in the wing tip tank in accordance with the instructions contained in Mitsubishi Service Bulletin MU-2 No. 174, dated September 29, 1976, or an equivalent approved by the Chief, Engineering and Manufacturing District Office, FAA, Pacific-Asia Region, Honolulu, Hawaii.

This amendment becomes effective July 7, 1977.

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

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on June 17, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-18003 Filed 6-24-77;8:45 am]

[Docket No. 77-EA-8; Amdt. 39-2930]

PART 39—AIRWORTHINESS DIRECTIVES

Canadair Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires an inspection of the right hand canopy sill for missing rivets on Canadair CL-215-1A10 type airplanes. This will preclude the right-hand longeron from failing during water landings in certain heights of waves. There had been reports of such rivets missing from new aircraft.

DATE: Compliance will be required prior to issuance of U.S. airworthiness certificates. Effective Date: June 29, 1977.

ADDRESSES: Canadair Service Information Circular 129-CL-215 may be obtained from the manufacturer at P.O. Box 6087, Montreal, Canada.

FOR FURTHER INFORMATION CONTACT:

Charles Birkenholz, Airframe Section, Engineering and Manufacturing Branch, AEA-212, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, telephone 212-995-2875.

SUPPLEMENTARY INFORMATION: On page 18405 of the FEDERAL REGISTER for April 7, 1977, the FAA published a Notice of Proposed Rulemaking proposing the amendment. Interested parties were given 30 days in which to respond. No objections were received. There had been reports that inspection of new aircraft at the plant established missing rivets from the right-hand canopy sill. The omission of these rivets can cause the right-hand longeron, to which they attach, to fail during water landings in 2 foot high waves. This in turn could cause distortion at the side of the airplane affecting air safety. Since this deficiency can exist in similar type design aircraft, an airworthiness directive is being issued which will require an inspection and repairs where necessary. However, there are presently no aircraft of this type in U.S. registry and therefore accomplishment must be made prior to acquisition of a U.S. airworthiness directive.

DRAFTING INFORMATION

The principal authors of this document are Charles Birkenholz, Flight Standards Division, and Thomas C. Halloran, Office of the Regional Counsel.

NOTE.—It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adopting the new Airworthiness Directive effective June 29, 1977, as published.

(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 Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York, on June 15, 1977.

R. J. VAN VUREN,
Acting Director, Eastern Region.

CANADAIR: *Aplies to CL-215 Airplanes, Serial Numbers 1001 through 1040 and 1046, certificated in all categories.*

Compliance required prior to U.S. airworthiness certification, unless already accomplished:

(a) Inspect the right hand canopy sill for missing rivets forward and aft of bulkhead 234.5 as indicated in Figures 1 and 3 of the Canadair Information Circular (S.I.C.) No. 129-CL-215 dated May 12, 1976, or an approved equivalent inspection.

(b) If rivets have been omitted forward of the bulkhead, between stations 223 and 229, install three NAS 1103-4 bolts with MS2104L3 Nuts and Strip Washer as shown in Figure 2 of the S.I.C. or an approved equivalent alteration.

(c) If rivet spacing aft of the bulkhead is greater than 1.25 inch install intermediate rivets as indicated in Figure 3 of the S.I.C. or an approved equivalent alteration.

(d) Equivalent inspections, alterations or parts must be approved by Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

[FR Doc.77-18008 Filed 6-24-77;8:45 am]

[Docket No. 77-GL-11; Amdt. 39-2929]

PART 39—AIRWORTHINESS DIRECTIVES

Detroit Diesel Allison Model 250-C20/C20B/C20C and 250-B17/B17B Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which amends AD 77-10-13 to require that the sustained operation of the subject engines in the 90 to 98 percent power turbine (N_2) speed range be avoided if equipped with Part Number (P/N) 6887113 or 6888633 third stage turbine wheels. This amendment also provides an alternate means of compliance for operators of certain helicopters to reflect differences in engine installation and adjustments. Both changes are intended to clarify the action required by this AD and were brought about by receipt of meritorious comments, opportunity for submittal of which was provided, as an exceptional matter, by AD 77-10-13.

NOTE.—All operators are cautioned that it has not been conclusively determined that compliance as herein prescribed will eliminate all of the risk factor which attaches to this condition.

DATES: Effective date: June 24, 1977. Compliance schedule: Compliance required within the next 10 hours time in service after the effective date of this AD.

ADDRESSES: Copies of Detroit Diesel Allison Commercial Service Letters referenced herein may be obtained by contacting: Detroit Diesel Allison, Division of General Motors Corp., P.O. Box 894, Indianapolis, Indiana 46206. Copies of Bell Helicopter Textron Service Bulletins referenced herein may be obtained by contacting: Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101. Copies of the service information incorporated in this AD are contained in the Rules Docket, Office of the Regional Counsel, 2300 E. Devon Avenue, Des Plaines, Illinois 60018, and at FAA Headquarters, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

William Ashworth, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 E. Devon Avenue, Des Plaines, Illinois 60018, telephone 312-694-4500, extension 308.

SUPPLEMENTARY INFORMATION: There recently have been several instances of third stage turbine blade failure on 250-C20 series engines equipped with P/N 6887113 third stage power turbine wheels. As a result, in the case of single engine rotorcraft, a power reduction was experienced below that necessary to sustain flight.

Investigations revealed that, in each instance, the most probable cause of these failures is high vibratory stresses developed in the blades when the wheel

is operated at a speed that excites the disc at a resonant frequency.

Amendment 39-2904, FR 26199, AD 77-10-13 imposed an operating limitation prohibiting engine operation in the 90 to 98 percent N_2 speed range and invited interested persons to submit written comments regarding the AD. In light of comments received the FAA is amending the AD to indicate that Bell 206 series rotocraft operators may comply with this AD by following the procedures outlined in Bell Helicopter Textron Service Bulletin Number 206L-77-9 for Bell 206L helicopters and 206B-77-6 for Bell 206B helicopters. The applicability of this AD is also changed to reflect a reevaluation of certain engine adjustments and to restate the operating limitation in terms of avoidance of sustained operation in the affected RPM range.

Since this amendment provides a clarification and an alternate means of compliance, the implementation of which were suggested by meritorious comments, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are W. Ashworth, Flight Standards Division, Great Lakes Region, and J. McLaughlin, Office of the Regional Counsel, Great Lakes Region.

ADOPTION OF THE AMENDMENT

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), Amendment 39-2904, 42 FR 26199, AD 77-10-13, is amended to read as follows:

DETROIT DIESEL ALLISON. *Applies to 250-C20, C20B, C20C, B17, and B17B engines equipped with P/N 6887113 or 6888633 third stage turbine wheels as installed in aircraft certificated in all categories.*

Compliance required within the next 10 hours time in service after the effective date of this AD, unless already accomplished.

(a) To reduce the risk of engine power loss resulting from third stage turbine blade failure, provide placards, markings, flight manual changes or other appropriate information advising flight crews to avoid sustained operation of the engine between 90 and 98 percent N_2 except during transients while maintaining safe flight practices. This restriction also applies to autorotation practice and engine idle during engine out simulation on multi-engine aircraft. (Detroit Diesel Allison Commercial Service Letters No. 1062 Rev. 1 for the 250-C20 series engines and No. 1031 Rev. 1 for the 250-B17 series engines pertain to this subject.)

(b) An acceptable alternate means of compliance for Bell Helicopter Textron 206 series rotorcraft is prescribed by Bell Helicopter Textron Service Bulletin Number 206L-77-9 for Bell 206L helicopters and 206B-77-6 for Bell 206B helicopters.

The Bell Helicopter Textron specifications and procedures identified in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). The Bell Helicopter Textron Service Bulletin incorporated herein may be obtained upon request to Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101. The Allison Service Letters referred to herein may be obtained upon request to Detroit Diesel Allison, Division of General Motors Corporation, P.O. Box 894, Indianapolis, Indiana 46206. These documents also may be examined at the FAA Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018 and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. 20591. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C. and at the Great Lakes Region.

This amendment becomes effective June 24, 1977.

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

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Illinois on June 15, 1977.

LEON C. DAUGHERTY,
Acting Director,
Great Lakes Region.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.77-18009 Filed 6-24-77;8:45 am]

[Docket No. 16959; Amdt. 39-2939]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Aviation, Ltd. Model DH-114 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive which requires repetitive inspections and repair or replacement, as necessary, of certain fittings on Hawker Siddeley Model DH-114 airplanes to prevent possible wing failure due to corrosion.

DATES: Effective July 7, 1977.

Compliance is required within the next 50 hours time-in-service after the effective date of this AD, and thereafter at intervals not to exceed 100 hours time-in-service until the fittings are replaced.

ADDRESS: The applicable technical news sheet may be obtained from Hawker Siddeley Aviation, Ltd., Hatfield Hertfordshire, England, AL 109TL, Attn: Technical Manuals Distribution Center.

A copy of the technical news sheet is contained in the Rules Docket, Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Donald C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, tel: 513.38.30.

SUPPLEMENTARY INFORMATION: There have been reports of corrosion occurring in the drag brace fittings at the center section spar cap on Hawker Siddeley Model DH-114 airplanes that could result in catastrophic structural failure of the wing. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require repetitive inspections of these fittings on Model DH-114 airplanes and their repair or replacement, as necessary.

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

The principal authors of this document are Mr. F. J. Karnowski, Europe, Africa, and Middle East Region; Mr. J. F. Zahringer, Flight Standards Service; and Mr. K. May, Office of the Chief Counsel.

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 Airworthiness Directive:

HAWKER SIDDELEY AVIATION, LTD. Applies to Model DH-114 airplanes, certificated in all categories, except those modified in accordance with either Hawker Siddeley Modification 1102 or 1103.

Compliance is required as indicated, unless already accomplished.

To detect corrosion and cracking of the drag brace fittings at the center section spar lower cap, and prevent possible structural failure of the wing, accomplish the following:

(a) Within the next 50 hours time-in-service after the effective date of this AD, inspect the drag brace fittings, P/N 4FS.1797 (L.H.) and 4FS.1798 (R.H.), for corrison and cracks in accordance with paragraph 4, entitled "Inspection of Fittings," of Hawker Siddeley Aviation, Ltd., Technical News Sheet, Series 114, No. F.18, dated April 9, 1973, or an FAA-approved equivalent.

(b) If a crack or evidence of severe corrosion is found in either drag brace fitting during the inspection specified in paragraph (a) of this AD, before further flight, replace the drag brace fitting with an improved fitting, P/N 14FS.6069 (L.H.) or P/N 14FS. 6070 (R.H.), in accordance with the instructions set forth in paragraph 5.2 of Hawker Siddeley Aviation, Ltd., Technical News Sheet, Series 114, No. F.18, dated April 9, 1973, or an FAA-approved equivalent.

(c) "Severe corrosion" as used in this AD is internal corrosion that has progressed to a point where there is evidence of corrosion breaking through the exterior surface of the fitting. "Surface corrosion" as used in this AD means corrosion limited to surface pitting.

NOTE.—The Hawker Siddeley Aviation, Ltd., Model DH-114 Maintenance and Repair Manual further defines the terms "severe corrosion" and "surface corrosion."

(d) If, during an inspection specified in paragraph (a) of this AD, no crack is found and evidence of corrosion is found but it is limited to surface corrosion and does not constitute the severe corrosion specified in paragraph (b) of this AD, before further flight, remove the corrosion and protect the surface from further corrosion in accordance with FAR 43.13, and thereafter reinspect the drag brace fittings in accordance with the inspection requirements of paragraph (a) of this AD at intervals not to exceed 100 hours time-in-service from the last inspection.

NOTE.—Advisory Circular AC 43.13-1A, "Acceptable Methods, Techniques and Practices—Aircraft Inspection and Repair," contains information relating to corrosion protection and removal.

(e) If, during an inspection specified in paragraph (a) of this AD, no crack is found in the fittings, and the fittings are free of evidence of any corrosion, reinspect the fittings in accordance with the inspection requirements of paragraph (a) of this AD at intervals not to exceed 100 hours time-in-service from the last inspection.

(f) The repetitive inspections required by paragraphs (d) and (e) of this AD may be terminated upon the installation of the improved fittings, P/Ns 14FS.6069 (L.H.) and 14FS.6070 (R.H.), in accordance with the instructions set forth in paragraph 5.2 of Hawker Siddeley Aviation, Ltd., Technical News Sheet, Series 114, No. F.18, dated April 9, 1973, or an FAA-approved equivalent.

This amendment becomes effective July 7, 1977.

(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 Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on June 17, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-18001 Filed 6-24-77;8:45 am]

[Airworthiness Docket No. 76-SW-33; Amdt. 39-2927]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Models 205A and 205A-1 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises AD 76-10-01 to provide a tail boom modification and repair as an alternative to continued repetitive inspections for the tail booms for certain Bell Models 205A and 205A-1 helicopters. A design change to improve tail boom corrosion and fatigue resistance has been made in production models. This design change is also available to modify the tail boom in existing helicopters by a Bell service bulletin. New tail booms do not require inspections and modified tail booms will no longer require inspections.

DATES: Effective date of the amendment or revision to AD 76-10-01 is July 1, 1977.

ADDRESS: Send any comments on this amendment in triplicate to: Regional Counsel, ASW-7, Attn. Docket 76-SW-33, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. Copies of service bulletins may be obtained as noted in the AD.

FOR FURTHER INFORMATION CONTACT:

James H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number 817-624-4911, Extension 517.

SUPPLEMENTARY INFORMATION: Amendment 39-2610 (41 FR 20159), AD 76-10-01, requires repetitive inspections, at 50-hour intervals, of the four tail boom and the four mating fuselage fittings on all Bell Models 205A and 205A-1 Helicopters after attaining 500 hours' time in service. AD 76-10-01 was issued to prevent possible loss of the tail boom as a result of possible cracks in these fittings.

Bell Helicopter Textron has obtained approval of a tail boom that uses improved design upper fittings and longerons assemblies that will be factory installed on helicopters having S/N 30260 and higher. Bell Helicopter Textron has also issued Service Bulletin No. 205-77-4 dated March 11, 1977, to provide, in part, for replacement of the upper left-hand longeron assembly with the improved design assembly, for replacement of a corroded upper right-hand longeron assembly, and for repair and sealing of upper longerons at the splice point aft of the baggage compartment.

Therefore, AD 76-10-01 is being revised by adding a new paragraph to exclude Bell Models 205A and 205A-1 helicopters from compliance and provides by adding a new paragraph to exclude helicopters having tail booms that have been modified, repaired, and sealed as specified in Part II of the Bell Service Bulletin No. 205-77-4.

This amendment excludes certain helicopters from complaince and provides for an alternative to the repetitive inspections, consequently, imposing no additional burden on anyone, and the amendment may be made effective in less than thirty days.

DRAFTING INFORMATION

The principal authors of this amendment are James H. Major, Aerospace Engineer, Flight Standards Division, and Joseph A. Kovarik, Regional Counsel, Southwest Region, FAA.

THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), Amendment 39-2610 (41 FR 20159), AD 76-10-01, is amended effective July 1, 1977, by adding the following paragraphs:

(i) This AD no longer applies to tail booms that have been modified, repaired, and sealed as specified in Part II of Bell Helicopter Textron Service Bulletin No. 205-77-4 dated March 11, 1977, or later approved revisions.

(j) This AD does not apply to helicopters having S/N 30260 or higher.

(k) The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Service Manager, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101. These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the Southwest Regional Office in Fort Worth, Texas.

(Sections 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423; Section 6(c)), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Texas on June 10, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.77-18198 Filed 6-24-77;8:45 am]

[Docket No. 77-CE-12-AD; Amdt. 39-2932]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Model 200 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to certain Beech Model 200 airplanes which requires rerigging of the ailerons to redistribute wing air loads. This action will assure that the wing will carry the 50 feet/second gust design loads, and have a factor of safety sufficient to comply with the regulatory requirements.

EFFECTIVE DATE: July 1, 1977. Compliance: Required within 50 hours' time in service after the effective date of this AD.

ADDRESSES: Beechcraft Service Instructions No. 0906, applicable to this

AD, may be obtained from Beech Aircraft Corporation, Commercial Service Department, 9709 E. Central, Wichita, Kansas 67201. A copy of the Service Instructions cited above is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; telephone 816-374-3446.

SUPPLEMENTARY INFORMATION: Results of recent testing by the aircraft manufacturer show that wings on certain Beech Model 200 airplanes will not carry the regulatory 50 feet/second gust design load. The test wing failed by buckling of a component in the upper spar cap. Subsequent investigation and flight testing by the aircraft manufacturer have demonstrated that this condition can be corrected by rerigging the ailerons to redistribute wing air loads farther inboard on the wing thereby lowering the load on the component that failed. This redistribution of wing air loads results in the wing having a factor of safety sufficient to comply with the 50 feet/second gust regulatory requirements. As a result Beech has issued service instructions No. 0906 applicable to inservice aircraft recommending aileron rerigging and began incorporating same on current production aircraft. The FAA has concluded that lack of the required factor of safety is an unsafe condition that is likely to exist in other airplanes of the same type design. Accordingly, an AD is being issued applicable to certain serial numbers of Beech Model 200 airplanes making compliance with the service instructions mandatory. This AD has been coordinated with the aircraft manufacturer prior to its issuance. The FAA has determined that there is an immediate need for a regulation to assure safe operation of the affected airplanes. Therefore, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than thirty (30) days after the date of publication in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal authors of this document are: William L. Schroeder, Flight Standards Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

ADOPTION OF THE AMENDMENT

Accordingly and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive.

BEECH: Applies to Model 200 (Serial Numbers BB-2 thru BB-250) airplanes certificated in all categories.

Compliance: Required as indicated, unless already accomplished.

To assure that wings will carry the 50 feet/second gust design loads, within 50 hours' time in service after the effective date of this AD, accomplish the following:

(A) With aileron control system pinned in the neutral position rerig the droop of right and left aileron to zero degrees, with a tolerance of plus one-half degree up, minus zero degrees down in accordance with Beechcraft Service Instructions Number 0906 or later approved revisions.

(B) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective July 1, 1977.

(Secs. 313(a), 601, and 603 of the 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)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Missouri, on June 16, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.77-18222 Filed 6-24-77;8:45 am]

[Docket No. 77-CE-13-AD; Amdt. 39-2933]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 58P, 58PA, 58TC, and 58TCA Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to certain Beech Model 58P, 58PA, 58TC, and 58TCA airplanes which requires inspection of specified engine mount truss tube assemblies for fatigue cracks. These cracks, if undetected, may result in structural failure of affected engine mount truss tube assemblies, thereby allowing engine and propeller assembly deflection that could have an adverse effect on aircraft safety of flight. This action assures that the structural integrity of the engine mount truss tube assemblies is maintained.

EFFECTIVE DATE: July 1, 1977, to all persons except those to whom it has already been made effective by air mail letter from the FAA dated June 7, 1977. Compliance: As prescribed in the body of the AD.

ADDRESSES: Beechcraft Service Instructions No. 0903 may be obtained from Beech Aircraft Corporation, Commercial Service Department, 9709 East Central, Wichita, Kansas 67201. A copy of the service instructions cited above is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; telephone 816-374-3446.

SUPPLEMENTARY INFORMATION: There have been reports which show fatigue cracks are occurring in certain engine mount truss tube assemblies on Beech 58P, 58PA, 58TC, and 58TCA airplanes which have turbocharger air intercooler mounting brackets and engine air intake mounting brackets attached to the tubes with rivets. These reports show that the cracks are occurring at low truss tube assembly times in service and crack growth rates are high. A broken engine mount truss tube could allow deflection of the engine and propeller assembly resulting in an adverse effect on safety of flight. Therefore, the FAA concluded that an unsafe condition of an emergency nature existed which required immediate corrective action and thereby determined that notice and public procedure thereon were impracticable and contrary to the public interest. Accordingly, all known registered owner of affected aircraft were notified of the emergency AD by air mail letter dated June 7, 1977. The AD is being published herein to make it effective as to all persons who did not receive the AD letter notification.

The AD requires immediate inspection of the right and left truss tube assemblies in both the right and left engine nacelles for cracks.

Thereafter repetitive inspections are required at 50 hour intervals until Beech Kit No. 102-9001-1S is installed. Once the kit has been incorporated, inspections are required at 100 hour intervals until new improved truss tube assemblies are installed. The new improved truss tube assemblies will not be available from the manufacturer until September 1977. If a crack is found as a result of any inspection required by the AD, the cracked part must be replaced prior to the next flight. Procedures for accomplishing the inspections, repairs and installation of new parts are provided in Beechcraft Service Instructions No. 0903.

DRAFTING INFORMATION

The principal authors of this document are William L. Schroeder, Flight Standards Division, Central Region, and John L. Fitzgerald, Jr., Office of the Regional Counsel, Central Region.

ADOPTION OF THE AMENDMENT

Accordingly and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive.

BEECH. Applies to Models 58P and 58PA (Serial Numbers TJ-2 through TJ-117), 58TC and 58TCA (Serial Numbers TK-1 through TK-63) airplanes certificated in all categories

Compliance: Required as indicated, unless already accomplished.

To assure structural integrity of the right and left truss tube assemblies in both the right and left engine nacelles, accomplish the following:

(A) On Models 58P and 58PA (S/Ns TJ-2 through TJ-99), 58TC and 58TCA (S/Ns TK-1 through TK-54) airplanes that do not have Beech Kit No. 102-9001-1S installed, prior to the next flight (unless previously accomplished in accordance with Beechcraft mailgram dated February 17, 1977) and at each 50 hours' time in service interval thereafter until Beech Kit No. 102-9001-1S is installed:

1. Pursuant to Beechcraft Service Instructions No. 0903 or later approved revisions accomplish the following:

(a) Referring to Figure 1 of this AD dye penetrant inspect the right truss tube assembly in both right and left engine nacelles for cracks which initiate from the two rivet holes attaching the turbocharger air intercooler mounting brackets; and

(b) Replace any cracked right truss tube assembly prior to the next flight.

2. Pursuant to Beechcraft Service Instructions No. 0903 or later approved revisions accomplish the following:

(a) Referring to Figure 1 of this AD visually inspect the left truss tube assembly in both right and left engine nacelles for chafing;

(b) Dye penetrant said part for cracks; and

(c) Replace any cracked left truss tube assembly and repair or replace any chafed left truss tube assembly prior to the next flight.

(B) On Models and serial numbers listed in Paragraph A of this AD that have Beech Kit No. 102-9001-1S installed and on Models 58P and 58PA (S/Ns TJ-100 through TJ-117), 58TC and 58TCA (S/Ns TK-55 through TK-63) airplanes, within the next 100 hours' time in service after the effective date of this AD, or within 100 hours' time in service after the last similar inspection accomplished in accordance with Beechcraft Service Instructions No. 0903, whichever occurs first, and at each 100 hours' time in service interval thereafter:

1. Pursuant to Beechcraft Service Instructions No. 0903 or later approved revisions:

(a) Remove cowlings from right and left engines;

(b) Referring to Figure 1 of this AD visually inspect the right and left truss tube assemblies in both right and left nacelles for cracks, chafing, or other signs of structural weakening. Dye penetrant inspect right and left truss tube assemblies for cracks if chafing or other signs of structural weakening are detected by the visual inspection.

(c) Replace any cracked truss tube assembly prior to the next flight.

(C) When Beech P/Ns 102-910026-113 and -115 truss tube assemblies which have 0.072 inch thick walls are installed in the right and left engine nacelles the requirements of this AD no longer apply. Truss tube assemblies used prior to these improved assemblies had 0.035 inch thick walls.

NOTE.—The manufacturer has advised that the P/N 102-910026 -113 and -115 truss tube assemblies will not be available until approximately September 1, 1977.

(D) The intervals for repetitive inspections set forth in this AD may be adjusted up as much as 10% where required to fit user's maintenance cycles. No adjustment is allowed for the initial "prior to the next flight" inspection.

(E) Aircraft may be flown in accordance with FAR 21.197 to a base where this AD can be accomplished, after coordination with the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

(F) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

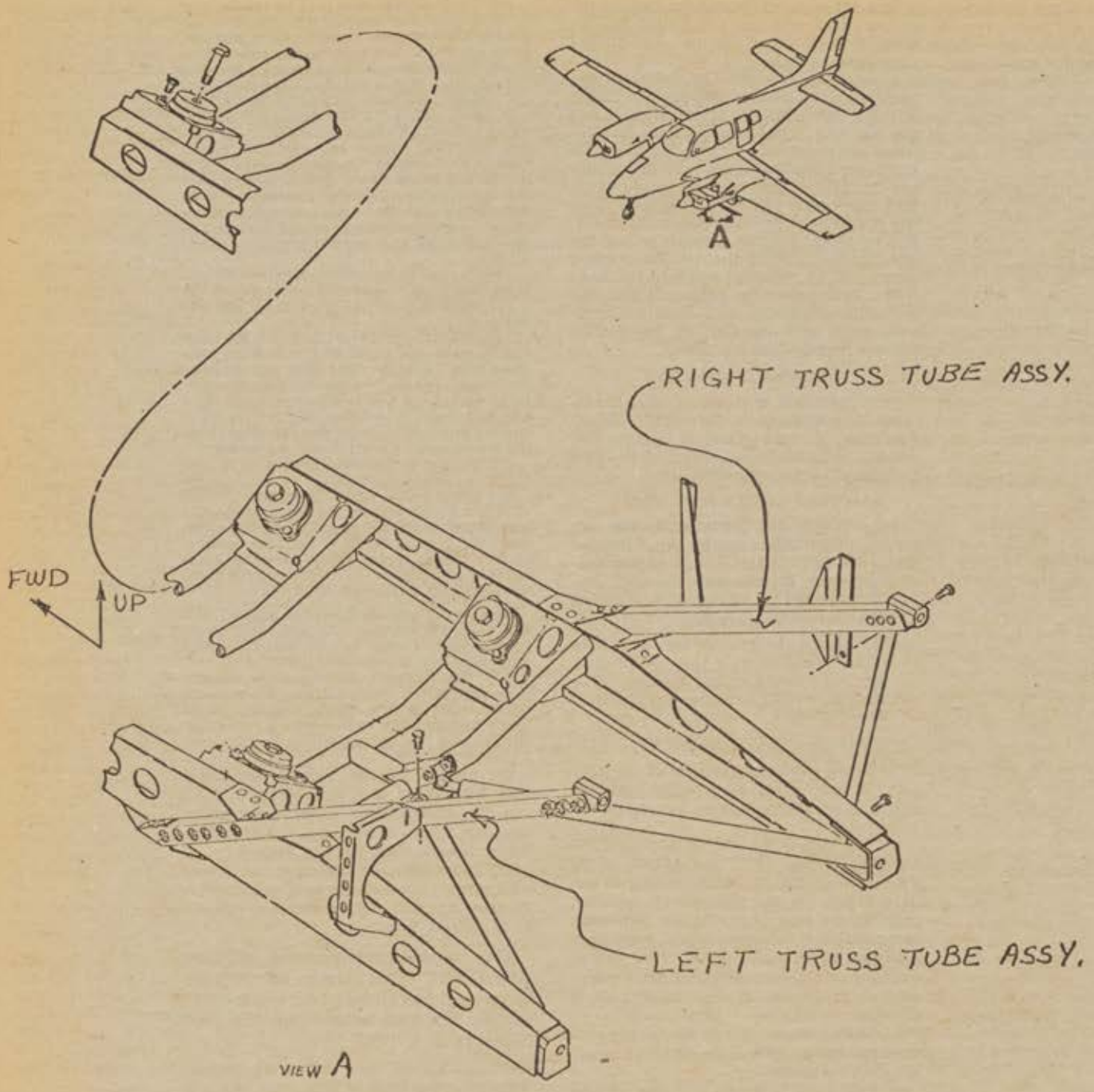
This amendment becomes effective July 1, 1977, to all persons except those to whom it has already been made effective by air mail letter from the FAA dated June 7, 1977.

(Secs. 313(a), 601, and 603 of the 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 Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Missouri, on June 16, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.



ENGINE MOUNT TRUSS TUBE ASSEMBLY LOCATIONS.
TYPICAL BOTH LEFT AND RIGHT ENGINE MOUNTS

FIGURE 1

[FR Doc.77-18223 Filed 6-24-77;8:45 am]

[Docket No. 15541; Amdt. 39-2940]

PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corporation BAC 1-11 Model 401AK Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires periodic inspections and replacement of bushings in the nose landing gear emergency free fall mechanism on certain British Aircraft Corporation BAC 1-11 Model 401AK airplanes. This AD is based on a reported failure of the emergency free fall operating mechanism to lower the nose landing gear and is directed at preventing additional failures which could result in extensive damage to the airplane upon landing.

EFFECTIVE DATE: July 27, 1977. Compliance schedule, as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from British Aircraft Corporation, Inc., 399 Jefferson Davis Highway, Arlington, Virginia 22202, telephone 703-979-1400. A copy of the service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel. 513.33.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring periodic inspection and replacement of bushings in the nose landing gear emergency free fall operating mechanism on certain British Aircraft Corporation BAC 1-11 Model 401AK airplanes was published in the FEDERAL REGISTER at 41 FR 14895.

The proposal was prompted by a report of failure of the emergency free fall system to operate due to the installation of nonstandard bushings which resulted in the failure of the nose landing gear to extend.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Accordingly, the proposal is adopted without change.

The principal authors of this document are Mr. F. J. Karnowski, Europe, Africa, and Middle East Region, Mr. E. S. Newberger, Flight Standards Service, and Mrs. S. Podberesky, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, and 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 Airworthiness Directive:

BRITISH AIRCRAFT CORPORATION. *Applies to BAC 1-11, Model 401AK series airplanes, certificated in all categories, which have Dupont Vespel bushings installed in the nose gear fall cam mechanism.*

Compliance is required as indicated.

To prevent failure of free fall capability of the nose landing gear system, accomplish the following:

(a) Within the next 160 hours time in service after the effective date of this AD, unless already accomplished within the previous 160 hours time in service, and thereafter at intervals not to exceed 160 hours time in service from the last inspection, inspect the nose landing gear free fall mechanism in accordance with the procedures described in item BB of the "Accomplishment Instructions," paragraph 2, steps 1 through 8, of British Aircraft Corporation Alert Service Bulletin 32-A-PM5335, dated May 31, 1975, or an FAA-approved equivalent.

(b) The inspections of the nose landing gear free fall mechanism required by paragraph (a) of this AD may be terminated upon the replacement of the Dupont Vespel bushings in the free fall cam mechanism with British Aircraft Corporation bushing P/N AB 44-1875 or AB 44-1943 (2 per airplane) and bushing P/N AB44-1879 or AB 44-1945 (1 per airplane).

This amendment becomes effective July 27, 1977.

(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 Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington D.C., on June 17, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-18213 Filed 6-24-77;8:45 am]

[Docket No. 77-EA-37; Amdt. 39-2931]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman-American Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Grumman-American G-164 type airplanes. It requires temporary placement of a placard which warns against the setting of the parking brake prior to landing. The inadvertent engagement of the parking brake has resulted in accidents upon landing. A permanent correction of the problem permits removal of the placard.

DATES: Effective Date: June 29, 1977. Initial compliance is prior to further flight and within 50 hours of service for the permanent correction.

ADDRESSES: Grumman-American's Service Bulletin No. 60 of May 20, 1977, may be obtained from the manufacturer at P.O. Box 2206, Savannah, Georgia 51402.

FOR FURTHER INFORMATION CONTACT:

K. Tunjian, Systems and Equipment Section, AEA-213, Engineering and Manufacturing Branch, Federal Building, J. F. K. International Airport, Jamaica, New York 11430, telephone 212-995-3372.

SUPPLEMENTARY INFORMATION: There had been reports of a few incidents of damage to landing aircraft as a result of the parking brake, apparently creeping into an engaged position. Due to the need for immediate action, an air mail directive was transmitted to all registered owners of the subject aircraft on or about May 6, 1977. The telegram required the placement of a placard before further flight, warning against an engaged parking brake. The present amendment includes that requirement but also requires an eventual permanent alteration in lieu of the temporary placard. In view of the foregoing, and the air safety problem, notice or public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are K. Tunjian, Flight Standards Division, and Thomas C. Halloran, Office of the Regional Counsel.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, effective June 29, 1977, as follows:

GRUMMAN-AMERICAN: *Applies to G-164B, S/N's 138B, 142B, 177B and up, and G-164A, S/N's 1686, 1695 and up, certificated in all categories.*

Accomplish the following, unless previously accomplished:

(a) Before further flight, install a placard adjacent to the parking brake handle stating: "Warning—Parking Brake OFF Prior To Landing."

(b) Within the next 50 hours in service, install the alteration defined in Grumman American Aviation Corporation Service Bulletin No. 60, dated May 20, 1977, or an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region. When this is accomplished, the warning placard may be removed.

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

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement

under Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York, on June 15, 1977.

R. J. VAN VUREN,
Acting Director, Eastern Region.

[FR Doc.77-18221 Filed 6-24-77;8:45 am]

[Docket No. 13992; Amdt. 39-2941]

PART 39—AIRWORTHINESS DIRECTIVES

Mitsubishi Heavy Industries, Ltd. Model MU-2B Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires an inspection, eventual replacement, and thereafter, periodic lubrication and inspection of the elevator trim tab brackets on Mitsubishi Model MU-2B airplanes to prevent possible failure of the brackets. This AD supersedes AD 74-19-08 and requires a new design replacement bracket and time-controlled inspection and lubrication of the new design brackets to reduce the possibility of elevator trim tab flutter and vibration due to excessive wear of the bracket bushings.

EFFECTIVE DATE: July 11, 1977. Compliance schedule, as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from Mitsubishi Heavy Industries, Ltd., 10, Oye-cho, Minato-ku, Nagoya, Japan, or Mitsubishi Aircraft International, Inc., P.O. Box 3848, San Angelo, Texas 76901.

A copy of the service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Gary K. Nakagawa, Chief, Engineering and Manufacturing District Office, APC-210, Pacific-Asia Region, Federal Aviation Administration, P.O. Box 4009, Honolulu, Hawaii 96813, telephone 808-955-0340, after July 1, 1977 808-546-8650.

SUPPLEMENTARY INFORMATION: Amendment 39-1955 (39 FR 32324), AD 74-19-08, required the inspection and eventual replacement of the elevator trim tab brackets on certain Mitsubishi Model MU-2B airplanes. After issuing Amendment 39-1955, the FAA determined that further inspections and eventual replacement of the elevator trim tab bracket with a new design bracket are necessary to ensure airworthiness of the aircraft, and that additional MU-2B airplanes are also affected. Therefore, AD 74-19-08 is being superseded by a new AD, which also applies to the additional MU-2B airplanes, that requires an inspection of the brackets and bearings for wear and eventual replacement with a new design bracket, and thereafter, a time-controlled inspection and lubrication of the bracket bearing and spacer, and replacement of the brackets as necessary.

Since a condition 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.

The principal authors of this document are Mr. G. K. Nakagawa, Pacific-Asia Region, Mr. J. F. Zahringer, Flight Standards Service, and Mr. K. May, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, and 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:

MITSUBISHI HEAVY INDUSTRIES, LTD. *Applies to Models MU-2B-10, -15, -20, -25, and -26 airplanes (S/Ns 005 through 347) and MU-2B-30, -35, and -36 airplanes (S/Ns 501 through 713) certificated in all categories.*

NOTE.—This AD does not apply to MU-2B airplanes having a serial number with the suffix "SA".

Compliance is required as indicated.

To prevent possible failures of the elevator trim tab brackets resulting from wear of the elevator trim tab bracket bushings, accomplish the following:

(a) Unless already accomplished, within 25 hours time in service after the effective date of this AD, inspect elevator trim tab brackets P/N 010A-22119, and replace with brackets P/N 010A-22127, if necessary, in accordance with the procedures outlined in paragraphs 1 and 2 of Mitsubishi MU-2 Service Bulletin No. 176, dated September 1, 1976, hereinafter MSB No. 176, or an FAA-approved equivalent.

(b) Unless already accomplished, within 100 hours time in service after the effective date of this AD, replace elevator trim tab brackets P/N 010A-22119 with P/N 010A-22127 in accordance with the procedures described in paragraph 2 of MSB No. 176, dated September 1, 1976, or an FAA-approved equivalent.

(c) At intervals not to exceed 100 hours time in service after the installation of brackets P/N 010A-22127, lubricate the bearing and spacer as described in paragraph 1.2 of MSB No. 176, dated September 1, 1976, or an FAA-approved equivalent.

(d) At intervals not to exceed 300 hours time in service after the installation of brackets P/N 010A-22127 inspect the brackets for wear and replace, as necessary, in accordance with the procedures outlined in paragraphs 1 and 2 of MSB No. 176, dated September 1, 1976, or an FAA-approved equivalent.

(e) The equivalent means of compliance specified in paragraphs (a), (b), (c) and (d) of this AD must be approved by the Chief, Engineering and Manufacturing District Office, FAA, Pacific-Asia Region, Honolulu, Hawaii.

NOTE.—Mitsubishi MU-2 Maintenance Manual also contains information concerning the inspection and lubrication of elevator trim tab brackets P/N 010A-22127.

This amendment supersedes Amendment 39-1955 (39 FR 32324), AD 74-19-08, and becomes effective July 11, 1977. (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) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on June 20, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-18214 Filed 6-24-77;8:45 am]

[Docket No. 77-SO-8]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration and Revocation of Transition Area, Meridian, Miss.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes the Meridian, Mississippi (OLF Bravo Field), transition area and alters the Meridian, Mississippi, transition area. The action will provide the necessary controlled airspace for IFR operations between OLF Bravo and NAS Meridian that is required to accommodate an increasing volume of IFR traffic in the Meridian terminal area.

EFFECTIVE DATE: 0901 G.m.t., August 11, 1977.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; Telephone 404-763-7646.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on Thursday, March 10, 1977 (42 FR 13302), which proposed to revoke the Meridian (OLF Bravo Field) transition area and to alter the Meridian transition area by enlarging it to accommodate IFR operations at OLF Bravo Field. No objections were received from this Notice.

DRAFTING INFORMATION

The principal authors of this document are William F. Herring, Airspace and Procedures Branch, Air Traffic Division, and Eddie L. Thomas, Office of Regional Counsel, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320.

ADOPTION OF AMENDMENT

Accordingly, Subpart G of Part 71 of the Federal Aviation Regulations (14

CFR 71) is amended, effective 0901 G.m.t., August 11, 1977, as follows:

1. By revoking the description of the Meridian, Mississippi (OLF Bravo Field), 700-foot transition area.

2. By deleting the present description of the Meridian, Mississippi, 700-foot transition area and substituting the following therefor:

MERIDIAN, MISS., 700-FOOT TRANSITION AREA

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Key Field (Lat. 32°19'58" N., Long. 88°45'05" W.); within 3 miles each side of the 191° bearing from the Lauderdale RBN, extending from the 11-mile radius area to 8.5 miles south of the RBN; within 5 miles each side of Meridian VORTAC 315° radial, extending from the 11-mile radius area to 11.5 miles northwest of the VORTAC; within an 8.5-mile radius of OLF Bravo Field (Lat. 32°47'33" N., Long. 88°49'40" W.); within a 10-mile radius of NAS Meridian (Lat. 32°33'-27" N., Long. 88°33'33" W.); within a 29-mile radius of the Meridian VORTAC, extending clockwise from the 340° radial to the 050° radial, and within 5 miles north and 7 miles south of the Kewanee VORTAC 273° radial, extending from the VORTAC to Long. 88°-36'00" W.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c) (14 CFR 11.69)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on June 15, 1977.

GEORGE R. LACAILLE,
Acting Director,
Southern Region.

[FR Doc.77-18010 Filed 6-24-77;8:45 am]

[Airspace Docket No. 77-CE-10]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment excludes V-71 and V-380 airways from the O'Neill Military Operations Area (MOA) during the time that the MOA is active to permit sharing airspace for civil use and a type of military training that is not compatible with airway operations.

EFFECTIVE DATE: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On May 19, 1977, the FAA published for comment a proposal to exclude V-71 and V-380 airways from the O'Neill MOA during the time that the MOA is activated by NOTAM (42 FR 25740). Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. The comments received expressed no objections. Except for editorial changes, this amendment is the one proposed in the notice.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) excludes V-71 and V-380 airways from the O'Neill MOA only during the time that the MOA is activated by NOTAM. A type of military training that is not compatible with airway operations can then take place in the airspace that is vacated by the airway. This action permits a more efficient use of the airspace in this area.

DRAFTING INFORMATION

The principal authors of this document are Everett L. McKisson, Air Traffic Service, and Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

§ 71.123 [Amended]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) and amended (41 FR 54167) is further amended, effective 0901 GMT, August 11, 1977, as follows:

1. In V-71, "The airspace within the O'Neill MOA is excluded during the time that the MOA is activated by NOTAM." is added.

2. In V-380, "The airspace within the O'Neill MOA is excluded during the time that the MOA is activated by NOTAM," is added.

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

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on June 17, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-18004 Filed 6-24-77;8:45 am]

[Airspace Docket No. 77-CE-12]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration and Addition to Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes three airway segments in Nebraska and excludes two of them from the Lincoln Military Operations Area (MOA) during the time that the MOA is active. This permits sharing of the airspace for civil use and military training in addition to converting the direct routes in this area to designated airways.

EFFECTIVE DATE: August 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On May 19, 1977, the FAA published for comment a proposal to establish three airway segments in Nebraska and to exclude two of them from the Lincoln MOA (42 FR 25740). Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. The only comments received expressed no objection. Except for editorial changes, this amendment is the one proposed in the notice.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) extends V-50 from Hastings, Nebr., to Pawnee City, Nebr.; designates V-61 from Grand Island, Nebr., to Pawnee City, Nebr.; designates V-79 from Hastings to Lincoln, Nebr.; and excludes V-50 and V-61 from the Lincoln MOA. This action will reduce the time required for flight plan preparation and traffic control communications by converting direct routes to airways. Exclusion of the airways from the MOA during the time that the MOA is activated by NOTAM will permit sharing of the airspace for civil use and a type of military training that is not compatible with airway operations.

DRAFTING INFORMATION

The principal authors of this document are Everett L. McKisson, Air Traffic Service, and Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

§ 71.123 [Amended]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) is amended, effective 0901 GMT, August 11, 1977, as follows:

1. In V-50, "From Pawnee City, Nebr., via" is deleted and "From Hastings, Nebr., via Pawnee City, Nebr.;" is substituted therefor and "The airspace within the Lincoln MOA is excluded during the time that the MOA is activated by NOTAM." is added.

2. V-61 is added to read as follows: "From Grand Island, Nebr., to Pawnee City, Nebr., excluding the airspace within the Lincoln MOA during the time that the MOA is activated by NOTAM."

3. V-79 is added to read as follows: "From Hastings, Nebr., to Lincoln, Nebr."

(Sec. 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 1169.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on June 17, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-18005 Filed 6-24-77;8:45 am]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 16956; Amdt. No. 1078]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

For examination. 1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For purchase. Individual SIAP copies may be obtained from: 1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By subscription. Copies of all SIAPs, mailed weekly, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The current annual subscription price is $150; add $30 for each additional copy mailed to the same address.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, 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 9) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

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

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

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

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

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 on the dates specified, as follows:

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

* * * *effective August 11, 1977.*

Marianna, FL—Marianna Muni., VOR-A, Amdt. 8
Panama City, FL—Panama City-Bay County, VOR Rwy 14, Amdt. 10
Panama City, FL—Panama City-Bay County, VOR Rwy 32, Amdt. 5
Panama City, FL—Panama City-Bay County, VOR-A, Amdt. 8
Atlanta, GA—The William B. Hartsfield Atlanta International, VOR Rwy 27L, Amdt. 2
Evansville, IN—Evansville Dress Regional, VOR Rwy 4, Amdt. 1
Evansville, IN—Evansville Dress Regional, VOR-B, Amdt. 1, cancelled
Lafayette, IN—Purdue University, VOR-A, Amdt. 20
Muskogee, OK—Davis Field, VOR Rwy 31, Amdt. 1
League City, TX—Houston Gulf, VOR/DME Rwy 31, Amdt. 1
Wise, VA—Lonesome Pine, VOR Rwy 24, Amdt. 2

* * * *effective August 4, 1977.*

Chicago, IL—Lansing Municipal, VOR-A, Amdt. 3
Chicago (West Chicago), IL—DuPage County, VOR Rwy 10, Amdt. 6
Crystal Lake, IL—Crystal Lake, VOR Rwy 26, Amdt. 4
Greencastle, IN—Putnam County, VOR/DME-A, Amdt. 1
Kokomo, IN—Kokomo Municipal, VOR Rwy 22, Amdt. 11
Kokomo, IN—Kokomo Municipal, VOR Rwy 31, Amdt. 13
Sullivan, IN—Sullivan County, VOR/DME-A, Amdt. 3
Fulton, MO—Fulton Muni., VOR/DME-A (TAC), Original

* * * *effective July 7, 1977.*

Topeka, KS—Philip Billard Muni., VOR Rwy 22, Amdt. 14

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

* * * *effective August 11, 1977.*

Atlanta, GA—The William B. Hartsfield Atlanta International, LOC(BC) Rwy 9R, Amdt. 5
Huntington, WV—Tri-State (Walker-Long Field) LOC BC Rwy 30, Amdt. 9

* * * *effective August 4, 1977.*

Alma, MI—Gratiot Community, SDF Rwy 9, Amdt. 1
Alma, MI—Gratiot Community, SDF BC Rwy 27, Original

Cincinnati, OH—Cincinnati Municipal Lunken Field, LOC BC Rwy 2R, Amdt. 3

* * * *effective July 7, 1977.*

Topeka, KS—Philip Billard Muni., LOC(BC) Rwy 31, Amdt. 14

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

* * * *effective August 11, 1977.*

Atlanta, GA—The William B. Hartsfield Atlanta Int'l., NDB Rwy 8, Amdt. 40
Atlanta, GA—The William B. Hartsfield Atlanta Int'l., NDB Rwy 9L, Amdt. 3
Atlanta, GA—The William B. Hartsfield Atlanta Int'l., NDB Rwy 9R, Amdt. 4
Atlanta, GA—The William B. Hartsfield Atlanta Int'l., NDB Rwy 26, Amdt. 13
Atlanta, GA—The William B. Hartsfield ATL International, NDB Rwy 27R, Amdt. 3
Atlanta, GA—The William B. Hartsfield Atlanta Int'l., NDB Rwy 33, Amdt. 18, cancelled
Evansville, IN—Evansville Dress Regional, NDB Rwy 22, Amdt. 9
Lafayette, IN—Purdue University, NDB Rwy 10, Amdt. 7
Muskogee, OK—Davis Field, NDB Rwy 31, Amdt. 7
Wise, VA—Lonesome Pine, NDB Rwy 24, Original
Huntington, WV—Tri-State (Walker-Long Field) NDB Rwy 12, Amdt. 12

* * * *effective August 4, 1977.*

North Vernon, IN—North Vernon Municipal, NDB Rwy 5, Amdt. 1
Sullivan, IN—Sullivan County, NDB Rwy 36, Amdt. 2
Alma, MI—Gratiot Community, NDB Rwy 9, Amdt. 1
Bellaire, MI—Antrim County, NDB Rwy 2, Amdt. 5
Cadillac, MI—Wexford County, NDB Rwy 7, Amdt. 4
Broken Bow, NB—Broken Bow Muni., NDB Rwy 14, Amdt. 3
Cincinnati, OH—Cincinnati Municipal Lunken Field, NDB Rwy 20L, Amdt. 7
Cincinnati, OH—Cincinnati Municipal Lunken Field, NDB Rwy 24, Amdt. 2

* * * *effective July 7, 1977.*

Topeka, KS—Philip Billard Muni., NDB Rwy 13, Amdt. 24.

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

* * * *effective August 11, 1977.*

Panama City, FL—Panama City-Bay County, ILS Rwy 14, Amdt. 10
Atlanta, GA—The William B. Hartsfield Atlanta Int'l, ILS Rwy 8, Amdt. 50
Atlanta, GA—The William B. Hartsfield Atlanta Int'l, ILS Rwy 9R, Amdt. 11
Atlanta, GA—The William B. Hartsfield Atlanta Int'l, ILS Rwy 26, Amdt. 12
Atlanta, GA—The William B. Hartsfield Atlanta Int'l, ILS Rwy 27L, Amdt. 6
Evansville, IN—Evansville Dress Regional, ILS Rwy 22, Amdt. 17
Lafayette, IN—Purdue University, ILS Rwy 10, Amdt. 5
Huntington, WV—Tri-State (Walker-Long Field) ILS Rwy 12, Amdt. 5

* * * *effective August 4, 1977.*

Chicago (West Chicago), IL—DuPage County, ILS Rwy 10, Amdt. 4
Bellaire, MI—Antrim County, MLS Rwy 2 (Interim), Amdt. 1
Cincinnati, OH—Cincinnati Municipal Lunken Field, ILS Rwy 20L, Amdt. 8

* * * *effective July 7, 1977.*

Tampa, FL—Tampa International, ILS Rwy 36L, Amdt. 8
Topeka, KS—Philip Billard Muni., ILS Rwy 13, Amdt. 25
Columbia, SC—Columbia Metropolitan, ILS Rwy 11, Amdt. 8

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

* * * *effective August 11, 1977.*

Atlanta, GA—The William B. Hartsfield Atlanta Int'l, RADAR-1, Amdt. 27
Evansville, IN—Evansville Dress Regional, RADAR-1, Amdt. 1
Houston, TX—Clover Field, RADAR-1, Original
Huntington, WV—Tri-State (Walker-Long Field) RADAR-1, Amdt. 2

* * * *effective August 4, 1977.*

Chicago, IL—Chicago Midway, RADAR-1, Amdt. 19

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

* * * *effective August 11, 1977.*

Evansville, IN—Evansville Dress Regional, RNAV Rwy 4, Amdt. 4

* * * *effective August 4, 1977.*

Aurora, IL—Aurora Municipal, RNAV Rwy 9, Amdt. 5
Alma, MI—Gratiot Community, RNAV Rwy 27, Amdt. 1

* * * *effective July 7, 1977.*

Topeka, KS—Philip Billard Muni., RNAV Rwy 17, Amdt. 2

(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); Delegation: 25 FR 6489 and Paragraph 802 of Order FSP 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on June 17, 1977.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.77-18007 Filed 6-24-77;8:45 am]

[Docket No. 15176; Amdt. Nos. 91-140 and 133-7]

PART 91—GENERAL OPERATING AND FLIGHT RULES

PART 133—ROTORCRAFT EXTERNAL-LOAD OPERATIONS

Operations Review Program Amendment No. 2: Rotorcraft External-Load Operations Amended Effective Date

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the effective date of recent amendments to rotorcraft external-load operations from August 10, 1977, to June 25, 1977, to allow operators who are capable of meeting the requirements at this earlier date to do so. This amendment results from requests submitted by affected parties.

EFFECTIVE DATE: June 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. D. A. Schroeder, Safety Regulations Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-755-8715.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On May 3, 1977, the FAA issued amendments to Parts 91 and 133 of the Federal Aviation Regulations (Amendment Nos. 91-138 and 133-6; published in the FEDERAL REGISTER (42 FR 24196) on May 12, 1977) to become effective August 10, 1977. These amendments: (1) Require all rotocraft external-load operations to be conducted under Part 133 whether or not they are conducted for compensation or hire, and regardless of the air-worthiness category under which the rotorcraft is typed certificated; (2) authorize the operation of restricted category civil rotorcraft under Part 133 with certain limitations on the areas in which they may be operated; (3) make a Rotorcraft External-Load Operator Certificate issued under Part 133 effective for 24 calendar months; and (4) provide that after December 9, 1977, § 91.39 would not apply to non-passenger-carrying civil rotorcraft external-load operations conducted under Part 133. These amendments were based on notices of proposed rule making, Notice 75-38 and Notice 75-38A published in the FEDERAL REGISTER (40 FR 54188) on November 20, 1975, and (41 FR 7517) February 19, 1976, respectively.

REVIEW OF EFFECTIVE DATE

The FAA has received comments from Mr. Peter Wright, President, Keystone Helicopter Corporation, and A. J. Samuelson, American Electric Power Corporation, indicating that certain external-load operators having rotorcraft certificated in the restricted category and who are otherwise capable of meeting the certification requirements of Part 133 at an earlier date, would not be able to conduct external-load projects for compensation or hire until August 10, 1977. Their comments stated that the summer season is the heavy season for construction work when heavy lift external-load rotorcraft are used and requested that the effective date of Amendment Nos. 91-138 and 133-6 be changed to June 25, 1977.

When the FAA adopted Amendment Nos. 91-138 and 133-6, it believed that a

period ending August 10, 1977, was needed to develop, print, and distribute new Rotorcraft External-Load Operators Certificates and change FAA handbooks to implement the new requirements.

However, since the publication of the amendments, the FAA has determined that the present FAA Rotorcraft External-Load Operators Certificates can be used. Additionally, all FAA General Aviation and Flight Standard district offices will have the appropriate handbook guidelines by June 25, 1977.

In view of the fact that this amendment relieves a restriction and since there exists an almost immediate need for the type of operation contemplated by the rule, I find that notice and public procedure hereon are impractical and unnecessary, and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Thomas G. Walenta, Flight Standards Service, and Richard B. Elwell, Office of General Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, effective June 25, 1977, Amendment Nos. 91-138 and 133-6 are amended as follows:

1. In the regulations published on May 12, 1977 (42 FR 24196), delete the effective date "August 10, 1977," and substitute for it the effective date "June 25, 1977."

§ 133.11 [Amended]

2. In paragraph (b) of § 133.11, delete the date "August 10, 1977" and substitute for it the date "June 25, 1977."

§ 133.13 [Amended]

3. In § 133.13, delete the date "August 10, 1977" and substitute for it the date "June 25, 1977."

(Secs. 307, 313(a), 601, 603, and 607 of the Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, 1423, and 1427), and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on June 22, 1977.

J. W. COCHRAN,
Acting Administrator.

[FR Doc.77-18409 Filed 6-24-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2890]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Five County Builders and Contractors Associations, Inc.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Fort Myers, Fla., building trade association to cease entering into agreements or engaging in any action that requires members and signatories to deal exclusively with the association's bid depository, and imposes sanctions on those parties who fail to restrict their dealings to such depository. Further, the order requires the firm to immediately reinstate recalcitrant participants previously suspended.

DATES: Complaint and order issued May 24, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

S. Edward Combs, Director, Atlanta Regional Office, Federal Trade Commission, 1718 Peachtree Street NW., Room 1000, Atlanta, Ga. 30309, 404-881-4836.

SUPPLEMENTARY INFORMATION: On Thursday, March 17, 1977, there was published in the FEDERAL REGISTER (42 FR 14921) a proposed consent agreement with analysis In the Matter of Five County Builders and Contractors Association, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

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

The prohibited trade practices and/or corrective actions, as codified under 16 CFR, are as follows:

Subpart-Coercing and Intimidating: § 13.370 Suppliers and sellers. Subpart-Combining or Conspiring: § 13.385 To boycott seller-suppliers; § 13.395 To control marketing practices and conditions; § 13.450 To limit distribution or dealing to regular, established or acceptable channels or classes; § 13.470 To restrain or monopolize trade; § 13.472 To restrain cooperatives' activities; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart-Controlling, Unfairly, Seller-Suppliers; § 13.530 Controlling, unfairly, seller-suppliers. Subpart-Corrective Actions and/or Requirements; § 13.533 Corrective actions and/or requirements; § 13.533-60 Release of general, specific, or contractual constrictions or restraints. Subpart-Dealing on Exclusive and Tying Basis; § 13.670 Dealing on exclusive and tying basis; § 13.670-20 Federal Trade Commission Act. Subpart-Enforcing Dealings or Payments Wrongfully; § 13.1045 Enforcing dealings or payments wrongfully.

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

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-18251 Filed 6-24-77;8:45 am]

[1] Copies of the Complaint and the Decision and Order filed with the original document.

[Docket C-2889]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Florida West Coast Chapter, National Electrical Contractors Association, Inc.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Tampa, Fla., building trade association to cease entering into agreements or taking any action that would require members and signatories to deal exclusively with the association-operated bid depository, and would penalize participants who fail to do so. Further, the order mandates immediate reinstatement for those recalcitrant parties previously suspended from participation.

DATES: Complaint and order issued May 24, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

[1] Copies of the Complaint and the Decision and Order filed with the original document.

S. Edward Combs, Director, Atlanta Regional Office, 1718 Peachtree Street, NW., Rm. 1000, Atlanta, Ga. 30309. (404) 881-4836.

SUPPLEMENTARY INFORMATION: On Thursday, March 17, 1977, there was published in the FEDERAL REGISTER (42 FR 14923) a proposed consent agreement with analysis In the Matter of Florida West Coast Chapter, National Electrical Contractors Association, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

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

The prohibited trade practices and/or corrective actions, as codified under 16 CFR, are as follows:

Subpart-Coercing and Intimidating: § 13.370 Suppliers and sellers. Subpart-Combining or Conspiring: § 13.385 To boycott seller-suppliers; § 13.395 To control marketing practices and conditions; § 13.450 To limit distribution or dealing to regular, established or acceptable channels or classes; § 13.470 To restrain or monopolize trade; § 13.472 To restrain cooperatives' activities; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart-Controlling, Unfairly, Seller-Suppliers: § 13.530 Controlling, unfairly, seller-suppliers. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-60 Release of general, specific, or contractual constrictions or restraints. Subpart-Dealing on Exclusive and Tying Basis: § 13.670 Dealing on exclusive and tying basis; 13.670-20 Federal Trade Commission Act. Subpart-Enforcing Dealings or Payments Wrongfully: § 13.-1045 Enforcing dealings or payments wrongfully.

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

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-18253 Filed 6-24-77;8:45 am]

[Docket C-2888]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Gulf Coast Builders Exchange, Inc.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Sarasota, Fla., trade association to cease entering into agreements or taking any other action which requires members and signatories to deal exclusively with the association's bid depository, and imposes sanctions on those who fail to do so. Further, the order mandates the firm immediately reinstate those participants previously suspended.

DATES: Complaint and order issued May 24, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

Samuel E. Combs, Director, Atlanta Regional Office, Federal Trade Commission, 1718 Peachtree St. NW., Rm. 1000, Atlanta, Ga. 30309, 404-881-4836.

SUPPLEMENTARY INFORMATION: On Thursday, March 17, 1977, there was published in the FEDERAL REGISTER (42 FR 14924) a proposed consent agreement with analysis In the Matter of Gulf Coast Builders Exchange, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order. No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR, are as follows:

Subpart-Coercing and Intimidating: § 13.370 Suppliers and sellers. Subpart-Combining or Conspiring: § 13.385 To boycott seller-suppliers; § 13.395 To control marketing practices and conditions; § 13.450 To limit distribution or dealing to regular, established or acceptable channels or clashes; § 13.470 To restrain or monopolize trade; § 13.472 To restrain cooperatives' activities; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart-Controlling, Unfairly, Seller-Suppliers; § 13.530 Controlling, unfairly, seller-suppliers. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-60 Release of general, specific, or contractual constrictions or restraints. Subpart-Dealing on Exclusive and Tying Basis: § 13.670 Dealing on exclusive or tying basis; 13.670-20 Federal Trade Commission Act. Subpart-Enforcing Dealing or Payments Wrongfully: § 13.1045 Enforcing dealings or payments wrongfully.

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

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-18250 Filed 6-24-77;8:45 am]

[1] Copies of the Complaint and the Decision and Order filed with the original document.

[Docket 9086]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Hallcraft Jewelers, Inc., Et Al.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair or deceptive acts or practices, this consent order, among other things, requires a Levittown, Pa., retailer of watches and jewelry, and its subsidiaries to cease misrepresenting an affiliation with the Government or the Armed Forces; the quality and prices of their merchandise; and their business methods and services. Respondents are required to advise customers of cancellation and refund rights; furnish Spanish translations of pertinent documents, where applicable; and, in connection with consumer credit, cease failing to disclose such information as is required by Regulation Z of the Truth in Lending Act. Further, respondents, in the collection of debts, are prohibited from threatening fictitious disciplinary action, or otherwise engaging in the acts and practices proscribed in the order.

DATES: Complaint, July 20, 1976. Order, May 9, 1977.[1]

FOR FURTHER INFORMATION CONTACT:

Michael J. Vitale, Director, Washington, D.C. Regional Office, Federal Trade Commission, 600-C Gelman Bldg., 2120 "L" St., NW., Washington, D.C. 20017, 202-254-7700.

SUPPLEMENTARY INFORMATION: On Tuesday, March 1, 1977, there was published in the FEDERAL REGISTER (42 FR 11882) a proposed consent agreement with analysis In the Matter of Hallcraft Jewelers, Inc., a corporation, and Hallcraft Jewelers, Inc. of New Jersey, a corporation, and Crest Clothiers, Inc., a corporation, also trading and doing business as Crest Collection Agency, and Donald J. Bound, individually and as an officer of said corporations, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

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

The prohibited trade practices and/or corrective actions, as codified under 16 CFR, are as follows:

Subpart-Advertising Falsely or Misleadingly: § 13.15 Business status, advantages or connections; 13:15-10 Au-

[1] Copies of the Complaint, and the Decision and Order filed with the original document.

thorized distributor; 13.15–20 Business methods and policies; 13.15–25 Concealed subsidiary, fictitious collection agency, etc.; 13.15–30 Connections or arrangements with others; 13.15–35 Contracts and obligations; 13.15–60 Exclusive distributor or producer; 13.15–80 Government connection; 13.15–95 Government registration; 13.15–105 Identity; 13.15–255 Reputation, use, or standing; 13.15–275 Stock, product or service; 13.15–280 Unique or special status or advantages; § 13.42 Connection of others with goods; § 13.73 Formal regulatory and statutory requirements; 13.73–92 Truth in Lending Act; § 13.85 Government approval, action, connection or standard; 13.85–45 Inspection; § 13.155 Prices; 13.155–80 Retail as cost, wholesale, discounted, etc.; 13.155–95 Terms and conditions; 13.155–95(a) Truth in Lending Act; § 13.175 Quality of product or service; § 13.205 Scientific or other relevant facts; § 13.260 Terms and conditions. Subpart-Contracting for Sale in any Form Binding on Buyer Prior to Specified Time Period: § 13.527 Contracting for sale in any form binding on buyer prior to specified Time period. Subpart-Corrective Actions and/or requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–37 Formal regulatory and/or statutory requirements; 13.533–55 Refunds, rebates and/or credits. Subpart-Enforcing Dealings or Payments Wrongfully: § 13.1043 Enforcing dealings or payments wrongfully. Subpart-Failing to provide Foreign Language Translations: § 13.1052 Failing to provide foreign language translations. Subpart-Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: §13.1365 Authorities or personages connected with; §13.1370 Business methods, policies and practices; §13.1390 Concealed subsidiary, fictitious collection agency, etc.; § 13.1395 Connections and arrangements with others; § 13.1425 Government connection; § 13.1430 Government endorsement, sanction or sponsorship; § 13.1440 Identity; § 13.1490 Nature; § 13.1500 Official connections; § 13.1540 Reputation, use or standing; § 13.1570 Unique status or advantages.— Goods: § 13.1623 Formal regulatory and statutory requirements; 13.1623–95 Truth in Lending Act; § 13.1632 Government endorsement or recommendation; § 13.1715 Quality; § 13.1740 Scientific or other relevant facts; § 13.1760 Terms and conditions; 13.1760–50 Sales contract; § 13.1775 Value. — Prices: § 13.1823 Terms and conditions; 13.1823–20 Truth in Lending Act. Subpart-Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1852 Formal regulatory and statutory requirements; 13.1852–75 Truth in Lending Act; § 13.1857 Instruments' sale to finance companies; § 13.1892 Sales contract, right-to-cancel provision; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions; 13.1905–50 Sales contract; 13.1905–60 Truth in Lending Act. Subpart-Offering Unfair, Improper and Deceptive Inducements to Purchase or Deal: § 13.2063 Scientific or other relevant facts; § 13.2070 Special or trial offers, savings and discounts; § 13.2090 Undertakings in general. Subpart-Threatening Suits, Not in Good Faith: § 13.2264 Delinquent debt collection.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 82 Stat. 146, 147; 15 U.S.C. 45, 1601, et seq.)

CAROL M. THOMAS,
Secretary.

[FR Doc.77-18248 Filed 6-24-77;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13648]

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

Lost and Stolen Securities Program; Effective Date Postponed

AGENCY: Securities and Exchange Commission.

ACTION: Postponement of effective date.

SUMMARY: This action postpones the effective date of the reporting requirements of § 240.17f-1, the Lost and Stolen Securities Program, until October 3, 1977 and the remaining provisions of the section until January 2, 1978. The delay is necessary because additional time is needed to implement and test a system to receive reports and inquiries and to inform institutions subject to § 240.17f-1 about the operation of the system. The new effective dates are intended to implement the Lost and Stolen Securities Program in an efficient manner.

EFFECTIVE DATES: Reporting requirements: October 3, 1977; Inquiry requirements: January 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Atilla S. Ilkson, Special Counsel, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202–755–7588.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced a delay in the effective date of 17 CFR 240.17f-1 under Section 17(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq. as amended by Pub. L. No. 94-29 (June 4, 1975)) with respect to the Lost and Stolen Securities Program.

DISCUSSION

On May 12, 1977 the Commission announced the designation of AutEx, Inc. ("AutEx") to receive reports and inquiries required to be made to the Commission pursuant to § 240.17f-1 for the lost and stolen securities pilot program. At that time, the Commission indicated that it might delay the effective date of § 240.17f-1 if its designee required additional time to implement the system in an effective manner.

The Commission has determined that such a delay would be appropriate. Accordingly, the Commission has delayed the effective date for reporting requirements until October 3, 1977 and has delayed the effective date for the inquiry requirements until January 2, 1978. This approach will allow the construction of a file of missing, lost, stolen or counterfeit securities for a three month period prior to the commencement of required inquiries.

In practical terms, this means that § 240.17f-1 paragraphs (a), (b) and (e) will become effective on October 3, 1977 as will paragraph (d), with the exception of the provisions relating to inquiry. The remaining provisions of the section will become effective on January 2, 1978. Consequently, no inquiries will be possible until January 2, 1978. The one year pilot program will be in effect from January 2, 1978 to December 31, 1978.

The Commission expects to disseminate to all institutions subject to the section, detailed procedures regarding the mechanics of reporting and inquiry within the near future.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 20, 1977.

[FR Doc.77-18258 Filed 6-24-77;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 77-165]

PART 1—GENERAL PROVISIONS

Changes in Field Organization of Customs Region I (Boston, Mass.)

AGENCY: United States Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document contains changes in the field organization of Customs Region I (Boston, Massachusetts). The changes were prompted by changing traffic patterns in the area. The organizational changes are intended to increase management effectiveness and to better serve the public.

EFFECTIVE DATE: July 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard M. Belanger, Attorney, Regulations and Legal Publications Division, United States Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, 202–566–8237.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 25, 1975, a notice of a proposal to change the field organization of Customs Region I was published in the FEDERAL REGISTER (40 FR 37043). Interested parties were given until September 24, 1975, to submit data, views, or arguments with respect to the proposal. Five comments were received from the public in response to the notice, one of which was favorable.

DISCUSSIONS OF COMMENTS

The one favorable commenter felt that the proposed changes would benefit importers by improving management and by broadening the experience of Customs officers.

The objectors to the proposed changes argued that it will burden the Customs officers servicing the area with additional automobile travel under hazardous driving conditions and result in a loss in permitted travel allowances.

A study conducted by the District Director of Customs, St. Albans, Vermont, shows that the proposed Highgate Springs/Alburg consolidation will result in a net increase in mileage of only 4,468 miles per year or 154 miles per affected Customs officer for that period. Therefore, the effect on each Customs officer will be minimal. While the Customs Service is concerned about the safety of its employees, it does not believe that the issue of hazardous driving conditions is a major issue in the consolidation. Such conditions will always prevail on all roads in the area during inclement winter weather.

In regard to the question of travel allowances, Customs officers going to assigned duty stations within port limits are not reimbursed for that travel. Therefore, some employees will probably find themselves assigned to more distant duty posts without reimbursement for costs that were allowed when these ports were outside the narrower port limits. However, if a Customs officer is required to travel from his assigned station to another station within the new consolidated port of entry, during a period of duty, he will receive travel expenses for that additional travel. This should reduce any adverse economic impact on the Customs officer.

Special benefits can be expected from the variety of work assignments that will become available for Customs officers within the larger consolidated port. Because of rotation of assignments, all of the Customs officers will receive more diversification and training than at present. This will enhance the career opportunities of these officers.

After consideration of all comments received, it has been decided to adopt the changes as proposed. We have concluded that these changes will provide better service to the public and contribute to a more efficient management of the Customs Service.

DRAFTING INFORMATION

The principal author of this document was Richard M. Belanger, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the Customs Service and the Department of the Treasury participated in developing the document, both on matters of substance and style.

AMENDMENTS TO THE REGULATIONS

By virtue of 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 the authority provided by Treasury Department Order No. 190, Rev. 12 (41 FR 47970), the following changes in the organization of Region I are hereby adopted as set forth below:

1. A consolidated port of Highgate Springs/Alburg, Vermont, is established, with geographical limits including all points and places within the townships of Highgate, Swanton, and Alburg, and that part of the township of Franklin east of the township of Highgate which is bounded on the east by Richard Road and on the south by State Aid Road 235.

2. The township of Swanton is removed from the port limits of the port of St. Albans, Vermont, and included within the port limits of the new port of Highgate Springs/Alburg, Vermont.

3. The designation of North Troy, Vermont, as a Customs port of entry in the St. Albans, Vermont, Customs district, is revoked.

4. North Troy, Vermont, is designated as a Customs station under the supervisions of the port of Derby Line, Vermont.

5. The designation of Alburg Springs, Vermont, as a Customs station under supervision of the port of entry at Alburg, Vermont, and the designation of Morses Line, Vermont, as a Customs station under the supervision of the port of entry at Richford, Vermont, are revoked. (The Alburg Springs and Morses Line, Vermont, locations are included within the port limits of the new port of Highgate Springs/Alburg, Vermont.)

To reflect these changes, the table in § 1.2(c) of the Customs Regulations (19 CFR 1.2(c)) is hereby amended by deleting "Alburg, Vt." and "North Troy, Vt." from the column headed "Ports of Entry" in the St. Albans, Vt., district (Region I); deleting the parenthetical material immediately following "St. Albans, Vt." in the column headed "Ports of Entry" in the St. Albans, Vt., district (Region I) and substituting in its place "(including township of St. Albans) (E.O. 3925, Nov. 13, 1923; E.O. 7632, June 15, 1937; 2 FR 1042; T.D. 77–165)"; deleting "Highgate Springs, Vt." and the parenthetical material following it in the column headed "Ports of entry" in the St. Albans, Vt. district (Region I) and substituting in its place "Highgate Springs/Alburg, Vt. (including the territory described in T.D. 77–165)."

To further reflect this change, the table in § 1.3(d) of the Customs Regulations (19 CFR 1.3(d)) is hereby amended by inserting "North Troy, Vt." directly below "Newport, Vt." in the column headed "Customs stations," with "Derby Line, Vt." designated as the "Port of entry having supervision," in the St. Albans, Vt., district (Region I); and deleting "Alburg Springs, Vt." and "Morses Line, Vt." from the column headed "Customs stations" and the corresponding entries from the column headed "Port of entry having supervision" in the St. Albans, Vt., district (Region I).

(Sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended (5 U.S.C. 301, 19 U.S.C. 1, 2).)

Dated: June 8, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc.77-18236 Filed 6-24-77;8:45 am]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

[Departmental Reg. 108.739]

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Miscellaneous Amendments

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The General Services Administration has changed the numbers it assigns to various forms used by the Department of State, and the Department of Labor has changed the listing of its regulations governing labor certification. These changes necessitate amendments to the Department's visa regulations in order to reflect the new numbers. Since all of these changes are editorial in nature, notice of proposed rulemaking with respect to these amendments is unnecessary.

EFFECTIVE DATE: June 27, 1977.

FOR FURTHER INFORMATION CONTACT:

David C. Warheit (202–632–1983).

Accordingly, Parts 41 and 42, Title 22 of the Code of Federal Regulations are amended as set forth below.

In Part 41, the following sections are amended:

§ 41.1 [Amended]

1. In § 41.1, Definitions, delete the paragraph on "Form FS–257" in its entirety.

§ 41.114 [Amended]

2. Section 41.114, paragraph (b), lines 14 and 15 is amended by changing "Form FS–257 or Form FS–257a" to read "Form OF–156."

§ 41.115 [Amended]

3. Section 41.115, paragraph (a) is amended by deleting the first sentence and inserting in lieu thereof, "Every alien applying for a nonimmigrant visa shall make application therefor on Form OF–156, unless personal appearance is waived and submission of the application form by the applicant is not required pursuant to 22 CFR 41.114(b) or unless there is a Form OF–156 available at the consular office which can be

appropriately amended to bring the application up to date." Line 15 is amended by changing "FS-257" to read "OF-156". Paragraph (b) line 4 is amended by changing "FS-257" to read "OF-156."

§ 41.116 [Amended]

4. Section 41.116, paragraph (a) is amended by changing "FS-257" to read "OF-156."

§ 41.117 [Amended]

5. Section 41.117 is amended by changing "FS-257" to read "OF-156" wherever it appears and by changing "FS-257 or FS-257a" to read "OF-156."

§ 41.124 [Amended]

6. Section 41.124, paragraph (i) is amended by changing "FS-257" to read "OF-156" in the title and by changing "FS-257" to read "OF-156" in line eight. Paragraph (j), last line, is amended by changing "Form FS-257" to read "Form OF-156."

§ 41.128 [Amended]

7. Section 41.128, paragraph (b) lines three and four is amended by changing "I-190, Form FS-257 or Form FS-257a" to read "I-190 or Form OF-156."

§ 41.129 [Amended]

8. Section 41.129, paragraph (b) line 4 is amended by changing "FS-257a" to read "OF-156."

§ 41.130 [Amended]

9. Section 41.130, paragraph (a) lines five and six is amended by changing "FS-257" to read "OF-156."

In Part 42, the following sections are amended:

§ 42.61 [Amended]

1. Section 42.61, paragraph (a)(3)(ii) is amended by deleting "(29 CFR 60.7)" and by placing a comma following "regulations." Paragraph (b)(1), line 3 is amended by changing "FS-499" to read "OF-224."

§ 42.62 [Amended]

2. Section 42.62, paragraph (b)(2)(i) line 3 is amended by deleting "(29 CFR 60.7)," and by placing a comma following "Schedule A."

§ 42.115 [Amended]

3. Section 42.115, paragraph (a), line 3 is amended by changing "FS-497" to read "OF-222." Paragraph (b), line four is amended by changing "FS-510" to read "OF-230." Paragraph (c), line four is amended by changing "FS-510" to read "OF-230."

§ 42.116 [Amended]

4. Section 42.116, paragraph (a), line one is amended by changing "FS-510" to read "OF-230." Paragraph (b)(2) is amended by changing "FS-510" to read "OF-230."

§ 42.117 [Amended]

5. Section 42.117, paragraph (b), line two is amended by changing "FS-510" to read "OF-230."

§ 42.124 [Amended]

6. Section 42.124, paragraph (a), line four is amended by changing "FS-511" to read "OF-155." Paragraph (a)(6), line 2 is amended by changing "FS-511" to read "OF-155." Paragraph (a)(7), line three is amended by changing "FS-511" to read "OF-155." Paragraph (b), lines one and two is amended by changing "FS-511" to read "OF-155" and by changing "FS-510" to read "OF-230." Paragraph (c) is amended by changing "FS-511" to read "OF-155" wherever it appears and by changing "FS-510" to read "OF-230" wherever it appears. Paragraph (d), line four is amended by changing "FS-511" to read "OF-155."

§ 41.125 [Amended]

7. Section 41.125, paragraphs (b) and (c) are amended by changing "FS-511" to "OF-155" wherever it appears.

§ 42.130 [Amended]

8. Section 42.130, paragraph (a) is amended by changing "FS-510" to read "OF-230" wherever it appears.

Dated: June 2, 1977.

For the Secretary of State.

BARBARA M. WATSON,
Administrator, Bureau of Security and Consular Affairs.

[FR Doc.77-18242 Filed 6-24-77;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7490]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Separate Limitation on Foreign Tax Credit for Dividends From a DISC or Former DISC

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction.

SUMMARY: This document contains nonsubstantive corrections to a Treasury decision.

EFFECTIVE DATE: The corrections are effective for taxable years ending after December 31, 1971.

FOR FURTHER INFORMATION CONTACT:

James Edward Maule of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-6456, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On June 15, 1977, the FEDERAL REGISTER published a Treasury decision (42 FR 30496) containing Income Tax Regulations (26 CFR Part 1) under section 904(f) of the Internal Revenue Code of 1954. (The redesignation of section 904 (f) as section 904(d) by section 1031(a) of the Tax Reform Act of 1976 (90 Stat. 1525) is not reflected in the Treasury Decision.) The amendments were proposed to conform the regulations to section 502 (b) (2) of the Revenue Act of 1971 (85 Stat. 549). The regulations relate to the separate limitation on the foreign tax credit for dividends from a DISC or former DISC.

NEED FOR CORRECTION

The full text of the regulations as adopted by the Treasury decision appears at 42 FR 30497. The text contains typographical errors and misplaced cross-references that were in the notice of proposed rulemaking (40 FR 8351, amended by a correction notice published on April 2, 1975, 40 FR 14767). These errors were not corrected when the notice of proposed rulemaking as amended by the Treasury decision was published at 42 FR 30497 on June 15, 1977.

DRAFTING INFORMATION

The principal author of this correction was James Edward Maule of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service.

CORRECTION OF TREASURY DECISION

Accordingly, FR Doc. 77-17040 (42 FR 30496) is amended as follows:

1. In § 1.78-1 on page 30497 insert a line of five asterisks immediately preceding paragraph (f).

2. In § 1.78-1(f) on page 30497 the first line should read "(f) *Illustrations.* The application of this * * *".

3. In § 1.904-1(a) on page 30497 the thirteenth and fourteenth lines should read "* * * crued other than by reason of section 904(d)) to each foreign country or posses- * * *".

4. In the undesignated paragraph following § 1.904-4(d)(1)(i)(b) on page 30498 the last line should read "* * * paragraph (d)(1)(i).".

5. In the undesignated paragraph following § 1.904-4(d)(1)(ii)(b) on page 30498 the last line should read "* * * graph (d)(1)(ii).".

6. In § 1.904-4(d)(1)(iii)(b) on page 30498 the last line should read "* * * (d)(1)(ii) of this section.".

7. In the undesignated paragraph following § 1.904-4(d)(1)(iii)(b) on page 30498 the fourth line should read "* * * § 1.904-2(c) (1)(ii) or (2)(ii), whichever * * *".

8. In the undesignated paragraph following § 1.904-4(d)(1)(iii)(b) on page 30498 the last line should read "* * * provisions of this paragraph (d)(1)(iii).".

9. In the undesignated paragraph following § 1.9044-5(b)(1)(i)(B) on page 30499 the last line should read "* * * plying (A) and (B) of this paragraph (b)(1)(i).".

10. In § 1.904-5(b)(1)(ii)(A) on page 30499 the first line should read "(A) The portion of such unused for- * * *".

11. In the undesignated paragraph following § 1.904-5(b)(1)(ii)(B) on page 30499 the last line should read "* * *

(A) and (B) of this paragraph (b)(1)(ii).".

12. In the undesignated paragraph following § 1.904-5(b)(1)(iii)(C) on page 30500 the last line should read "* * * this paragraph (b)(1)(iii).".

13. In § In § 1.904-5(b)(1)(v) on page 30500 the second line should read "* * * plying this subparagraph—".

14. In the undesignated paragraph following § 1.904-5(b)(1)(v)(C) on page 30500 the first line should read "The application of this subdivision (v) * * *".

15. In § 1.904-5(b)(2)(ii) on page 30500 the thirty-eighth line should read "* * * come, war profits, and excess profits * * *".

16. In § 1.904-5(c) Example (2) (i) on page 30501 insert a line under the number "175,000".

17. In § 1.904-5(c) Example (2) (iii) on page 30501 insert a double line under the number "183,000".

Dated: June 21, 1977.

ROBERT A. BLEY,
Director, Legislation and Regulations Division.

[FR Doc.77-18270 Filed 6-24-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 728-77]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart O—Office of Management and Finance

REVOKING DELEGATION OF AUTHORITY

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: On January 27, 1977, the Attorney General delegated the policy functions relating to the Department of Justice's participation in the International Criminal Police Organization (Interpol) to the Deputy Attorney General. As a result, an earlier delegation of authority to the Assistant Attorney General for Administration is no longer needed. The purpose of this Order is to revoke that earlier delegation of authority.

EFFECTIVE DATE: June 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Harry L. Gastley, Administrative Counsel, Office of Management and Finance, Department of Justice, Washington, D.C. 20530 (202-739-5361).

By virtue of the authority vested in me by 5 U.S.C. 301, 22 U.S.C. 263(a), and 28 U.S.C. 509 and 510, paragraph (r) of § 0.75 of Subpart O of Part O of Chapter I of Title 28, Code of Federal Regulations, is hereby revoked.

Dated: June 15, 1977.

GRIFFIN B. BELL,
Attorney General.

[FR Doc.77-18240 Filed 6-24-77;8:45 am]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER R—CHARTERS

PART 353—ASSISTANT TO THE SECRETARY OF DEFENSE (LEGISLATIVE AFFAIRS)

Delegation of Authority

AGENCY: Office of the Secretary of Defense.

ACTION: Issuance of DOD Charter Directive 5142.1.

SUMMARY: The Secretary of Defense has assigned responsibilities and functions to the Assistant to the Secretary of Defense (Legislative Affairs) and has delegated to him specific authorities. This Directive serves as the instrument that defines the charter of the Assistant to the Secretary of Defense (Legislative Affairs).

EFFECTIVE DATE: May 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Arthur H. Ehlers, Director for Organizational and Management Planning, Office of the Deputy Assistant Secretary of Defense (Administration) (202-695-4278).

Accordingly, Part 353 reads as follows:

Sec.
353.1 Purpose.
353.2 Responsibilities and functions.
353.3 Relationships.
353.4 Authorities.

AUTHORITY: 10 U.S.C. Chapter 4.

§ 353.1 Purpose.

Pursuant to the authority vested in the Secretary of Defense under the provisions of title 10, United States Code, the position of Assistant to the Secretary of Defense (Legislative Affairs) (hereinafter "the ATSD (Legislative Affairs)") is hereby established with responsibilities, functions, and authorities as prescribed herein.

§ 353.2 Responsibilities and functions.

The ATSD (Legislative Affairs) is the principal staff assistant for Department of Defense relations with the Congress and Members thereof. He shall:

(a) Provide advice and assistance concerning congressional aspects of DOD policies, plans, and programs.

(b) Coordinate actions relating to congressional consideration of the DOD legislative program.

(c) Coordinate Department of Defense participation in congressional hearings and investigations.

(d) Assign responsibility for, and coordinate responses to congressional inquiries.

(e) Arrange for the designation and appearance of witnesses and provision of information at congressional hearings.

(f) Process and coordinate requests for DOD support of congressional travel.

(g) Provide for DOD processing of personal security clearances for members of congressional staffs.

(h) Perform such other duties as the Secretary of Defense may from time to time prescribe.

§ 353.3 Relationships.

(a) In the performance of his duties, the ATSD (Legislative Affairs) shall:

(1) Coordinate and exchange information with other DOD organizations having collateral or related functions.

(2) Use existing facilities and services, whenever practicable, to achieve maximum efficiency and economy.

(b) All DOD organizations shall coordinate all matters concerning functions cited in § 353.2 with the ATSD (Legislative Affairs).

§ 353.4 Authorities.

The ATSD (Legislative Affairs) is hereby delegated authority to:

(a) Issue DOD Instructions and one-time directive-type memoranda which carry out policies approved by the Secretary of Defense, in his assigned fields of responsibility. Instructions to the Military Departments will be issued through the Secretaries of those Departments or their designees. Instructions to Unified and Specified Commands will be issued through the Joint Chiefs of Staff.

(b) Obtain such reports, information, advice, and assistance, consistent with the policies and criteria of DOD Directive 5000.19,[1] as he deems necessary.

(c) Communicate directly with heads of DOD organizations, including the Secretaries of the Military Departments, the Joint Chiefs of Staff, the Directors of Defense Agencies and, through the Joint Chiefs of Staff, the Commanders of the Unified and Specified Commands.

(d) Communicate with the Executive Office of the President, other Government agencies, representatives of the legislative branch, and members of the public, as appropriate, in carrying out assigned functions.

Dated: June 17, 1977.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

[FR Doc.77-18243 Filed 6-24-77;8:45 am]

Title 40—Protection of the Environment

CHAPTER V—COUNCIL ON ENVIRONMENTAL QUALITY

PART 1516—PRIVACY ACT IMPLEMENTATION

Procedures for Gaining Access to Information Under the Privacy Act of 1974

AGENCY: The Council on Environmental Quality.

ACTION: Final regulations.

SUMMARY: These regulations implement the requirements of the Privacy Act of 1974. They establish procedures by which individuals may gain access

[1] Filed as part of original. Single copies may be obtained, if needed, from U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120, Attention: Code 301.

to information on themselves which is maintained by the Council on Environmental Quality.

EFFECTIVE DATE: June 9, 1977.

FOR FURTHER INFORMATION CONTACT:

Ballard Jamieson, Jr., Privacy Act Liaison, the Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006 (202-382-6867).

SUPPLEMENTARY INFORMATION: On pages 1044-45 of the FEDERAL REGISTER of January 5, 1977, the Council on Environmental Quality published proposed regulations for implementing the Privacy Act of 1974. Interested persons were given 30 days in which to submit comments. No written comments were received and the proposed regulations were therefore adopted without change as final regulations.

Signed this 21st day of June 1977.

NICHOLAS C. YOST,
Acting General Counsel.

Accordingly, Part 1516 is added to Title 40 of the CFR as follows:

Sec.

1516.1 Purpose and scope.
1516.2 Definitions.
1516.3 Procedures for requests pertaining to individual records in a record system.
1516.4 Times, places, and requirements for the identification of the individual making a request.
1516.5 Disclosure of requested information to the individual.
1516.6 Request for correction or amendment to the record.
1516.7 Agency review of request for correction or amendment of the record.
1516.8 Appeal of an initial adverse agency determination on correction or amendment of the record.
1516.9 Disclosure of record to a person other than the individual to whom the record pertains.
1516.10 Fees.

AUTHORITY: 5 U.S.C. 552a; Pub. L. 93-579.

§ 1516.1 Purpose and scope.

The purposes of these regulations are to:

(a) Establish a procedure by which an individual can determine if the Council on Environmental Quality (hereafter known as the Council) maintains a system of records which includes a record pertaining to the individual; and

(b) Establish a procedure by which an individual can gain access to a record pertaining to him or her for the purpose of review, amendment and/or correction.

§ 1516.2 Definitions.

For the purpose of these regulations—

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" means maintain, collect, use or disseminate;

(c) The term "record" means any item or collection or grouping of information about an individual that is maintained by the Council (including, but not limited to, his or her employment history, payroll information, and financial transactions), and that contains his or her name, or an identifying number, symbol, or other identifying particular assigned to the individual such as a social security number;

(d) The term "system of records" means a group of any records under the control of the Council from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 1516.3 Procedures for requests for access to individual records in a record system.

An individual shall submit a written request to the Administrative Officer of the Council to determine if a system of records named by the individual contains a record pertaining to the individual. The individual shall submit a written request to the Administrative Officer of the Council which states the individual's desire to review his or her record. The Administrative Officer of the Council is available to answer questions regarding these regulations and to provide assistance in locating records in the Council's system of records.

§ 1516.4 Times, places, and requirements for the identification of the individual making a request.

An individual making a request to the Administrative Officer of the Council pursuant to § 1516.3 shall present the request at the Council's office, 722 Jackson Place, N.W., Washington, D.C. 20006, on any business day between the hours of 9 a.m. and 5 p.m. and should be prepared to identify himself by signature. Requests will also be accepted in writing if mailed to the Council's offices and signed by the requester.

§ 1516.5 Access to requested information to the individual.

The individual may submit a request to the Administrative Officer of the Council which states the individual's desire to correct or to amend his or her record. This request must be made in accordance with the procedures of § 1516.4 and shall describe in detail the change which is requested.

§ 1516.7 Agency review of request for correction or amendment of the record.

Within ten working days of the receipt of a request to correct or to amend a record, the Administrative Officer of the Council will acknowledge in writing such receipt and promptly either—

(a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(b) Inform the individual of his or her refusal to correct or amend the record in accordance with the request, the reason for the refusal, and the procedure established by the Council for the individual to request a review of that refusal.

§ 1516.8 Appeal of the initial adverse agency determination on correction or amendment of the record.

An individual may appeal refusal by the Administrative Officer of the Council to correct or to amend his or her record by submitting a request for a review of such refusal to the General Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006. The General Counsel shall, not later than thirty working days from the date on which the individual requests such a review, complete such review and make a final determination unless, for good cause shown, the General Counsel extends such thirty day period. If, after his or her review, the General Counsel also refuses to correct or to amend the record in accordance with the request, the individual may file with the Council a concise statement setting forth the reasons for his or her disagreement with the General Counsel's decision and may seek judicial relief under 5 U.S.C. 552a (g)(1)(A).

§ 1516.9 Disclosure of a record to a person other than the individual to whom the record pertains.

The Council will not disclose a record to any individual other than to the individual to whom the record pertains without receiving the prior written consent of the individual to whom the record pertains, unless the disclosure either has been listed as a "routine use" in the Council's notices of its systems of records or falls within the special conditions of disclosure set forth in Section 3 of the Privacy Act of 1974.

§ 1516.10 Fees.

If an individual requests copies of his or her record, he or she shall be charged ten cents per page, excluding the cost of any search for the record, in advance of receipt of the pages.

[FR Doc.77-18207 Filed 6-24-77;8:45 am]

Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF THE INTERIOR

[Circular No. 2424]

PART 7—EMPLOYEES: INTEREST IN LANDS AND RESOURCES

Exceptions; Acquisition

AGENCY: Office of the Secretary, Interior.

ACTION: Final rulemaking.

SUMMARY: Final rulemaking is adopted to allow Department of the Interior employees and family members to acquire excess horses and burros. Federal lands in many areas are overstocked with wild free-roaming horses and burros. This rulemaking allows employees of the Department the same privileges as other citizens to adopt and care for an excess horse or burro under the provisions of

the Wild Free-Roaming Horse and Burro Act of 1971 (16 U.S.C. 1331 et seq.).
DATE: Effective June 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Billy R. Templeton, 202-343-8735.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on page 16641 of the FEDERAL REGISTER of March 29, 1977, to amend 43 CFR 7.4(a) to provide that Department of the Interior employees and their family members can enter into agreements to acquire and maintain a wild free-roaming horse or burro under provisions of the Wild Free-Roaming Horse and Burro Act of 1971. Comments, suggestions, or objections were invited through May 13, 1977. No comments were received. Therefore, under authority of the Wild Free-Roaming Horse and Burro Act of 1971 (16 U.S.C. 1331 et seq.) the proposed amendment of 43 CFR 7.4(a) is adopted without change, as set forth below.

The principle author is Robert J. Springer of the Bureau of Land Management, Division of Range Management.

GUY R. MARTIN,
Assistant Secretary of the Interior.

June 20, 1977.

Section 7.4 is amended by adding a paragraph (a)(4) to read as follows:

§ 7.4 Exceptions.

(a) * * *

(4) An employee of the Department of the Interior or any member of an employee's family may acquire a wild free-roaming horse or burro for maintenance and protection through a cooperative agreement entered into in accordance with 43 CFR 4740.2 and 4750.2.

[FR Doc.77-18206 filed 6-24-77;8:45 am]

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5620; ID-6898]

IDAHO

Powersite Restoration No. 728; Partial Revocation of Powersite Reserve No. 565; Correction

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This order will correct an inadvertent omission from Public Land Order No. 5607 which was approved November 12, 1976, and published in the November 23 issue of the FEDERAL REGISTER at page 51603.

DATES: Effective June 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Eldon G. Hayes, 202-343-8731.

SUPPLEMENTARY INFORMATION:

Public Land Order No. 5607, F.R. Doc. 76-34517 which appeared in the FEDERAL REGISTER issue of November 23, 1976, page 51603, is hereby corrected as follows:

1. The Executive Order of November 21, 1916, creating Powersite Reserve No. 565, as construed by Powersite Interpretation No. 13, dated April 22, 1922, is hereby revoked so far as it affects those portions of the following described lands lying more than 3,300 feet above mean sea level:

BOISE MERIDIAN

T. 9 S., R. 17 E.,
Sec. 34, lots 12, 13 and 14;
Sec. 35, lots 10, 11, 12, 13 and S½NW¼;
Sec. 36, lots 10, 11, 12, 13 and 14.

The areas described aggregate approximately 400 acres in Jerome County.

2. The described lands in section 36 lying below 3,300 foot mean sea level are being restored subject to section 24 of the Federal Power Act of June 10, 1920, supra. Upon promulgation of this order, title to all the lands in section 36 will vest in the State of Idaho. The lands in sections 34 and 35 are privately owned.

GUY R. MARTIN,
Assistant Secretary of the Interior.

JUNE 16, 1977.

[FR Doc.77-18205 Filed 6-24-77;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER D—TANK VESSELS

SUBCHAPTER O—CERTAIN BULK DANGEROUS CARGOES

[CGD 77-058a]

TANK VESSELS CARRYING OIL IN TRADE

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The amendments in this document correct references, contained in notes preceding Subchapter D and O of Title 46, Code of Federal Regulations, concerning design, equipment, and operation requirements in 33 CFR Part 157. These notes no longer accurately describe the contents of 33 CFR Part 157 and mislead the reader. This document corrects both notes to accurately describe the requirements in Part 157.

EFFECTIVE DATE: These amendments are effective on: June 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Since the amendment in this document is an editorial change, notice of proposed rule making is considered unnecessary and it may be made effective in less than thirty days after publication.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are Commander Richard A. Sutherland, Project Manager, Office of Merchant Marine Safety, and Mr. Stanley M. Colby, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF RULE

Subchapter's D and O of Title 46, Code of Federal Regulations, each contain a note following the tables of content reading as follows:

NOTE.—33 CFR Part 157 contains additional design, equipment, and operation requirements for certain seagoing U.S. tankships and barges that carry oil in the United States domestic trade.

In the December 13, 1976 issue of the FEDERAL REGISTER (41 FR 54177), the Coast Guard added design, equipment, and operation requirements. These requirements were for seagoing U.S. flag tank vessels of 150 gross tons or more engaged in carrying oil in foreign trade and for foreign flag tank vessels of 150 gross tons or more carrying oil and entering the navigable waters of the United States. They were added to the regulations that govern the design and operation of seagoing U.S. tankships and barges of 150 gross tons or more that carry oil in domestic trade, published in the FEDERAL REGISTER (40 FR 48280). The notes in Subchapter D and O were not updated to reflect the new requirements.

In consideration of the foregoing, Subchapters D and O of Chapter 1, Title 46, Code of Federal Regulations are each amended by revising the notes following the tables of contents to read as follows:

NOTE.—33 CFR Part 157 contains additional design, equipment, and operation requirements for certain seagoing tankships and barges that carry oil in bulk.

(R.S. 4405, as amended (46 U.S.C. 375), R.S. 4462, as amended (46 U.S.C. 416), sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1); 49 CFR 1.46(b)).)

Dated: June 20, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

[FR Doc.77-18257 Filed 6-24-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19667; RM-1475; FCC 77-334]

PART 73—RADIO BROADCAST SERVICES

Requirement of Broadcast Licensees To Maintain Certain Program Records; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: This rule was inadvertently omitted from a document which was published in the FEDERAL REGISTER (42 FR 30180, June 13, 1977). The rule requires noncommercial educational radio licensees to make the contents of their

public inspection files available for copying by machine reproduction. The intended effect of the rule is to further the dialogue between citizens and radio broadcasters.

EFFECTIVE DATE: July 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION: This is a correction of the Third Report and Order released on May 24, 1977, in Docket No. 19667, which appeared in the FEDERAL REGISTER on Monday, June 13, 1977, page 30180.

Released: May 27, 1977.

In the Third Report and Order in the above-entitled proceeding, Docket No. 19667, adopted May 18, 1977, FCC 77-334, Mimeo No. 70051, subparagraph (a) (5) was inadvertently omitted from the amendment of § 73.116. The omitted subparagraph should be added to read as follows:

§ 73.116 Availability of logs and records.

* * * * *

(a) (5) Copy of the partial and skeleton directional antenna proofs of performance as directed by § 73.154 and made pursuant to the following rule requirements:

(i) Section 73.66 Remote control authorization.

(ii) Section 73.68 Sampling systems for antenna monitors.

(iii) Section 73.69 Antenna monitors.

(iv) Section 73.93 Operator requirements.

* * * * *

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-18028 Filed 6-24-77;8:45 am]

[Docket No. 20813]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Implementing changes in frequencies, operating procedures, technical standards and other criteria relating to the use of radiotelegraphy in the maritime services adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: This action corrects errors contained in the Report and Order in Docket 20813. See FEDERAL REGISTER June 17, 1977 at 42 FR 31000.

EFFECTIVE DATE: July 18, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT:

Charles D. Fisher, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION: Released: June 21, 1977.

In the matter of amendment of Parts 81 and 83 to implement changes in frequencies, operating procedures, technical standards and other criteria relating to the use of radiotelegraphy in the maritime services adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974. (42 FR 30999.)

In the Report and Order in the above-captioned matter, FCC 77-380, at 42 FR 31000, released June 10, 1977, correct the following instructions in Appendix 1, Parts 81 & 83 to read as follows:

In the Amendments to Part 81, Instruction No. 5 is changed to read:

5. The present section heading and text of § 81.203 is redesignated 81.216 and a new § 81.203 is adopted to read as follows:

In the Amendments to Part 81, Instruction No. 6 is changed to read:

6. The present section heading and text of § 81.204 is redesignated § 81.217 and a new § 81.204 is adopted to read as follows:

In the Amendments to Part 81, Instruction No. 9, § 81.207 is changed to read:

9. In § 81.207, paragraph (e) is deleted entirely, and a new paragraph (e) added to read:

§ 81.207 Frequencies for call and reply.

* * * * *

(e) The frequencies set forth in the table below are available for use effective June 1, 1977, by coast radiotelegraph stations for calls to ship stations by means of digital selective calling. The associated reply frequencies are also shown.

Coast transmit to ships (kiloherts)	*Coast receive from ships (kiloherts)*
4357	4187.6
6506	6281.4
8718.5	8375.2
13100	12562.3
13100.5	12562.8
17232	16749.9
17232.5	16750.4
22595	22248
22595.5	22248.5

In the Amendments to Part 83, Instruction No. 11 should be corrected to read as follows:

11. The present headnote and text of § 83.319 are deleted and a new § 83.319 adopted to read as follows:

§ 83.319 Working Frequencies — A1 Morse Radiotelegraphy.

(a) Ship radiotelegraph working frequencies are set forth in Tables (d) (1) through (d) (6) of this section. The first line in each Series Nos. 1-53, inclusive, indicates the harmonically related assignable carrier frequencies in the 4, 6, 8, 12 and 16 MHz bands. The other frequencies listed in Series Nos. W1-W53 opposite (a), (b) and (c); all 22 and 25 MHz frequencies; and the frequencies indicated in Series Nos. W54-W62, inclusive, are not necessarily harmonically related.

(b) Two Series Nos. of working frequencies, for example W1 and W31, are assigned to each radiotelegraph ship station. Frequencies from the two Series Nos. assigned to each radiotelegraph ship station should be used for normal working. Other Series Nos., and frequencies therefrom, may be used by a ship station when the frequencies of the two assigned Series Nos. are not adequate.

In the Amendments to Part 83, Instruction 16 is changed to read:

16. The present headnote and text of § 83.329 is redesignated 83.339 and a new § 83.329 is adopted to read as follows:

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-18231 Filed 6-24-77;8:45 am]

[FCC 77-417]

PART 87—AVIATION SERVICES

Allowing the Substitution of Type Accepted Transmitters in Radionavigation and Operational Stations

AGENCY: Federal Communications Commission.

ACTION: Rule amendment.

SUMMARY: Rule amendment to relieve licensees of operational and radionavigation stations in the aviation service of the requirement to modify their licenses when type accepted transmitters are substituted. This action is in furtherance of deregulation.

EFFECTIVE DATE: July 1, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert DeYoung, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION: Adopted: June 14, 1977. Released: June 22, 1977.

In the matter of amendment of Part 87 of the rules to allow the substitution of type accepted transmitters in radionavigation and operational stations.

1. This Order will amend § 87.35(d) to allow licensees of radionavigation and operational stations to substitute one type accepted transmitter for another in their stations without prior Commission approval and modification of their licenses.

2. The availability of type accepted transmitters available for such stations has increased sharply. The necessity of obtaining prior Commission approval to substitute a type accepted transmitter for another creates needless administrative and clerical burden on both licensees and the Commission.

3. In 1968, we revised Part 87 of the rules to permit the substitution of one type accepted transmitter for another.

without prior Commission approval, in most aircraft and aeronautical stations, but not for aeronautical radionavigation and operational stations because there was then no type accepted equipment available for such stations. As noted above, this situation has changed and type accepted transmitters are now readily available for such stations. As a result, prior Commission approval for substitutes of one type accepted transmitter for another is now unnecessary and creates a needless administrative burden on both licensees and the Commission.

4. The requested rule amendment is procedural in nature and, therefore, the prior public notice and effective date provisions contained in the Administrative Procedure Act (5 U.S.C. 553) would serve no practical purpose and are unnecessary.

5. Accordingly, *it is ordered*, That pursuant to authority contained in Sections 4(i) and 303(b),(e),(f) and (r) of the Communications Act of 1934, as amended, § 87.35(d) of Part 87 of the Commission's rules is amended effective July 1, 1977, as set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In § 87.35 paragraph (d) is amended to read as follows:

§ 87.35 Changes in authorized station.

* * * * *

(d) Any ground station authorized under this part, may be operated with any transmitter type accepted for use in the particular class of station in lieu of the transmitters which may be specified on the station license and without modification of the license: Provided, however, That the number of transmitters in use shall not exceed those authorized.

* * * * *

[FR Doc.77-18230 Filed 6-24-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. MC-82 Sub. No. 1]

PART 1104—PROCEDURES TO BE FOLLOWED IN MOTOR CARRIER REVENUE PROCEEDINGS

Subpart B—Intercity Bus Industry

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: This rulemaking established rules of procedure governing the type of evidence to be submitted in intercity bus motor carrier revenue proceedings. These rules are designed to reduce the time required for ultimate disposition, achieve greater uniformity in data submitted, avoid the service of detailed orders in individual proceedings, and provide adequate notice to carriers and to the public of the evidence required.

EFFECTIVE DATE: August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7693.

SUPPLEMENTARY INFORMATION: The Interstate Commerce Commission in the exercise of its responsibilities to the public of ensuring just and reasonable fares for the transportation of passengers by common carriers by motor vehicles gives due consideration to, among other factors, the need, in the public interest, of adequate and efficient transportation service by such carriers at the lowest cost consistent with the furnishing of such service; and to the need for revenues sufficient to enable such carriers under economical and efficient management, to provide such service. To enable the Commission to meet the above responsibilities, it undertook this rulemaking by Notice of Proposed Rulemaking entered November 11, 1975, and published in the FEDERAL REGISTER of December 10, 1975 (40 FR 57466). In response to that notice comments were filed by the National Bus Traffic Association, Inc., and the Department of Transportation. As a result of these comments the proposed rules were modified in part and adopted. The proposed Rule was published as Subpart B of 49 CFR Part 1108. However, the designation of Part 1108 was preempted by a regulation published in the FEDERAL REGISTER on July 7, 1976 (Part 1108—Revised Guidelines for Implementation of the National Environmental Policy Act of 1969). Therefore, the regulations proposed on December 10, 1975 (40 FR 57465) are being redesignated and adopted as Subpart B of 49 CFR Part 1104. Sections 1104.1-1104.10 are redesignated as Subpart A—Common Carriers of General Commodities. Existing Appendix II is redesignated at Appendix I.

Accordingly, Part 1104 is amended by adding a new Subpart B to read as set forth below:

Subpart A—Common Carriers of General Commodities

Sec.

* * * * *

Subpart B—Intercity Bus Industry

1104.20 Application.
1104.23 Revenue need.
1104.24 Official notice.
1104.25 Service.
1104.26 Availability of underlying data.

Schedule A
Schedule B
Schedule C
Schedule D
Schedule E
Schedule F
Schedule G
Appendix I

Subpart B—Intercity Bus Industry

§ 1104.20 Application.

(a) Upon the filing by the National Bus Traffic Association, Inc., (NBTA) on behalf of its carrier members, or by such other agencies as the Commission may by order otherwise designate, of agency tariff schedules which contain proposed general increases in fares or charges where such proposal would result in an increase of $1 million or more in the annual operating revenues on the traffic affected by the proposal, the motor common carriers of passengers on whose behalf such schedules are filed shall, concurrently with the filing of those schedules, file and serve, as provided hereinafter, a verified statement presenting and comprising the entire evidential case which is relied upon to support the proposed general increase. Carriers thus required to submit their evidence when they file their schedules are hereby notified that special permission to file those schedules shall be conditioned upon the publishing of an effective date at least 45 days later than the date of filing, to enable proper evaluation of the evidence presented. Data to be submitted in accordance with §§ 1104.21-1104.23 represent the minimum data required to be filed and served, and in no way shall be considered as limiting the type of evidence that may be presented at the time of filing of the schedules. If a formal proceeding is instituted, the carriers are not precluded from updating the evidence submitted at the time of filing of the schedules to reflect the current situation.

(b) When filing tariff schedules other than those described hereinabove, the carriers or their tariff publishing agencies shall be required to comply with such procedures as the Commission may direct in the event an investigation is instituted. Nothing stated in this part determines the amount of increased revenues which might be expected under the proposed increase in fares and/or charges on the issue traffic, and to evaluate the revenue aspects of the non-issue traffic, including that traffic subject to Interstate Commerce Commission rate regulation but not here at issue, and that traffic which is intrastate in character and under the jurisdiction of state public utility commissions.

§ 1104.23 Revenue need.

The "study carriers" shall submit evidence of the sum of money, in addition to operating expenses, including that needed to attract debt and equity capital, which they require to insure financial stability and the capability to render service. This evidence shall include data required by Schedules C through G.

§ 1104.24 Official notice.

The Commission will take official notice of all of the proponent carriers' annual and quarterly reports on file with the Commission.

§ 1104.25 Service.

The detailed information called for herein shall be in writing and shall be verified by a person or persons having knowledge thereof. The original and 16 copies of each verified statement for the use of the Commission shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423. One copy of each statement shall be sent first-class mail to each of the regional offices of the Commission in the area affected by the proposed increase, where it will be open to public inspection. A copy of each statement shall be mailed by first-class mail to each party of record in the last formal proceeding concerning a general increase in bus passenger fares in the affected area or territory. Otherwise, the service requirements of Rule 22 of the Commission's General Rules of Practice shall be observed.

§ 1104.26 Availability of underlying data.

All underlying data used in preparation of the material outlined above shall be made available in the office of the party serving such verified matter during usual office hours for inspection by any party of record desiring to do so, and shall be made available to the Commission upon request therefor. The underlying data shall be made available also at the hearing, but only if, and to the extent, specifically requested in writing and required by any party for the purpose of cross-examination.

SCHEDULE A—*Class I participating carriers' revenue data*

[Dollars in thousands]

Line No.	Carrier annual report No.	Carrier	Study code	Total system operating revenue	Total issue traffic revenue	Percent of carrier's issue traffic revenue to—	
						Total system revenues, col. (e)÷col. (d) (2 Dec.)	Total issue traffic revenues (percent dist. of col. (e) (2 Dec.)
	(a)	(b)	(c)	(d)	(e)	(f)	(g)
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							
21							
22							
23							
24							
25							

EXPLANATORY—SCHEDULE A

Purpose. The purpose of Schedule A is to corroborate the selection of the "study carriers", as defined in § 1104.21 of the prescribed procedures, and to provide a data base for the continuing evaluation of the validity and usefulness of the "study carrier" group.

Calendar Year. For the purpose of this schedule use the latest calendar year available preceding the filing date of the proposed increased fares and/or charges.

Column (a). The annual report number is that number assigned to the carrier by the Bureau of Accounts, Interstate Commerce Commission, for identification purposes.

Column (b). List Class I carrier members of National Bus Traffic Association and other interested Class I carriers participating in the tariffs of NBTA which will be affected by the proposal, in descending order of total system operating revenues.

Column (c). Use the following code for this column. For study carriers (as defined in § 1104.21) insert "S". For non-study carriers insert "NS".

Column (d). Use amount shown in carrier's Annual Report, Schedule 2998, Line 9.

Column (e). Issue traffic is defined as that traffic (services) directly affected by the proposed increase in fares and/or charges.

Columns (f) and (g). These columns are self-explanatory and are obtained by calculations using columns (d) and (e).

SCHEDULE B—*Study carriers' revenue data*

[Dollars in thousands]

Line No.	Study carrier	Total operating revenue	Issue traffic (services) revenue			Total nonissue traffic revenue	Miscellaneous station and other operating revenues
			(C-1)	(C-2)	Total issue traffic revenue		
	(a)	(b)			(d)	(e)	(f)
	Base year actual: 4-quarter period ending.....						
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							
21							
22							
23							
24							
25							
	Total, all study carriers.....						
	Pro forma year based on proposed revenues						
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							
21							
22							
23							
24							
25							
	Total, all study carriers.....						
	Pro forma year based on current revenues						
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							
21							
22							
23							
24							
25							
	Total, all study carriers.....						

EXPLANATORY—SCHEDULE B

Purpose. The purpose of this schedule is to obtain—for each study carrier and by totals for all study carriers—(1) total operating revenue, (2) revenues attributable to the various types of traffic at issue, (3) revenue attributable to the total non-issue traffic, and (4) miscellaneous station and other operating revenues. These data shall be provided for the specified study periods, namely: base year actual, pro forma year based on current revenues, and pro forma year based on proposed revenues.

The pro forma year based on proposed revenues for the traffic at issue will be compared to the issue traffic revenues for the pro forma year based on current revenues and for the base year actual to determine the amount of the proposed revenue increase being sought over these two periods. In addition, the revenue data for the total issue traffic (column (d)), will be used in Schedule C, Part III as a basis for allocating increased costs, i.e., the increased operating expenses and the increased "sum of money" costs.

Base Year Actual. Data to be reported in this and other schedules herein for the base year actual shall be based on the 4-quarter calendar year periods identified below:

Filing month of verified statement:	
January	Sept. 30, preceding year.
February	Do.
March	Do.
April	Dec. 31, preceding year.
May	Do.
June	Do.
July	Mar. 31, filing-month year.
August	Do.
September	Do.
October	June 30, filing-month year.
November	Do.
December	Do.

The 4-quarter calendar year periods identified above represent the minimum requirement. However, in event a proposed fare/charge increase is filed at a time when data for a more current quarter than that specified are obtainable then that more current quarter may be used in the base year actual. For example, if an increase is filed in late March and data for the 4th quarter of the preceding year are obtainable, then the base year actual ending December 31 may be used in lieu of the base year actual ending September 30.

Pro forma year data. Revenue data for the pro forma year shall be reported in two ways, namely: based on current revenues and based on proposed revenues. Separate schedules are required for each pro forma year. These data do not represent a forecast but reflect the results of 12 months of operation at particular rate levels. Thus, data for the pro forma year based on current revenues should be based on a restatement of the revenue data for the base year actual to reflect fares and/or charges which are currently in effect. Similarly, data for the pro forma year based on proposed revenues should reflect a restatement of the base year actual data but at levels reflecting the proposed fares and/or charges.

Column (a). Insert in this column the company name of each "study carrier" as defined in § 1104.21 of the prescribed procedures.

Column (b). Use carrier's Annual Report, Schedule 2998, Line 9. The dollar amount in this column, for each study carrier, should equal the total of columns (d), (e), and (f).

Columns (c–1), (c–2), etc. As defined in § 1104.21, "issue traffic" means that traffic (service) affected by the proposed increase in fares and/or charges, and is limited to the fares and/or charges published in schedules and tariffs filed with the Interstate Commerce Commission. For the purpose of the proposed increases filed under the prescribed procedures of this proceeding, column (c) should be subdivided into columns (c–1), (c–2), etc. to show separately the revenue for each type of traffic in issue and each column should be appropriately headed. For instance, a proposal to increase passenger fares and express rates would call for Intercity Passenger Revenue in column (c–1), and Express Revenue in column (c–2). If a third basic service is included in the proposed increase, column (c–3) should show revenue from that traffic with an appropriate identification in this column heading.

Column (d). The total issue traffic revenues in this column should equal the sum of columns (c–1), (c–2), etc.

Column (e). The revenues to be reported in this column shall consist of those revenues other than "total issue traffic revenue" (Column (d)), and "miscellaneous station and other operating revenues" (Column (f)). Thus, "non-issue traffic revenue" means those revenues accruing from providing the types of services indicated in columns (c–1), etc., but which may be "intrastate" in nature, are "exempt" as provided under Section 22 of the Interstate Commerce Act, or which are otherwise not at issue in a proposed fare and/or charge increase. Such non-issue traffic may also include a commuter or mass transportation service, which is the transportation of passengers generally performed within a city or town and the suburban areas contiguous thereto. However, in some instances this service may also be intercity in character where the cities involved are within relatively short distances of each other and the primary purpose is the mass transportation of commuter passengers to and from these cities.

Column (f). For the purpose of this schedule the revenues to be reported in this column shall consist of those in Account 3600, Miscellaneous Station Revenue, and in Account 3900, Other Operating Revenue. (See 49 CFR 1206.)

Presentation of statement on revenue sample studies. Historically, in order to separate interstate from intrastate revenues, it has not been necessary for annual report purposes for each carrier to conduct studies of its traffic operations, whether based upon sampling or otherwise, however, many of the Class I carriers make such studies for managerial purposes. In order to permit the evaluation of such studies, and the evidence derived therefrom, each study carrier, as defined in section 1104.21, shall submit an affidavit explaining how its study was conducted and how it appraises the reliability of the results. Carriers having studies based upon sampling should conform with the staff report entitled "Guidelines for the Presentation of the Results of Sample Studies," February 1, 1971.

( ) Greyhound Lines, Inc.
( ) Trailways combined
( ) All study carriers

SCHEDULE C

PART I.—*Condensed income statement*

[Dollars in thousands]

Line No.	Item	Source A.R. schedule 2998	Base year-actual	Pro forma year		
				Based on current revenue	Based on proposed revenue	Based on constructed revenue needs
	(a)	(b)	(c)	(d)	(e)	(f)
1	Passenger revenue	L. 1				
2	Special bus revenue	L. 2				
3	Baggage revenue	L. 3				
4	Mail revenue	L. 4				
5	Express revenue	L. 5				
6	Newspaper revenue	L. 6				
7	Miscellaneous station revenue	L. 7				
8	Other operating revenue	L. 8				
9	Total revenues	L. 9				
10	Total expenses	L. 15				
11	Net operating revenue	L. 16				
12	Rent for lease of carrier property-debt.	L. 17				
13	Income from lease of carrier property-credit.	L. 18				
14	Net carrier operating income	L. 19				
15	Total other income	L. 30				
16	Gross income	L. 31				
17	Interest and amortization of debt discount expenses and premium.	Sums of lines 32, 35, and 36.				
18	Total income deductions	L. 39				
19	Income (loss) from continuing operations before income taxes.	L. 40				
20	Income taxes on income from continuing operations.	L. 41				
21	Provision for deferred taxes	L. 42				
22	Income (loss) from continuing operations.	L. 43				
23	Total income (loss) from discontinued operations.	L. 46				
24	Total extraordinary items and accounting changes (debit) credit.	L. 53				
25	Net income (loss) transferred to retained income-unappropriated.	L. 54				

PART II.—*System operating expenses and sum of money assigned to transportation service*

[Dollars in thousands]

Line No.	Item	Source	Base year-actual	Pro forma year		
				Based on current revenue	Based on proposed revenue	Based on constructed revenue needs
	(a)	(b)	(c)	(d)	(e)	(f)
1	Operating expenses "sum of money" items.	Pt. I, L. 10				
2	Rent for, and from, lease of carrier property (net).	Pt. I, net of ls. 12 and 13.				
3	Interest and amortization of debt discount and expense and premium on debt.	Pt. I, L. 17				
4	Percent of carrier operating property to total tangible property.	A. R. Sch. 100, col. (b) (ls. 19 and 21)÷(L. 26) (2 dec.).				
5	Interest and related expenses assigned to transportation service.	L. 3×L. 4, above (pt. I, L. 14) minus (pt. II, L. 5).				
6	Taxable income assigned to transportation service.	do				
7	Taxable income from continuing operations.	Pt. I, L. 19				
8	Percent of taxable income assigned to transportation service to taxable income from continuing operations.	L. 6÷L. 7, above (2 dec.)				
9	Total income taxes	Pt. I. L. 20				
10	Income taxes assigned to transportation service.	L. 8×L. 9, above				
11	Income (loss) assigned to transportation service.	L. 6 minus L. 10, above				
12	Total "sum of money" items assigned to transportation service.	Ls. 2, 5, 10 and 11				
13	Operating expenses and "sum of money" assigned to transportation service.	Ls. 1 and 12, above				
14	Ratio of income (loss) assigned to transportation to income (loss) from continuing operations (1 dec.).	Pt. II, L. 11÷Pt. I, L. 22				

PART III.—*Allocation of increased system operating expenses and sum of money to traffic at issue*

[Dollars in thousands]

Line No.	Item	Source	Base year-actual	Pro forma year		
				Based on current revenue	Based on proposed revenue	Based on constructed revenue needs
	(a)	(b)	(c)	(d)	(e)	(f)
	A.—Revenue distribution					
1	Revenues applicable to traffic at issue.	From revenue study	$	$	$	$
2	System operating revenues, less miscellaneous station revenues (3600) and other operating revenues (3900).	Sch. C, pt. I, L. 9-Ls. 7 and 8.	$	$	$	$
3	Percent of total issue traffic revenue to L.2 revenues.	L.1÷L.2 (percent to 2 dec.).	%	%	%	%

B.—Allocation to traffic at issue

Line No.	Item	Source	Based on current revenue over base year-actual	Based on proposed revenue over base year-actual	Based on constructed revenue over base year-actual
	(a)	(b)	(c)	(d)	(e)
4	Increased system operating expenses.	Pt. II, line 1	$	$	$
5	Increased system "sum of money."	Pt. II, line 12			
6	Total increased system operating expenses and "sum of money."	L.4+L.5, above			
7	Allocation of line 6 to traffic at issue.	L.3×L.6, above			
8	Increased revenues on traffic at issue.	L.1, above	$	$	$
9	Ratio of increased revenues to increased costs on traffic at issue.	L.8÷L.7, above (2 dec.)			

EXPLANATORY—SCHEDULE C (PARTS I AND II)

Purpose. The purpose of Schedule C, Parts I and II is to develop a condensed income statement, and the system operating expenses and "sum of money" assigned to transportation service, for the study carriers and for the study periods specified. These data are used in Schedule C, Part III, to measure the "cost increases" allocated to the traffic at issue, over specified time periods, and then to compare these increases with the increased revenues.

Study carrier groupings. A separate Schedule C, Parts I and II shall be prepared for each of the following:

1. Greyhound Lines, Inc.
2. Trailways combined (study carriers, only).
3. All study carriers.

Column (b). The annual report sources in this column refer to the 1976 Annual Report Form MP-1. For years prior or subsequent to 1976, use comparable annual report sources.

Column (c). Data to be reported in this column for the base year actual shall be based on the 4-quarter calendar year periods identified below:

Filing month of verified statement:	*Four-quarter calendar year period ending*
January	Sept. 30 preceding year.
February	Do.
March	Do.
April	Dec. 31, preceding year.
May	Do.
June	Do.
July	March 31, filing month year.
August	Do.
September	Do.
October	June 30, filing month year.
November	Do.
December	Do.

The 4-quarter calendar year periods identified above represent the minimum requirement. However, in the event a proposed fare/charge increase is filed at a time when data for a more current quarter than that specified are obtainable, the more current quarter may be used in the base year actual. For example, if an increase is filed in late March and data for the 4th quarter of the preceding year are obtainable then the base year actual ending December 31, may be used in lieu of the base year actual ending September 30.

Columns (d), (e), *and* (f). These columns shall contain the pro forma year data. The data in columns (d) and (e) do not represent a forecast, but the results of 12 months of operations at cost and fare/charge levels existing at a specific time.

The data reported in column (d) shall be the base year actual (column (c)) restated to reflect conditions (wage, price, and productivity, etc.) prevailing on or near the effective date of the proposed increase. Revenues in column (d) shall be based on fares and charges which are currently in effect.

The data reported in column (e) shall also be the base year actual (column (c)) restated to reflect conditions (wage, price and productivity, etc.) prevailing on or near the effective date of the proposed increase. Unlike column (d), however, revenues in column (e) shall be based on the proposed fares and charges.

The data reported in column (f) shall be based on what the system revenue needs of the study carriers should be at a given time, including the constructed operating expenses and the constructed "sum of money" above these expenses. The constructed "sum of money" should be supported by evidence that it is a just and reasonable amount and is that needed to attract debt and equity capital and to insure financial stability and the capacity to render service. Such evidence should include an analysis of the adequacy of the carriers' earnings, the carriers' cost of debt and equity capital, the various kinds of risk attending their operations and the financing thereof, and the carriers' ongoing needs for working capital, new equipment and facilities.

Pro forma year data. Data for the pro forma time periods shall be appropriately explained and supported. Each of the dollar figures called for in these columns shall be accompanied by an explanation of the bases or methods of restatement and explicit identification of all assumed changes in income statement data, including changes in revenues, expenses, wage rates, price levels and productivity, as compared with the base year actual results. This evidence should be adequate to enable the Commission to find that the proposed fare/charge increase:

(a) Is cost justified and does not reflect future inflationary expectations;

(b) Takes into account expected and reasonable productivity gains;

(c) Is not excessive in that it does not exceed those operating expenses and "sum of money" costs needed to provide adequate and safe service or to provide for necessary expansion to meet future requirements for transportation services; and

(d) Is not excessive in that it does not exceed that rate of return needed by the carriers to attract debt and equity capital at reasonable costs.

Part II, line 9, note. Line 9 does not give effect to the "Provision for Deferred Taxes" (Part I, Line 21); however, the effect of "deferred taxes" can be computed by the Commission's staff as part of its analytical process. Nonetheless, because the "prescribed rules" represent only the minimum evidential requirements, should proponents or any other party wish to submit an additional Schedule C, Part II, giving effect to the "deferred taxes", it may but appropriate notations should be made. To give effect to "deferred taxes" the source (column (b)) for Schedule C, Part II, line 9 should be: Part I, Ls. 20 and 21.

EXPLANATORY—SCHEDULE C (PART III)

Purpose. The purpose of Schedule C, Part III, is threefold: First, to develop the percentage relationship between total issue traffic revenue and total system operating revenues (less miscellaneous station, and other operating revenues) (Line 3); Second, to allocate the increased system operating expenses and "sum of money" items to the traffic at issue (Line 7); and Third, to make a comparison of the increased expenses and sum of money items on the issue traffic with the increased revenues on this traffic (Line 9). Four time periods are used to measure the increase in expenses, sum of money items, and revenues, namely: (a) the base year actual, (b) the pro forma year based on current revenue, (c) the pro forma year based on proposed revenue, and (d) the pro forma year based on constructed revenue needs. These time periods are identified in explanatory for Schedule C, Parts I and II.

The critical procedure in Part III is the allocation of increased system operating expenses and sum of money items to the traffic at issue based on revenue relationships, i.e., based on the percentage relationship of the total issue traffic revenues to the total system revenues with minor deletions. This procedure is necessary at this time because of the absence of regulatory or managerial accounting systems designed for "costing" purposes, or, in the alternative, a "cost formula" which, together with appropriate data from engineering and traffic studies, could be used to "cost out" the particular bus transportation services that may be at issue in a given general increase proceeding. The fallacy in using revenues as an allocation factor is the assumption that there is a direct relationship between revenues and costs, or, in other words, that revenues bear the same relationship to costs regardless of the type of transportation services provided. However, differential charging is an economic fact, and cost of service is not the sole factor to be considered in rate making.

Notwithstanding the deficiency in using revenues as an allocation factor, it is necessary to obtain some expression of how the increased systemwide operating expenses, and sum of money items may be impacting on the traffic at issue. An evaluation of this impact is essential to determine whether, in fact, the issue traffic is bearing "too much" or "too little" of the increased costs and the overall burden vis-a-vis the "non-issue" traffic which may include traffic which is interstate or intrastate in character—with the latter traffic being regulated by state utility commissions.

Study carrier groupings. The study carrier groups for Part III shall be the same as those designated for Parts I and II.

Time periods. The time periods shown in Part IIIA, Revenue Distribution, are the same as those indicated for Parts I and II. However, in Part IIIB, Allocation to Traffic at Issue, although the time periods are the same as in Part IIIA, they are used to measure possible increases in operating expenses, sum of money, and revenues. Thus, in Schedule C, Part IIIB, possible increases are measured based on a comparison between the pro forma years, on the one hand, and the base year actual, on the other hand. But other comparisons can be made. For example, a comparison can be made between the operating expenses, sum of money, and revenues for the "pro forma year based on constructed revenue needs" and the respective items for the "pro forma year based on current revenue."

Line 1, revenues applicable to traffic at issue. Data applicable to columns (c) through (f) on this line should be obtained from records or special studies of the individual carriers and appropriately combined into the study carrier groups required for Schedule C. Since there are no industrywide studies or data applicable to the issue traffic, the study carriers should be careful to maintain proper records of the underlying data in the event the Commission should request their submission. (See — rules Section 1105.7).

Lines 2 and 3. These lines are self-explanatory.

Lines 4, 5 and 6. These lines represent the increased system operating expenses (Line 4), increased system sum of money (Line 5), and the total of these items (Line 6). For example, for Part III, Line 4, Column (c), pro forma year based on current revenues over the base year actual, the increased system operating expenses are obtained by subtracting the total expenses shown in Schedule C, Part II, Line 1, Column (c), from the comparable total expenses shown in Schedule C, Part II, Line 1, Column (d). The increased sum of money items to be shown on Part III, Line 5 are obtained in a similar manner but using Schedule C, Part II, Line 12. Part III, Line 6, then represents a total of Lines 4 and 5.

Line 7. This line represents an allocation of the total increased system operating expenses and sum of money (Line 6) to the traffic at issue, and is obtained by multiplying the amounts on Line 6 by the respective column percentages shown on Line 3.

Line 8. The increases in revenues on the traffic at issue are obtained from Part III, Line 1, by using the time periods specified. For example, the increased revenues on the issue traffic for the pro forma year based on current revenues over the base year actual is obtained by substracting the revenues shown on Part III, Line 1, Column (c) from the revenues shown on Line 1, Column (d).

Line 9. This line represents the ratio of increased revenues to increased costs and is obtained by dividing Line 8 by Line 7.

( ) Greyhound Lines, Inc.
( ) Trailways combined
( ) All Study carriers

SCHEDULE D

[Dollars in thousands]

Line No	Item	Source	Calendar year 19..	Calendar year 19..	Base year actual
	(a)	(b)	(c)	(d)	(e)
	PART I.—Selected financial data				
	Income statement data:				
1	Total revenues	Sch. 2998, L. 9			
2	Total expenses	Sch. 2998, L. 15			
3	Depreciation expense and amortization of carrier operating property	Sch. 2998, L. 11 + L. 12			
4	Lease of carrier property (net)	Sch. 2998, L. 17 + L. 18			
5	Net carrier operating income	Sch. 2998, L. 19			
6	Equity in earnings (losses) of association companys	Sch. 2998, L. 29			
7	Interest on long-term obligations	Sch. 2998, L. 32			
8	Amortization of debt discount and expense and premium on debt (net).	Sch. 2998, L. 35 + L. 36			
9	Pretax income (loss from continuing operations.	Sch. 2998, L. 40			
10	Tax on income from continuing operations.	Sch. 2998, L. 41			
11	Provision for deferred taxes	Sch. 2998, L. 42			
12	Income (loss) from continuing operations.	Sch. 2998, L. 43			
13	Total income (loss) from discontinued operations.	Sch. 2998, L. 46			
14	Total extraordinary items and accounting changes—(debit) credit.	Sch. 2998, L. 53			
15	Net income (loss)	Sch. 2998, L. 54			
	Balance sheet data:				
16	Current assets	Sch. 100, L. 17, col. (b)			
17	Current liabilities	Sch. 101, L. 14, col. (b)			
18	Current assets [1]	Sch. 100, L. 17			
19	Current liabilities [1]	Sch. 101, L. 14			
20	Long-term debt due within 1 yr	Sch. 101, L. 15, col. (b)			
21	Long-term debt due after 1 yr	Sch. 101, L. 24, col. (b)			
22	Long-term debt due within 1 yr [1]	Sch. 101, L. 15			
23	Long-term debt due after 1 yr [1]	Sch. 101, L. 24			
24	Owners' equity	Sch. 101, L. 38 + L. 41 + L. 44 − L. 45, col. (b).			
25	Owners' equity [1]	Sch. 101, L. 38 + L. 41 + L. 44 − L. 45.			
26	Total intangible property [1]	Sch. 100, L. 31			
27	Net carrier operating property (owned plus leased to others). [1]	Sch. 100, L. 19 + L. 21			
28	Investment in owned and leased property plus working capital.	L. 27 + L. 18 − L. 19			
	Miscellaneous and financial ratios:				
29	Cash dividend appropriations	Sch. 2930, L. 16			
30	Operating ratio (percent)	L. 2÷L. 1			
31	Current ratio	L. 16÷L. 17			
32	Dividend payout ratio (percent)	L. 29÷L. 15			
33	Throwoff to debt ratio (percent)	(L. 3+L. 15)÷(L. 20+L. 21)			
34	Capital structure ratio (percent)	(L. 20+L. 21)÷(L. 20+L. 21+L. 24).			
35	Working capital	L. 18−L. 19			
36	Rate of return on owned and leased operating property plus working capital (percent).	L. 5÷L. 28			
37	Rate of return on owners' equity, less intangibles (percent).	L. 15÷(L. 25−L. 26)			
38	Rate of return on total capitalization (percent).	(L. 7+L. 8+L. 15)÷(L. 22+L. 23+L. 25).			
	PART II.—Accounts giving effect to interperiod tax allocation (deferred taxes) and impact of investment tax credit				
	Balance sheets accounts:				
1	Deferred income tax charges	Sch. 100, L. 16, col. (b)			
2	Accumulated deferred income tax charges.	Sch. 100, L. 44, col. (b)			
3	Deferred income tax credits	Sch. 101, L. 13, col. (b)			
4	Accumulated deferred income tax credits.	Sch. 101, L. 27, col. (b)			
	Income statement accounts:				
5	Provision for deferred taxes	Sch. 2998, L. 42			
6	Provision for deferred taxes—Extraordinary items.	Sch. 2998, L. 50			
7	Impact of investment tax credit on continuing operations.	See explanatory			

[1] Show average of beginning and end-of-year figures.

EXPLANATORY—SCHEDULE D (PART I)

Purpose. The purpose of Schedule D (Part I) is to ascertain the financial posture of Greyhound Lines, Inc. and all the study carrier carriers by an analysis of certain key financial data, with a view to determining revenue needs.

Study Carrier Groupings. Schedule D (Part I) shall be prepared on the following two bases:

1. Greyhound Lines, Inc.
2. Trailways Combined (study carriers, only)
3. All Study Carriers

Column (b). The annual report sources in this column refer to the 1976 Annual Report Form MP-1. For years prior or subsequent to 1976, use comparable sources.

Column (c). If the fare/charge increase is filed during the first six months of the calendar year, the data reported in column (c) shall be based on the 3rd calendar year preceding the filing year. For example, if the rate increase is filed on May 15, 1977, column (c) shall report data for calendar year 1974.

If the fare/charge increase is filed during the last six months of the calendar year, the data reported in column (c) shall be based on the 2nd calendar year preceding the filing year. For example, if the rate increase is filed on Nov. 15, 1977, column (c) should report data for calendar year 1975.

Column (d). If the fare/charge increase is filed during the first six months of the calendar year, the data reported in column (d) should be based on the 2nd calendar year preceding the filing year. For example, if the rate increase is filed on May 15, 1977, column (d) should report data for calendar year 1975.

If the rate increase is filed during the last six months of the calendar year, the data reported in column (d) shall be based on the 1st calendar year preceding the filing year. If, for example, the fare/charge increase is filed on November 15, 1977, column (d) should report data for calendar year 1976.

Column (e). Data to be reported in this column for the base year actual shall be based on the 4-quarter calendar year periods identified below:

Filing Month of verified statement	*Four-quarter calendar year period ending*
January	Sept. 30, preceding year.
February	Do.
March	Do.
April	Dec. 31, preceding year.
May	Do.
June	Do.
July	Mar. 31, filing-month year.
August	Do.
September	Do.
October	June 30, filing-month year.
November	Do.
December	Do.

The 4-quarter calendar year periods identified above represent the minimum requirement. However, in event a proposed fare/charge increase is filed at a time when data for a more current quarter than that specified are obtainable, the more current quarter may be used in the base year-actual. For example, if an increase is filed in late March and data for the 4th quarter of the preceding year is obtainable, the base year-actual ending December 31, may be used in lieu of the base year-actual ending September 30.

EXPLANATORY—SCHEDULE D (PART II)

Purpose. Schedule D (Part II) is designed to segregate the impacts of: (1) the Commission's deferred tax accounting rule change; and (2) the impact of the investment tax credit on continuing operations.

Study Carrier Groupings. The study carrier groups for Part II shall be the same as those designated for Part I.

Column (b). The annual report sources in this column refer to the 1976 Annual Report Form MP-1. For years prior or subsequent to 1976, use comparable sources.

Columns (c), (d) and (e). The reporting periods for Part II shall correspond to those in Part I.

Investment Tax Credit Impact. This impact is: (1) the amount by which Account 8000, Income Taxes on Income from Continuing Operations, was credited for the investment tax credit if the flow-through accounting method was elected or (2) the amount by which Account 8040, Provision for Deferred Taxes, was credited for the amortization of the investment tax credit if the deferral accounting method was elected.

( ) Greyhound Lines, Inc
( ) Trailways combined
( ) All study carriers

SCHEDULE E.—*Statement of changes in financial position*

[Dollars in thousands]

Line No.	Item (a)	Source (b)	Calendar year 19.... (c)	Calendar year 19.... (d)	Base year-actual (e)
	SOURCES OF WORKING CAPITAL				
1	Working capital provided by operations: Net income (loss) before extraordinary items.	Sch. 2698, L. 47, col. (b)			
	Add expenses not requiring outlay of working capital; (subtract) credits not generating working capital:				
2	Loss (gain) on sale or disposal of tangible property	Sch. 5091, L. 7, col. (b)			
3	Add depreciation and amortization expense.	Sch. 2698, Ls. 11+12+35+36, col. (b).			
4	Net increase (decrease) in deferred income taxes.	Sch. 2698, L. 42, col. (b)			
5	Net decrease (increase) in parent's share of subsidiary's undistributed income for the year.	Sch. 2698, L. 28			
6	Net increase (decrease) in noncurrent portion of estimated liabilities.	Sch. 101, L. 31, cols. (b)-(c)			
7	Other (specify):				
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18	Total working capital from operations before extraordinary items.				
19	Extraordinary items and accounting changes.	Sch. 2698, L. 53, col. (b)			
	Add expenses not requiring outlay of working capital: (subtract) credits not generating working capital:				
20	Loss (gain) on extraordinary items	Sch. 2698, L. 48, col. (b)			
21	Net increase (decrease) in deferred income taxes.	Sch. 2698, L. 50, col. (b)			
22	Cumulative effect of changes in accounting principles.	Sch. 2698, L. 52, col. (b)			
	Other (specify):				
23					
24					
25					
26					
27					
28	Total working capital from extraordinary items and accounting changes.				
29	Total working capital from operations (lines 18 and 28).				
	Working capital from sources other than operating:				
30	Proceeds from issuance of long-term liabilities.				
31	Proceeds from sale/disposition of carrier operating property.	Sch. 1200-A, L. 9			
32	Proceeds from sale/disposition of other tangible property.				
33	Proceeds from sale/repayment of investments advances.	Sch. 1600/1650, Ls. 23+47, col. (g).			
34	Net decrease in sinking and other special funds.	Sch. 1700, Ls. 15+31+50, cols. (d)−(j).			
35	Proceeds from issue of capital stock	Sch. 2700A/2710A, L. 12, cols. (e)+(f)−(i).			
	Other (specify):				
36					
37					
38					
39					
40					
41	Total working capital from sources other than operating.				
42	Total sources of working capital (lines 29 and 41).				

Line No.	Item	Source	Calendar year 19..	Calendar year 19..	Base year actual
	(a)	(b)	(c)	(d)	(e)
	APPLICATION OF WORKING CAPITAL				
43	Amount paid to acquire/retire long-term liabilities.				
44	Cash dividends	Sch. 2930, L. 16			
45	Purchase price of carrier operating property.	Sch. 1200, L. 11, col. (c)			
46	Purchase price of other tangible property				
47	Purchase price of long-term investments and advances.	Sch. 1600/1650, ls. 23+47, col. (e).			
48	Net increase in sinking or other special funds.	Sch. 1700, ls. 15+31+50, cols. (j)−(d).			
49	Purchase price of acquiring treasury stock.	Sch. 2700B/2710B, L. 12, col. (c).			
	Other (specify):				
50					
51					
52					
53					
54					
55	Total application of working capital				
56	Net increase (decrease) in working capital (line 42 less line 55).				

EXPLANATORY—SCHEDULE E

Purpose. Schedule E is designed to provide the Commission with an indication of the carrier's sources and uses of funds over the recent past.

Study Carrier Groupings. Schedule E shall be prepared on the following two bases:

1. Greyhound Lines, Inc.
2. Trailways Combined (study carriers, only)
3. All Study Carriers

"Funds". The term "Funds" for the purpose of this schedule shall include all assets or financial resources even though a transaction may not directly affect cash or working capital. For example, the purchase of property in exchange for bonds or shares of stock would be an application of funds for investment in property provided by the issue of securities.

Sources and uses of funds should be individually disclosed. For example, outlays for fixed assets should not be reported net of retirements.

Column (b). The annual report sources in this column refer to the 1976 Annual Report Form MP-1. For years prior or subsequent to 1976, use comparable sources.

Column (c). If the fare/charge increase is filed during the first six months of the calendar year, the data reported in column (c) shall be based on the 3rd calendar year preceding the filing year. For example, if the rate increase is filed on May 15, 1977, column (c) shall report data for calendar year 1974.

If the fare/charge increase is filed during the last six months of the calendar year, the data reported in column (c) shall be based on the 2nd calendar year preceding the filing year. For example, if the rate increase is filed on Nov. 15, 1977, column (c) should report data for calendar year 1975.

Column (d). If the fare/charge increase is filed during the first six months of the calendar year, the data reported in column (d) should be based on the 2nd calendar year preceding the filing year. For example, if the rate increase is filed on May 15, 1977, column (d) should report data for calendar year 1975.

If the rate increase is filed during the last six months of the calendar year, the data reported in column (d) shall be based on the 1st calendar year preceding the filing year. If, for example, the fare/charge increase is filed on November 15, 1977, column (d) should report data for calendar year 1976.

Column (e). Data to be reported in this column for the base year-actual shall be based on the 4-quarter calendar year periods identified below:

Filing month of Verified statement	*Four-quarter calendar year perid ending:*
January	Sept. 30, preceding year.
February	Do.
March	Do.
April	Dec. 31, preceding year.
May	Do.
June	Do.
July	Mar. 31, filing-month year.
August	Do.
September	Do.
October	June 30, filing-month year.
November	Do.
December	Do.

The 4-quarter calendar year periods identified above represent the minimum requirement. However, in event a proposed fare/charge increase is filed at a time when data for a more current quarter than that specified are obtainable, the more current quarter may be used in the base year-actual. For example, if an increase is filed in late March and data for the 4th quarter of the preceding year is obtainable, the base year-actual ending December 31, may be used in lieu of the base year-actual ending September 30.

Sheet 1 of 3
( ) Greyhound Lines, Inc.
( ) Trailways combined
( ) All Study carriers

SCHEDULE F.—*Affiliate revenue data for services rendered*

[Dollar in thousands]

Line No.	Item	Calendar year 19....	Calendar year 19....	Base year—actual
	(a)	(b)	(c)	(d)
	AFFILIATE REVENUES FOR SERVICES RENDERED TO RESPONDENTS			
1	Engineering			
2	Management			
3	Legal			
4	Accounting			
5	Financial			
6	Furnishing of materials and supplies			
7	Leasing of land, structures, and vehicles			
8	Purchase of equipment			
9	Construction			
10	All other services			
11	Total affiliate revenues for services rendered to respondent (lines 1 through 10)			
12	Total affiliate revenues for services rendered to other than respondents			
13	Total affiliate revenues (lines 11 and 12)			
14	Total affiliate income from operations before income taxes			

EXPLANATORY—SCHEDULE F

Purpose. Schedule F is designed to facilitate an assessment of the effect on the carriers' profits of transactions with affiliates.

Affiliate transactions aggregating less than $30,000 need not be reported in this Schedule.

Study Carrier Groupings. A separate Schedule F shall be prepared for each of the following:

1. Greyhound Lines, Inc.
2. Trailways Combined (study carriers, only)
3. All Study Carriers

Column (b). If the fare/charge increase is filed during the first six months of the calendar year, the data reported in column (b) shall be based on the 3rd calendar year preceding the filing year. If the fare/charge increase is filed during the last six months of the calendar year, the data reported in column (b) shall be based on the 2nd calendar year preceding the filing year.

Column (c). If the fare/charge increase is filed during the first six months of the calendar year, the data reported in column (c) shall be based on the 2nd calendar year preceding the filing year. If the fare/charge increase is filed during the last six months of the calendar year, the data reported in column (c) shall be based on the 1st calendar year preceding the filing year.

Column (d). Data to be reported in this column for the base year-actual shall be based on the 4-quarter calendar year periods identified below:

Filing month of verified statement	*Four-quarter calendar year period ending*
January	Sept. 30, preceding year.
February	Do.
March	Do.
April	Dec. 31, preceding year.
May	Do.
June	Do.
July	Mar. 31, filing month year.
August	Do.
September	Do.
October	June 30, filing month year.
November	Do.
December	Do.

The 4-quarter calendar year periods identified above represent the minimum requirement. However, in event a proposed fare/charge increase is filed at a time when data for a more current quarter than that specified are obtainable, the more current may be used in the base year-actual. For example, if an increase is filed in late March and data for the 4th quarter of the preceding year is obtainable then the base year-actual ending December 31, may be used in lieu of the base year-actual ending September 30.

( ) Greyhound Lines, Inc.
( ) Trailways combined
( ) All Study carriers

SCHEDULE G.—*Selected statistical data*

[Dollars in thousands]

Line No.	Item	Source	1972	1973	1974	1975	1976	Cols. (h) through (l) (1977) through (1981)
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
	Operating revenues, expenses, and operating ratios:							
1	Passenger revenue	Sch. 2998, L. 1, col. (b)						
2	Special bus revenue	Sch. 2998, L. 2, col. (b)						
3	Express revenue	Sch. 2998, L. 5, col. (b)						
4	Total operating revenues	Sch. 2998, L. 9, col. (b)						
5	Total operating expenses	Sch. 2998, L. 15, col. (b)						
6	Operating ratio	Line 5÷line 4						
	Carrier operating property:							
7	Structures	Sch. 1200, L. 2, col. (c)						
8	Revenue equipment	Sch. 1200, L. 3, col. (c)						
9	Improvements of leasehold property	Sch. 1200, L. 8, col. (c)						
10	Total carrier operating property	Sch. 1200, L. 11, col. (c)						
	Number and cost of buses:							

( ) Greyhound Lines, Inc.
( ) Trailways combined
( ) All study carriers

SCHEDULE G.—*Selected statistical data*—Continued

[Dollars in thousands]

Line No.	Item	Source	1972	1973	1974	1975	1976	Cols. (h) through (l) (1977) through (1981)
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
11	Number of buses acquired	Sch. 1221, L. 22, col. (c)						
12	Cost of buses acquired	Sch. 1221, L. 22, col. (d)						
13	Number of buses retired	Sch. 1221, L. 22, col. (e)						
14	Cost of buses retired	Sch. 1221, L. 22, col. (f)						
15	Average age of buses [1]	Sch. 1221, L. 22, col. (i)						
	Employee compensation:							
16	Total daily basis	Sch. 9002, L. 20, col. (c)						
17	Total hourly basis	Sch. 9002, L. 21, col. (c)						
	Man-hours or days paid for:							
18	Total—Daily basis	Sch. 9002, L. 20, col. (e)						
19	Total—Hourly basis	Sch. 9002, L. 21, col. (e)						
	Revenue bus-miles operated:							
20	Intercity service (regular route)	Sch. 9007, L. 1, col. (e)						
21	Charter, sightseeing and other special service.	Sch. 9007, L. 3, col. (e)						
22	Vehicle miles operated exclusively in baggage, mail express, and/or newspaper service.	Sch. 9007, L. 4, col. (e)						
	Revenue passenger carried:							
23	Number of intercity revenue passengers carried (regular route).	Sch. 9007, L. 6, col. (b)						
24	Total number of revenue passengers carried.	Sch. 9007, L. 9, col. (b)						
	Other Statistics:							
25	Number of regulator route intercity passenger miles.	Sch. 9007, L. 12, col. (b)						
26	Total passenger revenue	Sch. 9007, L. 16, col. (b)						
27	Passenger-miles per bus mile (average load).	L. 25÷L. 20						
28	Passenger-miles per passenger carried-intercity service (average journey).	L. 25÷L. 23						

[1] *Line No. 15:* The weighted average age of buses for "All Study Carriers" is computed by:

(a) Calculating the average age of buses for each study carrier.

(b) Calculating the number of buses which each study carrier has on hand at the end of the year as a percentage of the total number of buses which all study carriers as a group have on hand at the end of the year.

(c) Multiplying the average age for each study carrier by that carrier's percentage of total buses on hand at the end of the year.

(d) Summing the result of calculation (c) above for each study carrier. The summation gives the weighted average age of buses for "All Study Carriers" taken together as a group.

EXPLANATORY—SCHEDULE G

Purpose. The purpose of Schedule G is to develop selected property, labor and operational data for use in evaluating the influence and relationship of these data to the income and other financial data contained in Schedules C through F. This schedule requires data commencing with the year 1972 through 1976, and thereafter, adding each calendar year's data until a 10-year moving period is reached. A ten-year time period is useful for analyzing the industry's operations during all phases of the business cycle.

Study Carrier Groupings. Schedule G shall be prepared for each of the following: 1. Greyhound Lines, Inc.

2. Trailways Combined (study carriers, only).

3. All Study Carriers.

Column (b). The annual report sources in this column refer to the 1976 Annual Report Form MP-1. For years prior or subsequent to 1976, use comparable sources.

Columns (c) through (g). These columns refer to successive calendar years, from 1972 through 1976, each ending December 31.

Columns (h) to (l). These columns refer to successive calendar years which become applicable as the time period of record is expanded to the ultimate 10 year moving time period.

APPENDIX I

Excerpt from National Bus Traffic Association's brief (pages 18-23) in I&S M-29089 increased bus passenger fares and express/rates-nationwide.

* * * * *

NBTA WILL UNDERTAKE THE DEVELOPMENT OF A COST ALLOCATION SYSTEM FOR MOTOR CARRIERS OF PASSENGERS

At the conclusion of the hearing in this proceeding, the Administrative Law Judge requested a discussion of the feasibility of NBTA undertaking the traffic and cost studies necessary to permit the separation of bus carrier expenses by types of service. As the record in this case indicates, no such studies have ever been undertaken and there is no present capability on the part of either the Commission or the carriers themselves to allocate total operating expenses by types of carrier service. As the testimony of Mr. Bilz reveals, data derived from traffic studies is the source of only a few of the factors which must be developed to permit the identification of cost.[18] Consequently, the development of a carefully conceived overall cost allocation system must be accomplished first, and then a determination must be made of the types and kinds of studies needed to develop the specific factors required for implementation of the system.

At its annual meeting held in Newton, Massachusetts, on September 27-28, 1976, the members of the National Bus Traffic Association considered the question of undertaking the analyses, planning, and studies leading to the development and implementation of a cost allocation system and agreed to undertake such a program. Mr. Bilz, the cost analyst retained by the Association, has been requested to work with appropriate carrier personnel and an initial meeting to outline the first steps is scheduled to be held during November of this year. In the meantime, after consultation with Mr. Bilz, we set forth the following discussion of what will be involved.

In assessing the problems and complexities involved in formulating a procedure to develop costs by types of service for the bus lines, some parallels may be drawn with the procedure which has evolved over the years for general commodity motor carriers. Cost formulas for general commodity carriers were developed by the Cost Finding Section of the Interstate Commerce Commission more than thirty years ago. These cost formulas have been modified and refined from time-to-time in order to adjust for changing operating practices and conditions, improvements in accounting technology or the needed to develop costs for particular kinds of service or types of traffic. At a later point in time when the need arose in general revenue increase cases for more detailed separations of the expenses of the general commodity carriers among types of service and types of traffic, procedures were developed whereby a continuing sample of traffic data could be developed to tie in with unit costs produced by the motor carrier cost formulas.[19] Thus, the detailed separation of traffic data developed in the continuing traffic studies was designed to tie in with existing cost allocation formulas. More recently, a complete revision of the Uniform System of Accounts for general commodity motor carriers necessitated further modification of the cost formulas; however, at the same time, such revisions served to increase the amount of expenses allocated in the formulas on a direct basis and reduced the amount of expenses which could only be allocated by means of factors derived from special studies or other means.

At the present time, the bus industry has committed itself to a review of its Uniform System of Accounts, jointly with the Bureau of Accounts of the Interstate Commerce Commission, to determine the need for revising the accounts to conform more closely with generally accepted accounting principles and, most importantly, to facilitate cost finding and financial analysis. In the review and analysis of the Uniform System of Accounts, consideration should be given to possible benefits from a matrix approach in accumulating operating expenses, similar in some respects but not necessarily as detailed as the approach used in redesigning the system of accounts for general commodity carriers. The separations of expenses for bus lines need not be as detailed as those made for general commodity carriers since the needs for expense segregations are not the same. However, use of a matrix system by the bus lines to accumulate operating expenses would result in the direct assignment of various categories of expense which would otherwise be included in a common pool of expense to be allocated on the basis of the best available data. Therefore, as a necessary preliminary step toward the development of a cost allocation system for the bus lines, the Uniform System of Accounts must be examined for the purpose of identifying expenses which can be directly assigned to particular services or operations.

Basically, a cost study for the bus lines involves, first, a determination of the expenses chargeable to each of the various services provided by the carriers. These services include regular route intercity service involving transportation of passengers, express, baggage, newspapers and mail, local

[18] Tr. 183-186.

[19] Probability sampling of general freight motor carrier traffic did not ??? until some 20 years after the Commission's cost formulas for truck lines.

service and special services including charter operations and tours. Secondly, the need for further separations within these categories must be explored. An all-out study would involve the allocation of expenses for regular route service among passengers and their baggage, express traffic and all other traffic; however, such detailed separations—which can only be made by means of specially-designed allocating procedures and special studies—may not be necessary, at least in the initial design of a cost allocation system for the bus lines. From the standpoint of current and potential use to be made of cost study data, it is reasonable, at this point, to design a system which will separate expenses for regular route service involving passenger and express traffic (including baggage) on the one hand, and all other services on the other. Finally, an additional separation of the expenses for regular route service between interstate and intrastate traffic is necessary.

In connection with the first step, i.e., allocation of expenses among services, although a number of the various categories of expense incurred by the bus lines may be directly allocated to various services, there are additional items of expense which are jointly incurred in connection with two or more services and can only be separated among services on the basis of appropriate allocation factors. The same problems arise in the second and third steps, to an even greater extent, in determining the extent to which expenses assigned to a particular service must be allocated among the various types of traffic handled in that service and in making the further separation between interstate and intrastate traffic. These separations should be made by means of cost allocation factors which are functionally related to the fullest extent possible to each item of expense. This calls for the development of additional allocation factors which are not presently maintained by the bus lines.

At the present time, the carriers can accurately determine from their regularly maintained accounting records the amount of revenue accruing from regular route operations, separately for passenger and express service, and from operations in connection with charter and special service. By means of established probability sampling procedures, Greyhound and Continental Trailways can further separate passenger revenue in intercity service between interstate and intrastate traffic. Other carriers are able to make the latter separation of revenue on various bases consistent with the size of their operations. It is possible that the probability sampling procedure and other bases employed by the smaller carriers may be expanded to include statistical data as well as revenue information. The bus lines currently maintain records, for the purpose of their annual reports to the Interstate Commerce Commission, of the number of bus miles operated separately for intercity service, local service and special services. Such data will undoubtedly come into use in allocating expenses among services. Similarly, records of the number of passengers carried in various services, maintained by the bus lines, may be used in some of the expense allocations. However, no continuing records are maintained showing the number of passengers carried separately in interstate and intrastate commerce nor are any separations made of the number of passenger miles in each category. Such statistical separations are required regardless of the methodology followed in the cost study, that is, whether the separations of expenses between interstate and intrastate traffic are made within the framework of a cost allocation formula or whether the expenses in each category are developed on the basis of average mileage-related and non-mileage unit costs developed from a cost formula and applied to traffic service units developed for interstate and intrastate traffic, i.e., number of passengers and number of passenger miles.

As noted above, expenses for each type of traffic must be separated between those which are related to mileage operated and those which are not related to mileage. This brings in the problem of segregating the terminal activities of the carriers among services and types of traffic. Segregation of such expenses will probably require time and motion analyses, calculation of space utilization factors at various representative terminals and other special studies.

The formulation of a cost allocation system and the gathering of input data for the system will require an extensive amount of work and expense on the part of the bus lines. If the amount of time required in developing acceptable cost allocation procedures for general freight motor carriers is any indication, several years may be required before a cost system for the bus lines can be formulated, applied and tested. The bus industry recognizes that, because of its workload and limited staff, the Cost Finding Section of the Commission cannot take on the task of developing a cost allocation system for the bus lines as it did in connection with general freight motor carriers; however, it is hoped that the efforts of the bus lines in this regard will receive the full support and guidance of the Commission's staff so that the best possible results may be achieved in the shortest possible time.

H. G. HOMME,
Secretary.

[FR Doc.77-17972 Filed 6-24-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Ravalli National Wildlife Refuge, Montana

AGENCY: Ravalli National Wildlife Refuge, U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting by bow and arrow of the Ravalli National Wildlife Refuge, North of Stevensville, Montana, is compatible with the objectives for which the area was established, will utilize a renewable natural resource and will provide additional recreational opportunity to the public.

EFFECTIVE DATE: September 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert C. Twist, Refuge Manager, No. 5 Third Street, P.O. Box 257, Stevensville, Montana 59870, 406-777-5552.

§ 32.32 Special regulations: big game hunting for individual wildlife refuge areas.

MONTANA

RAVALLI NATIONAL WILDLIFE REFUGE

The taking of white-tailed deer by bow and arrow will be permitted on designated areas of Ravalli National Wildlife Refuge by means of archery only from September 10 through October 16, either sex deer, and from October 23 through November 27, antlered bucks only, in accordance with State regulations, and with the following additional special conditions:

1. All hunters must check in and out at checking stations.

2. No firearms may be carried in this area.

3. The public hunting area will be closed to entry from one hour after sunset until one and one-half hour before sunrise.

This hunting area will be designated by signs and delineated on maps available at Refuge Headquarters, No. 5 Third Street, Stevensville, Montana, and from the Area Manager, U.S. Fish and Wildlife Service, Room 3035, Federal Building, 316 No. 26th Street, Billings, Montana.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through June 30, 1978.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

ROBERT C. TWIST,
Refuge Manager.

JUNE 15, 1977.

[FR Doc.77-18202 Filed 6-24-77;8:45 am]

proposed rules

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 916]

HANDLING OF NECTARINES GROWN IN CALIFORNIA

Proposed Rulemaking With Respect to Approval of Expenses and Rate of Assessment for the 1977–78 Fiscal Period and Carryover of Unexpended Funds

Correction

In FR Doc. 77–16688 appearing at page 30206 in the issue for Monday, June 13, 1977, in the second column, under the paragraph designated "Supplementary Information," in the fifth line of paragraph (1), the figure "857,421" should be corrected to read "875,421."

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR CONSUMER APPLIANCES

Correction

AGENCY: Federal Energy Administration.

ACTION: Noticle of correction of proposed rulemaking.

SUMMARY: The Federal Energy Administration (FEA) gives notice of a correction to a notice of proposed rulemaking regarding procedural regulations for the submission and disposition of petitions for prescription of rules to supersede State appliance energy use or efficiency regulations. The proposed rulemaking proceeding did not indicate the time of day for the public hearing. The hearing, scheduled for July 15, 1977, will begin at 9:30 a.m. on that date.

FOR FURTHER INFORMATION CONTACT:

Allan P. Weeks (Program Office), Old Post Office Building, 12th and Pennsylvania Avenue NW., Room 307, Washington, D.C. 20461 (202–566–4365).

James K. White (Office of the General Counsel), Federal Building, 12th and Pennsylvania Avenue NW., Room 5116, Washington, D.C. 20461 (202–566–9380).

SUPPLEMENTARY INFORMATION: On June 8, 1977, FEA issued a notice of proposed rulemaking regarding procedural regulations for the submission and disposition of petitions for prescription of a rule to supersede State appliance energy use or efficiency regulations. That notice appears in the FEDERAL REGISTER for June 13, 1977 (42 FR 30206). The notice indicated there would be a public hearing on July 15, 1977, but did not indicate the time of day for the hearing. The hearing of July 15, 1977, will begin at 9:30 a.m.

Issued in Washington, D.C., June 22, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77–18293 Filed 6–24–77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 76–NE–13]

TRANSITION AREA

Withdrawal of Notice of Proposed Rulemaking

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: On April 19, 1976, the Federal Aviation Administration proposed to establish a 700-foot transition area at the Norden Heliport, Norwalk, Connecticut. An objection was received from the State of Connecticut on the grounds that the heliport had not yet been licensed. The FAA has determined to defer action on the proposal until the licensing of the heliport has been resolved.

SUPPLEMENTARY INFORMATION: On page 18317 of the FEDERAL REGISTER dated May 3, 1976 (41 FR 18317), the Federal Aviation Administration published a notice of proposed rulemaking which proposed the establishment of a 700-foot transition area at the Norden Heliport, Norwalk, Connecticut. The establishment of the transition area was proposed to provide controlled airspace protection for aircraft executing new instrument approach procedures (COPTER RNAVs 250 and 310 Original) being established to serve the Norden Heliport. In response to the notice, the State of Connecticut, Bureau of Aeronautics, submitted a comment objecting to the action on the grounds that the heliport had not been licensed by the State. In fact, a prior license application for the airport was denied after a public hearing because of resistance from area residents. The objection had the concurrence of the Connecticut Bureau of Planning and Research

The Federal Aviation Administration has determined not to proceed with the establishment of the instrument approach procedures until the matter of the licensing of the airport has been resolved. Accordingly, the 700-foot transition area will not be necessary at this time and the notice of proposed rulemaking proposing its establishment is being withdrawn. Should the agency determine to proceed with the establishment of the instrument approach procedure for the heliport, necessitating a transition area, a new notice of proposed rulemaking will be published.

DRAFTING INFORMATION

The principal author of this document is George L. Thompson, Associate Regional Counsel, New England Region.

In consideration of the foregoing, the FAA has determined that the notice of proposed rulemaking, issued on April 19, 1976, appearing on page 18317 of the FEDERAL REGISTER dated May 3, 1976 (41 FR 18317), should be, and hereby is, withdrawn.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Burlington, Mass., on June 13, 1977.

WILLIAM E. CROSBY,
Acting Director,
New England Region.

[FR Doc.77–18011 Filed 6–24–77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77–WE–12]

TRANSITION AREA, CAMERON, ARIZ.

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a 1,200 foot and an 11,700 foot transition area at Cameron, Arizona to provide protection for aircraft operating within the Sunny Military Operations Area (MOA) and for radar service for aircraft transiting the area.

DATES: Comments must be received on or before July 29, 1977.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWE–530, 15000 Aviation Boulevard, Lawndale, California 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, Telephone 213–536–6182.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the Airspace Docket Number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before July 29, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWE–530, 15000 Aviation Boulevard, Lawndale, California 90261, or by calling 213–536–6180. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Cameron, Arizona, 1,200 foot and 11,700 foot transition areas. This action will provide controlled airspace for aircraft operating within the Sunny MOA and for aircraft desiring radar service transiting the area.

Accordingly, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following transition area:

CAMERON, ARIZ.

That airspace extending upward from 1,200 feet above the surface within a three mile radius of Humphreys Peak (latitude 35°-21'00" N., longitude 110°10'25" W.), and that airspace extending upward from 11,700 feet mean sea level (MSL) bounded by a line beginning at latitude 34°52'20" N., longitude 112°00'00" W., to latitude 35°26'00" N., longitude 112°00'00" W., to latitude 35°58'00" N., longitude 111°43'30" W., to latitude 36°-06'30" N., longitude 111°00'00" W., to latitude 35°56'00" N., longitude 110°21'00" W., thence south via longitude 110°21'00" W., to the northwest edge of V–95, thence southwest via the northwest edges of V–95 and V–12 to point of beginning excluding that portion within the 1,200 foot area of Humphreys Peak.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division, and DeWitte T. Lawson, Jr., Esquire, Regional Counsel.

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

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Los Angeles, Calif., on June 15, 1977.

JAY R. ADSEN,
Acting Deputy Director,
Western Region.

[FR Doc.77–18012 Filed 6–24–77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77–WE–14]

TRANSITION AREA, ORLAND, CALIF.

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a 700 foot transition area at Orland, California, to provide protection for aircraft executing a new instrument approach procedure (VOR–A) to the Haigh Airport.

DATES: Comments must be received on or before July 29, 1977.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Airspace and Procedures Branch, AWE–530, 15000 Aviation Boulevard, Lawndale, California 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, Telephone 213–536–6182.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the Airspace Docket Number and be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261. All communications received on or before July 29, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Chief, Airspace and Procedures Branch, 15000 Aviation Boulevard, Lawndale, California 90261, or by calling 213–536–6180. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Orland, California, 700 foot transition area. This action will provide additional controlled airspace to accommodate aircraft executing the VOR–A approach procedure to the Haigh Airport.

Accordingly, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following:

ORLAND, CALIFORNIA

That airspace extending upward from 700 feet above the surface within a three mile radius of Haigh Airport (latitude 39°43'16" N., longitude 142°08'50" W.); and within three miles each side of the Chico VOR 253° radial, extending from the three mile radius area to twelve miles west of the VOR.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division, and DeWitte T. Lawson, Jr., Esquire, Regional Counsel.

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

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Los Angeles, Calif., on June 15, 1977.

JAY R. ADSEN,
Acting Deputy Director,
Western Region.

[FR Doc.77–18013 Filed 6–24–77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-AL-14]

ANIAK, ALASKA

Alteration of Control Zone and Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Revised notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to revise the previous notice (42 FR 2078; January 10, 1977) by redescribing the transition area and revoking the control zone at Aniak, Alaska. This notice proposes to retain the Aniak, Alaska, control zone and amend the description by deleting the control zone extension to the southwest, establishing a west extension to protect the ILS/DME approach and establishing a southeast extension to protect the revised NDB approach.

DATES: Comments must be received by July 27, 1977.

ADDRESSES: Send comments to: Chief, Operations, Procedures and Airspace Branch, AAL-530, Alaskan Region, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501.

The official docket may be examined at the Office of the Regional Counsel, Alaskan Region, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska.

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

FOR FURTHER INFORMATION CONTACT:

John G. Costello, Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501, telephone 907-265-4271.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration issued a Notice of Proposed Rulemaking (42 FR 2078; January 10, 1977) to alter the terminal airspace structure at Aniak, Alaska. No comments were received pertaining to the proposed transition area changes, therefore, it will remain as proposed. However, comments containing aeronautical objections to the proposed revocation of the part-time control zone were received. The basis for proposing revocation of the control zone was due to the lack of continuous weather observations (regular and special reports) during the effective hours of the control zone. Several commentors stated that the control zone designation enhances safety even though continuous weather observations are not reported. VFR pilots can certainly estimate the ceiling and observe flight visibility between hourly weather reports as they would at any airport within a control zone where ground visibility is not reported. If basic VFR weather minimums do not exist, the VFR pilot is required to obtain an ATC clearance in compliance with Part 91 of the Federal Aviation Regulations (14 CFR Part 91). Pilots have been operating safely at the Aniak airport for several months by compliance with the above rules. Therefore, it is herein proposed to retain designation of the Aniak part-time control zone and alter the description as contained herein.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received by July 27, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public regulatory docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, Alaskan Region, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska, or by calling 907-265-4271. Communications must identify the notice number of the NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact this same office.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR 71) to redescribe the Aniak, Alaska, control zone to provide protected airspace for the revised instrument approach procedures.

The principal authors of this document are John G. Costello, Air Traffic Division, and Donald H. Boberick, Regional Counsel.

Accordingly, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR 71.171) as follows:

§ 71.171 [Amended]

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by amending the Aniak, Alaska, control zone as follows:

Aniak, Alaska

With a 5-mile radius of the Aniak airport (latitude 61°35' N, longitude 159°32' W.); within 3 miles each side of the 114° (094°M) bearing from the Aniak NDB, extending from the 5-mile radius zone to 8 miles SE. of the NDB, and within 2 miles each side of the Aniak localizer (latitude 61°35'02" N., longitude 159°33'01" W.) west course extending from the 5-mile radius zone to 6.5 miles west of the localizer. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Flight Information Publication Supplement Alaska.

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

Note.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Anchorage, Alaska, on June 16, 1977.

Lyle K. Brown,
Director, Alaskan Region.

[FR Doc.77-18220 Filed 6-24-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 761]

[FRL 752-8]

POLYCHLORINATED BIPHENYLS

Open Public Meeting; Solicitation of Comments

AGENCY: Environmental Protection Agency.

ACTION: Notice of meetings to solicit information for proposed rules.

SUMMARY: Section 6(e) of the Toxic Substances Control Act (TSCA, Pub. L. 94-469) provides that after January 1, 1978, PCBs may not be manufactured, processed, distributed in commerce or used in other than a totally enclosed manner. No PCBs may be manufactured after January 1, 1979, and PCBs may not be processed or distributed in commerce after July 1, 1979. Accordingly, the Agency has initiated a Work Group to develop proposed rules for implementing the phased bans on PCBs. In order to ensure that EPA receives adequate public input prior to proposal of the PCB ban regulations, EPA will hold two public meetings.

DATES: Meetings will be held in Washington, D.C. on July 15, 1977 and in Chicago, Ill., on July 19, 1977.

ADDRESSES: Washington, D.C.: 401 M Street, SW. (EPA Headquarters, Waterside Mall), Room 2117-23, Contact Ms. Joni Rapasch, telephone 202-426-9000. Chicago, Illinois: Pick Congress Hotel, 520 South Michigan Ave., Buckingham Room; Contact Ms. Mary Ellen Sabella, telephone 312-353-2078.

FOR FURTHER INFORMATION CONTACT:

George Wirth, 202-426-9000.

SUPPLEMENTARY INFORMATION: Interested parties are invited to attend these meetings and to provide comments

concerning various issues relevant to the TSCA PCB bans. This notice summarizes several of those issues, and describes some of the major PCB activities that may be affected by the ban rules. Discussion at the public meetings will focus upon these issues and activities, as well as any others which attendees believe to be appropriate and relevant.

EPA encourages all interested parties to provide written and/or oral comments at these public meetings.

General Issues

Following is a discussion of some of the general issues on which EPA solicits comments and questions for consideration at these meetings.

(1) *"Totally enclosed manner."* Section 6(e)(2)(c) states that a "totally enclosed manner" is that which will ensure that any exposure of human beings or the environment to PCBs will be insignificant, as determined by the Administrator by rule. Thus, any activity which results in a level of exposure that is deemed to be "insignificant" will be effectively exempted from the ban regulations during 1978. Moreover, the Administrator may authorize activities which are conducted in other than a totally enclosed manner if the resulting exposure, while significant, will not prevent an unreasonable risk of injury to health or the environment (6(e)(4)(B)).

The following are Key issues:

Is any type or level of exposure to PCBs "insignificant"?

If so, what is that type or level of exposure?

How is it defined? How is it measured?

Does "totally enclosed manner" refer to exposure resulting from the manufacture of PCBs or of articles containing PCBs; e.g., escape of PCBs from the manufacturing process in facilities, or only to the ultimate end-use of PCBs in containers and articles?

(2) *1978 Exemptions.* EPA may by rule authorize certain activities to continue during 1978 in a non-totally enclosed manner if the Agency finds that the resulting activity will not present an unreasonable risk of injury by PCBs to health or the environment. To make this finding EPA must consider the costs and benefits associated with such activities. Factors to be considered include the social and economic costs (e.g., lost jobs, scrapped inventories, retrofitting), as well as any health and/or environmental costs (e.g., adverse effects associated with PCBs and/or PCB substitutes). Similarly, EPA must evaluate the social and economic benefits of a ban (e.g., new industrial operations for making and using PCB substitutes), as well as the resulting benefits of reduced risk from PCBs. EPA would like comment on the factors to be balanced in making determinations of unreasonable risk; the types of activities which might be exempted from the ban regulations during 1978; the conditions under which exempted activities should be allowed to continue; and the procedures which should be followed in requesting and granting exemptions. For example, EPA might determine that any exposure to PCBs is "significant", so that any activity with an exposure of PCBs may continue only if EPA makes an authorization for that activity. Alternatively, EPA might find that a certain level of exposure to PCBs is insignificant and thereby exempt some "insignificant" activities from coverage by these regulations during 1978.

(3) *1979 Exemptions.* EPA may grant one-year exemptions to the 1979 manufacturing, processing, and distribution bans if an unreasonable risk will not result and if good faith efforts have been made to develop a PCB substitute. Questions to be resolved include the definition of "good faith efforts" to develop a substitute and whether such efforts must be made by the person who applies for the exemption; what confidentiality problems might be involved in granting exemptions; what the procedures for requesting and/or granting exemptions will be; how the Agency will use its authority to require petitions for exemptions; whether exemptions should be person-specific; the terms, conditions or time limits which should be placed upon exemptions; and what extensions, if any, should be considered.

(4) *Resale of PCBs.* The 1979 ban on distribution in commerce does not apply to any PCB which is sold prior to July 1, 1979, for purposes other than resale (6(e)(3)(c)). This provision is included to encourage the continued use of PCBs which might otherwise enter the environment or become a disposal problem. Also, it allows the distribution (e.g., storage and transport) for disposal. Issues include the definition of "purposes other than resale" how this provision can be enforced; and determining when a thing is "resold".

Specific PCB Activities and Uses

In addition, EPA is particularly concerned with certain major areas of PCB manufacture, processing, distribution and use in assessing the potential coverage and impact of the proposed ban rules. The Agency would like information and comment regarding these activities. In particular, EPA solicits comments upon the environmental, social, and economic costs and benefits associated with these applications of PCBs.

(1) *Existing transformers.* There are a number of routine maintenance practices and other activities associated with the operation of transformers over their useful lives which may involve some handling of PCBs and their possible release into the environment. In order to make judgments about the need for controls on any of these activities, EPA must determine and consider a number of issues:

The nature of these activities.

Their necessity for transformer operation.

What constitutes the "useful life" of a transformer.

What release of PCBs may be involved.

The health and environmental impacts of such release.

What are the consequences of eliminating any such activities.

Which activities should be allowed to continue, for how long and under what conditions or limitations, if any.

(2) *Existing stockpiles.* Existing stockpiles of domestically manufactured or imported PCBs may exceed the amount required to fill or service existing transformers, capacitors or other PCB-using equipment. In this case, regulatory options would range from disposing of any excess to permitting the use of PCBs in the manufacture of additional equipment until all PCB stockpiles have been used up.

(3) *Mining.* Another major category involves use of PCBs in essentially open systems as a fire-resistant hydraulic fluid in mining equipment. EPA will need to consider available substitutes, types of controls which might be placed on this use of PCBs, the impact of restricting this use of PCBs, the projected need for additional PCBs, and the related environmental impact and safety factors.

(4) *Locomotives/Transit Cars.* PCB-containing transformers are in place in electric locomotives and transit cars, and represent a substantial use of PCBs. In normal operations there is some loss of PCBs and the potential for some release during routine maintenance. The major issues involve the possible fire safety problems of using substitute materials and the potential disruption of travel and railroad operations if inadequate time is provided to switch over.

(5) *Other PCB Activities.* Remaining categories of PCB materials such as pipes, contaminated soil and rags, paints, paper, investment casting wax, sludge and others are potentially covered by these regulations.

EPA will have to obtain information relative to these activities to make decisions on the continued production, distribution or use of such PCB materials, which are necessary, under what conditions, and which ought to be exempted.

Dated: June 22, 1977.

Kenneth L. Johnson,
Acting Assistant Administrator for Toxic Substances.

[FR Doc.77-18402 Filed 6-24-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 61]

[Docket No. 21005]

INTERFACE OF INTERNATIONAL TELEX SERVICE WITH DOMESTIC TELEX AND TWX SERVICES

Order Extending Time for Responses and Replies

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: This order extends, at the request of Western Union International, Inc., the dates for filing responsive comments and replies in Docket No. 21005.

DATES: Responses must be received on or before August 1, 1977, and replies must be received on or before August 15, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John F. Copes, International Program Staff, Common Carrier Bureau 202-632-3214.

SUPPLEMENTAL INFORMATION:

Adopted: June 10, 1977.

Released: June 21, 1977.

Order. In the matter of Interface of International Telex Service with the Domestic Telex and TWX Services, Docket No. 21005.

1. By Notice of proposed rulemaking in the above-referenced proceeding, released December 9, 1976, 62 F.C.C. 2d 414, the Commission instituted a proceeding inquiry into various questions concerning the interface of the international telex and the domestic telex and TWX services.[1] That Notice called for interested persons to submit comments, responses, and replies concerning a proposed policy of interconnection and reformation of the rate structure under which international telex is priced. Comments were filed by all parties on May 16, 1977. We now have before us for consideration a Motion for Extension of Time filed on June 10, 1977, by Western Union International, Inc. (WUI), in which it requests an extension from June 16, 1977, until August 1, 1977, of the presently scheduled date on which to file responsive comments herein. We also have before us for consideration Comments in Support of Motion for Extension of Time filed on June 9, 1977, by RCA Global Communications, Inc. (RCAG) in which RCAG offers its own reasons why it believes the requested extension is warranted. No party opposed these requests.

2. In support of their requests, WUI and RCAG both assert generally that additional time is needed properly to address the complex and far reaching issues disclosed by the first round of comments in this proceeding and that their problem is complicated by the press of other matters as well as the absence of key personnel. Accordingly, they assert that the public interest requires that the parties be given adequate opportunity carefully to analyze and amass the appropriate data to provide the Commission with meaningful information on which to base its ultimate decision. It is argued that the time presently allotted for responses is inadequate.

3. We recognize that the issues in Docket No. 21005 raise fundamental questions concerning the way international telex service has traditionally been offered to United States users. It was precisely for this reason that we called for the participation of all interested parties both in commenting on our proposal and particularly, in recommending and considering alternative solutions. Our goal in this proceeding is to fashion the most appropriate policy possible for dealing with what even the carriers admit is a limitation upon the customer's use of telex service. In this connection, we note that this problem includes a number of subissues which must be considered in themselves and as they relate to each other and that potential solutions must be weighed in light of the overall communications industry and the policies applicable thereto. Accordingly, we are desirous of receiving from the parties herein comments which are helpful in reaching our overall goal of benefiting the public. Therefore, we wish to err, if at all, on the side of accommodating the parties where it does not unduly infringe on the public interest. Therefore, so long as it may result in more thoughtful, better analyzed submissions, we are amenable to an extension of time.

4. Having said this, however, we note that this is the fifth extension of time that we have granted in this proceeding. We believe this record demonstrates a willingness to accommodate the concerns of the parties. We also, however, are required to consider the interests of the using public which we have found are limited by the present industry arrangements. Therefore, we believe that the using public has a strong interest in the expeditious resolution of the proceeding. In this connection, we believe that the present extension of time should allow adequate time for the preparation of cogent, considered responsive comments. Accordingly, we believe that a further extension of time for filing responses would be justified only on a well-supported showing of hardship in responding to the new dates set forth herein.

5. Accordingly, *it is ordered*, Pursuant to § 0.303 of the Commission's rules and regulations, 47 CFR 0.303 (1976), that the above-referenced Motion for Extension of Time of Western Union International, Inc. is hereby granted.

6. *It is further ordered*, That the procedural dates in this proceeding are extended as follows: Responses—August 1, 1977. Replies—August 15, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
PHILIP V. PERMUT,
Acting Deputy Chief, Common Carrier Bureau.

[FR Doc.77-18232 Filed 6-24-77;8:45 am]

[1] See 42 FR 23615, Tuesday, May 10, 1977.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 255]

FISHING VESSEL OBLIGATION GUARANTEE PROGRAM PROCEDURES

Proposed Redefinition of Fishing Vessel

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Proposed rule.

SUMMARY: The Fishing Vessel Obligation Guarantee program provides long-term (15 years) financing for fishing vessels by guaranteeing private credit representing up to 75 percent of the cost of vessel construction, reconstruction, or reconditioning.

This proposed rule would amend the definition of the term "fishing vessel" under existing rules governing the Fishing Vessel Obligation Guarantee program. As the term is presently defined, only vessels which earn more than 50 percent of their income from (or spend more than 50 percent of their time in) a certain type of activity (catching fish for sale into commercial channels) are regarded as fishing vessels. This proposed rule would amend that definition by substituting as the prime test whether or not a vessel is documented by the U.S. Coast Guard for operation in the fisheries.

Thus, commercial vessels carrying fishing parties for hire would be included in the redefined term if, in addition to documentation in the coastwise trade, such vessels were also documented in the fisheries.

DATE: Comments must be received no later than July 27, 1977.

ADDRESS: Financial Assistance Division, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Michael L. Grable, Chief, Financial Assistance Division, National Marine Fisheries Service, Washington, D.C. 20235, 202-634-7496.

SUPPLEMENTARY INFORMATION: Existing rules governing administration of the Fishing Vessel Obligation Guarantee program appear at 50 CFR 255. The program is authorized by Title XI of the Merchant Marine Act, 1936, as amended, (46 U.S.C. 1271-1279).

The proposed amendment follows:

Substitute the following for § 255.1 (a):

§ 255.1 Definitions.

* * * * *

(a) *Fishing Vessel.* This term means vessels licensed by the U.S. Coast Guard for operation in the fisheries (except vessels which process or transport fisheries products, which are included within this definition regardless of their licensed trade). Vessels which are licensed both in the fisheries and the coastwise trade must qualify for a U.S. Coast Guard certificate of inspection (under 46 CFR 176) for carrying more than six passengers.

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By order of the Administrator, National Oceanic and Atmospheric Administration.

Date: June 21, 1977.

WILMOT N. HESS,
Acting Associate Administrator.

[FR Doc.77-18225 Filed 6-24-77;8:45 am]

notices

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

Packers and Stockyards Administration

PIERCE PACKING COMPANY YARDS BILLINGS, MONTANA, ET AL.

Depositing of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

* *Facility No., name, location of stockyard, and date of posting*

MT-101—Pierce Packing Co. Yards, Billings, Mont., Feb. 23, 1935.
NB-102—Alliance Livestock Auction Co., Alliance, Nebr., Feb. 15, 1940.
NB-164—Ord Livestock Market, Ord, Nebr., Jan. 19, 1956.
WA-102—Vancouver Livestock Market, Inc., Camas, Wash., June 30, 1964.
WY-101—Gillette Livestock Exchange, Gillette, Wyo., May 18, 1951.

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly depositing a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule relieving a restriction and may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective June 27, 1977.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.).

Done at Washington, D.C. this 22nd day of June, 1977.

JOHN R. BRANNIGAN,
Acting Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.77-18264 Filed 6-24-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 27573, Agreement C.A.B. 25719, R-8 R-10; Order 77-6-85]

IATA

Cargo Rates Agreement

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of June, 1977.

Agreement adopted by the Joint Traffic Conferences of the International Air Transport Association relating to cargo rates.

By Order 76-9-13, September 2, 1976, the Board generally approved an agreement among the carrier members of the International Air Transport Association (IATA) establishing North/Central Pacific cargo rates through September 30, 1977. The agreement, inter alia, provided for substantial increases in specific commodity rates (SCR's) for electronic components.[1] A petition for reconsideration and motion for stay of the order has been filed by the Western Electronics Manufacturers Association (WEMA), and several shippers of electronic parts.[2] Answers in opposition to the petition have been filed by The Flying Tiger Line Inc. (Tiger), Pan American World Airways, Inc. (Pan American), and Japan Air Lines Company, Ltd. (JAL).

The present SCR's for electronic parts were introduced during the North/Central Pacific open-rate period which began in October 1971 and continued through June 1974. The proposed rates were adopted by IATA in July 1974 and approved by the Board in Order 75-1-46, January 13, 1975. Order 75-1-46 was stayed by Order 75-2-43, February 11, 1975 pending action on petitions for reconsideration by WEMA and General Instrument Corporation; the petitions were denied by Order 75-12-145, December 30, 1975, whereupon WEMA filed a further petition for reconsideration of Order 75-12-145 and concurrent Order 75-12-146.[3] The approved rate increases never became effective, and the underlying agreements were superseded by a new agreement (C.A.B. 25719) which the Board approved in Order 76-9-13. WEMA's petition for reconsideration of the earlier orders was dismissed as moot since the agreements covered by those orders had either been disapproved or superseded.

In support of its petion, WEMA basically argues that correction of several errors in the carriers' economic forecasts and the Board's adjustments of those forecasts would increase the carriers' composite return on investment (ROI) to at least 14.26 percent under the proposed rates, thus demonstrating that the rate increases are not warranted; and that the Board has not made the necessary findings that the proposed rates are reasonably related to the cost of carying electronic parts.

In alleging numerous errors in the carrier forecasts and in the Board's adjustments, WEMA contends that Tiger's forecast of traffic and revenue for the year ending March 31, 1977, is severely understated, even at present rates, because its reported international revenues in Form 242 (Scheduled All-cargo Service) for fiscal year 1976 were already 99.5 percent of the forecast amount, and Tiger has recently experienced improvements in traffic and revenue much superior to the annual rates of increase indicated in its forecast;[4] that the revenue forecasts for Pan American and Northwest under the proposed rates are also understated because Pan American's forecast did not annualize the full effects of the agreement, and in the Board's estimate of Northwest's freight revenues the average freight and mail revenue increase of Tiger and Pan American was applied to Northwest's freight revenues;[5] and that the Board's adjustment to Pan American's all-cargo load factor, from the forecast 59.3 percent to Tiger's historical 64.08 percent, and thus to Pan American's capacity costs, was inadequate because Pan American's existing and forecast load factors are overstated and are based on erroneous statements of B-707 freighter capacity.[6] WEMA also alleges that both Tiger and Pan American's expenses are overstated, contending that Tiger's DC-8 capacity expenses fore-

[1] Commodity Item Nos. 4416, 4417, 4435, 4506, 9902, and 9903 were consolidated under a single Item No. 4416.

[2] The petition was accompanied by a motion to file an unauthorized document since the petition, at 90 pages including appendices, exceeded the 25-page limitation in the Board's Rules of Practice. The motion will be granted herein.

[3] Order 75-12-146 disapproved increases proposed by IATA in other rates.

[4] WEMA also asserts that Tiger has understated forecast mail as well as freight revenues, and that both are at odds with separate Tiger forecasts in the Flying Tiger Renewal Case, Docket 28656.

[5] The electronic rate increases were agreed to be implemented in two phases, the first for intended effectiveness May 1, 1976, and the second for January 1, 1977; Pan American's forecast for the year ending March 31, 1977, did not annualize the impact of the second phase. Northwest, a non-IATA carrier, was not party to the subject agreement and opposes some aspects of it. Northwest did not submit a forecast under the proposed rates, but the Board estimated the impact on Northwest in order to ascertain the overall reasonableness of the proposed rates in terms of composite U.S. carrier cargo earnings in the North/Central Pacific area.

[6] Pan American's AP-12 Forms, which provide the basis for Form 41 capacity data, show a cubic capacity of 6,866 cu. ft. in B-707 freighters, compared with 7,449 cu. ft. for Northwest and 7,524 cu. ft. for TWA in international operations. WEMA asserts further that in Docket 26487, Transatlantic, Transpacific and Latin American Service Mail Rates Investigation, Pan American showed a B-707 freighter capacity of 7,465 cu. ft.

cast for the EATA agreement are significantly higher than those forecast for the *Flying Tiger Renewal Case*, Docket 28656; [7] and that Pan American's forecast fuel expenses are overstated because they were based on B–707C consumption of 1,878 gallons/hr., which conflicts with Pan American's exhibits in Docket 27114, *Pan American-TWA Route Exchange Case*, which show Pacific fuel consumption at 1,830 gallons/hr.

WEMA's estimates of errors in the carriers' forecasts and in the Board's adjustments are summarized a follows:

Allegation	Present rates	Proposed rates
Understatement of tiger mail revenues	$2,000,000	$2,000,000
Board understatement of Northwest revenue increase		1,243,000
Understatement of Pan American revenues (annualization of 2 phase of electronics rates increases)		1,560,000
Overstatement of Pan American fuel expenses	260,000	260,000
Overstatement of Pan American capacity costs due to inadequacy of load factor adjustment	2,139,000	2,139,000
Overstatement of Tiger's DC–8 capacity expenses	1,486,000	1,486,000
Total—operating income adjustments	5,885,000	8,688,000
Overstatement of Pan American investment due to inadequacy of load factor adjustment	$1,818,000	$1,818,000
	$1,818,000	$1,818,000
Order 76–9–13 composite ROI.....percent	4.15	7.93
WEMA composite ROI	6.35	14.29

Regarding the alleged inadequacy of the Board's findings that electronic components should bear average costs, WEMA asserts that the electronic shippers have made a prima facie case that the cost of carrying electronic items is less than the carriers' average costs in the Pacific due to their particular characteristics of higher density, better handling features, long hauls, lack of priority, and larger volume per shipment, and that there is no contrary evidence in the record. WEMA reiterates its previous allegations that transpacific aircraft are space rather than weight limited, and thus the allegedly high-density electronic parts are entitled to lower rates; and cites figures previously supplied by individual electronic shippers showing densities ranging from 12 to 40 lbs./cu. ft., compared to average Pacific cargo densities of 7.6 to 10 lbs./cu. ft. based on the carriers' AP–12 forms.[8] WEMA states further that it would be impossible for the shippers to present a complete and definitive survey of the stowed density of all types of electronic components properly weighted by type, shipper, market, length of haul, etc., and that the carriers as proponents of the rate increases have the legal burden of going forward with such evidence, which the Board should order them to produce.[9]

WEMA also reiterates its assertions that the proposed rates have no rational pattern or taper, and contends that the rates would prefer Japanese electronics firms and discriminate against U.S. companies (which ship primarily to/from Korea, China, Hong Kong, Singapore and Malaysia rather than Japan) because the agreement would increase U.S./Japan electronics SCR's in a lesser percentage amounts than the rates to/from other Far East points. Finally, WEMA alleges that the Board should stay its order pending action on WEMA's petition and/or judicial review, and states that the Board could authorize a bonding or escrow arrangement to avoid undue injury to any party.

Replies

Tiger submits that WEMA has failed to establish any error in Order 76–9–13 which warrants reconsideration; that the basic thrust of the petition is that the San Diego Agreement does not represent a purely cost-related structure; that the Board found the agreement represented "significant progress in line with the Board's long-standing objectives" by removing the unjust discrimination represented by the existing preferential rates for selective large volume shippers; that the Board properly viewed the agreement as a reasonable carrier effort to achieve badly needed revenue improvement;[10] and that even when the Board has disapproved rate increases based on high carrier earnings, it has not used the ROI guideline as the sole measure of assessing the public interest aspects of increasing one class of discriminatory commodity rates (see Order 72–6–138, June 29, 1972, wherein the Board disapproved general commodity rates but refused to preclude increases in discounted SCR's).

Tiger alleges further that U.S. Government policy is directly opposed to the electronic shippers' position, and cites numerous Board policy statements and orders to this effect, as well as the President's Statement on *International Air Transportation Policy of the United States*, September 1976, which places the burden of fulfilling carrier revenue improvement needs upon increasing discounted fares and rates. The carrier also rejects WEMA's arguments that rates below the average cost of service are warranted by their alleged high density and favorable handling characteristics, contending that transpacific freighter flights are weight rather than space limited; and that terminal handling costs comprise only 9 percent of total operating expenses.[11]

Concerning WEMA's specific criticisms of the carrier forecasts and the Board's order, Tiger asserts that the carrier forecasts were generally based on fourth quarter 1975 data, and that months later WEMA has now seized upon selected portions of the forecasts which are allegedly out of line with later-reported actual results to date, to demand a resubmission of new carrier data, and that the shippers would thus place the Board and carriers in Sisyphean roles. Tiger states that, contrary to WEMA's allegations that its forecasts are inconsistent with the Flying Tiger Renewal Case, its forecast DC–8 rental/depreciation expense, and its forecast freight and mail revenues, are reasonable due to the substantially greater increase in capacity which will occur during the forecast period for the *Renewal Case* than will occur during the period of the agreement.[12]

Tiger also opposes WEMA's request for a stay of Order 76–9–13, contending that the shippers have failed to make the required showings to warrant such a stay [13]; and further states that WEMA's proposed schemes (escrow or bonding) to avoid undue injury to either side pending a court case, would violate the Act.

Pan American, in its answer, focuses on WEMA's criticisms of Pan American's financial forecast, i.e., that the forecast did not include an annualization of the second phase of the proposed increases; that the carrier's revenue forecast under present rates showed a decline from the historical level; that Pan American's

[7] WEMA particularly takes issue with Tiger's forecast DC–8 depreciation.

[8] WEMA's allegations as to the density of electronic components are summarized below: Fairchild.—Westbound, 3 week survey (June/July 1974), 22.3 lbs./cu. ft. (18.74 to Hong Kong, 26.85 to Singapore, 24.12 to Korea). Motorola.—23–28 lbs./cu. ft. (semiconductors). RSA.—TV parts, Indianapolis-Taipei, 21 lbs./cu. ft.; Circuit boards, Taipie-Indianapolis, 15 lbs./cu. ft.; TV tuners, Taipei-Indianapolis, 12 lbs./cu. ft.; Semiconductor parts. New York-Taipei/Singapore/Kuala Lumpur, 40 lbs./cu. ft.; Semiconductors, Taipei/Singapore/Kuala Lumpur-New York, 27 lbs./cu. ft. WEMA also submitted a statement from a consulting firm which purports to support WEMA's allegations on density.

[9] WEMA states that its members do not ship to/from Japan which includes a large part of electronics traffic, and further cannot supply information on the shipments of Texas Instruments which, although one of the largest electronic shippers, is not a party to this case.

[10] Tiger notes that without the proposed rate increases, the carriers would earn a composite ROI of only 6.35 percent, and objects to application of the 12-percent domestic ROI standard to international operations, which allegedly entail a greater risk due to cost and other factors.

[11] Tiger also reiterates its argument that the rate increase will have a minimal impact on the shippers, as the freight rates are no more than 2.1 percent of the per pound value of the electronic commodities.

[12] In the *Renewal Case*, Tiger was required to build up costs based on Version 6 *DPFI* Costing Methodology, i.e., on the basis of block-hours, even though Tiger believes aircraft days assigned is a preferable method, and used aircraft days assigned in the IATA justification. Placing both forecasts on a comparable basis shows no appreciable difference.

[13] Tiger asserts that WEMA has not shown the probability of success on the merits; the balance of any irreparable injury to the party seeking the stay, should it be denied, against injury to other parties should the stay be granted; and whether a grant of the stay would be in the public interest.

North/Central Pacific costs are "anomalous" because they are higher, per ATM, than its South Pacific Form 242 costs; and that Pan American has overstated its fuel expenses. Pan American replies that its forecast was based on the agreement as actually proposed, where the second phase rates would be effective only for the last three months of the forecast year ending March 31, 1977, and that if a calendar year 1977 forecast applying the second phase rates for an entire year is used, its revenue need actually increases; [14] that the forecast decline in revenue under existing rates properly reflects suspension of services at Bangkok and Saigon in April 1975, and at Okinawa and Taipei in September 1976, as well as changes in traffic mix resulting in reduced yields; that a direct comparison of North/Central Pacific with South Pacific costs is misleading because the former are developed on the basis of block hours while the Form 242 report (which encompasses the entire Pacific Division) is based on revenue aircraft miles, and placing data from both areas on the same basis shows them to be comparable; [15] and that Pan American's B-707 fuel burn rate was in fact incorrect due to an arithmetic inversion, but the resulting $450,000 cost overstatement is so small that it makes no difference in Pan American's revenue need. In conclusion, Pan American asserts that nothing in WEMA's petition provides the basis for either reconsideration or stay of the Board's earlier decision.

JAL submits that WEMA's petition is devoted to a reargument of issues already given full consideration by the Board in its order, and provides no basis for casting doubt upon the Board's determination that the U.S. carriers' earnings would not be excessive under the agreed rates; that WEMA's calculation of composite ROI does not take into account JAL, which forecast a North/Central Pacific cargo loss of $11,204,000 even with the San Diego rate increases; that regardless of overall ROI, the carriers are still obligated to bring the electronics rates into line with other SCR's; and that as the shippers have now received the benefit of bargain rates for an additional nine months (the agreement was intended for effectiveness May 1, 1976) while the carriers have been deprived of badly needed revenues, there is no reason to grant a stay.

WEMA's Further Reply

In a reply to the carriers' replies, WEMA reiterates many of the arguments included in its previous submissions, and offers specific rebuttal to certain items in the carriers' replies. WEMA asserts that the problem with relying on the Board's policy statements concerning international rates, is that they were, allegedly, issued without any participation by consumer or shipper interests, but that in any event when they are properly read, they support the electronic shippers' position; [16] that there is no reason to assume that a 12-percent ROI standard is too low for international operations, particularly since the international carriers have the advantage of establishing rates through the IATA "cartel"; and that the carriers have admitted many of the essential elements of WEMA's case because they have not specifically denied them, e.g., the high density of electronics shipments, good handling characteristics, less priority than mail, long length of haul, and high volume. WEMA alleges further that Tiger has still not justified the substantial understatement of its forecast revenues or the overstatement of its DC-8 depreciation; [17] that Tiger's claims as to the value of electronic products compared to air freight rates are misleading, since Tiger used only semiconductors, whereas the per-pound values of other electronic products are much lower; and that Pan American has neither adequately explained its allocation of revenue between the South Pacific and North/Central Pacific nor adjusted properly for the errors in its original justification. Here WEMA submits that Pan American has provided no backup support for its alleged cost escalations during 1977; [18] that the carriers' new forecast, for calendar 1977, is invalid since it included no capacity or revenue increase as would undoubtedly occur, and did not make the load factor and fuel price adjustments utilized by the Board in Order 76-9-13; and that Pan American's forecast decline in revenue at present rates is not adequately explained by suspension of services at Saigon and Bangkok since there was no decline forecast in traffic.

Finally, WEMA reiterates its request for a stay based on the alleged serious financial impact upon its members which it estimates at $7.7 million in higher payments to the U.S. flag carriers alone.[19]

Tiger, in an answer to WEMA's reply, states that in all their documents the shippers have in essence advanced but one major argument—that the SCR ratemaking principles espoused by the carriers are inapplicable; and that this remains a policy decision to be resolved by the Board and nothing in WEMA's latest pleading rebuts the Board's perception of this issue. Tiger further asserts that the shipper's October 28 pleading, the eighth document WEMA filed in the Docket since September 25, 1976, and the fifth which required an accompanying motion to file an unauthorized document, is simply further evidence of the shippers' strategy of delay to preserve their unique access to unlawfully discriminatory rate levels; and in this light the shippers have received their full measure of due process which they are seeking to distort into abuse of process.

Findings

After careful review of WEMA's petition, the answers and all other relevant matters, the Board does not find that the petition presents facts sufficient to warrant reversal of the Board's decision in Order 76-9-13 to approve increases in the special commodity rate for electronic parts. The petition for reconsideration will accordingly be denied.

As indicated above, WEMA's petition centers around two allegations; that correction of numerous errors in the carriers' forecasts and in the Board's adjustments thereto will result in a composite ROI over 12 percent and that, accordingly, the proposed rates are too high and should be disapproved; and that the Board must find the proposed electronics SCR's to be reasonably related to the costs of carriage before the rate agreement may be approved.

As detailed hereafter, we have recalculated the carriers' prospective composite ROI under the IATA agreement approved in Order 76-9-13, and have concluded that for present purposes this composite ROI may exceed the 12 percent guideline by a small amount. We have also concluded, however, that our proper response to this fact is not to disapprove the proposed increases in the very low electronic SCR's, but rather to disapprove the container rate increases which the Board reluctantly approved in Order 76-9-13, and which have not, in fact, been implemented to date. This action will be more consistent with established Board policy than that sought by WEMA, and will in our judgment substantially eliminate any likelihood that the rate structure as a whole will result in excess earnings to the carriers.

We have readjusted Tiger's and Pan American's operating results in the North/Central Pacific in light of more recent cost, yield, and load factor data. These adjustments, which are set forth in the attached appendices, result in composite Tiger and Pan American returns on investment of 8.15 and 13.19

[14] The carrier states that the $816,000 in additional revenue would be far outweighed by cost escalations of over $1.5 million.

[15] Pan American states that indirect expenses in the South Pacific are actually somewhat higher due to a shorter length of haul, higher load factors, which result in higher unit revenue-related expenses, and an overall difference in unit rates.

[16] WEMA argues that the policy statements support establishment of general commodity rates at levels related to fully allocated costs, which has allegedly never been done in the Pacific since the GCR's there are above cost.

[17] The increased B-747F capacity forecast for the *Renewal Case*, WEMA alleges, is not so much the cause of increased revenues as it is being put in to accommodate the significant increase in traffic Tiger is forecasting for 1977. Concerning Tiger's costs, WEMA asserts that the Version 6 Methodology used in the *Renewal Case* is the correct one for ratemaking, and that the Board cannot accept Tiger's alternative methodology without making a finding as to which method is correct.

[18] WEMA claims additionally that Pan American's new cost escalation figures are at variance with those submitted in the *Renewal Case*.

[19] By Order 77-3-111, March 18, 1977, the Board stayed the effectiveness of Order 76-9-13 insofar as it relates to the electronics SCR's until 15 days after action on WEMA's instant petition.

percent under present and proposed rates, respectively.[29] We have not included Northwest in the computation of composite carrier ROI because it has become clear since the issuance of Order 76-9-13 that Northwest will not match major elements of the IATA agreement, and any estimate of Northwest's earnings based on full implementation of the San Diego package overstates the carriers' forecast earnings under the proposed rates.

Despite the fact that our current analysis reveals that the composite ROI may exceed 12 percent, we are not constrained to disapprove the electronic SCR increases of which WEMA complains. If the current ROI analysis had been available when the Board deliberated on Order 76-9-13, we would have first directed our attention to the container rate increases. In that order the Board indicated its displeasure with the container rate increases because they were antithetical to the Board's long-standing goal of the establishment of a rate structure which will encourage the development of container transportation across the Pacific. Nonetheless, these increases were approved albeit reluctantly, because the projected ROI was then estimated at 7.93 percent, showing a need for revenue improvement. Since it now appears that the projected ROI may exceed 12 percent, adjustment of the container rate level becomes our first priority, to be addressed before we reach the question of SCR levels. In the circumstances presented, we will now disapprove the container rate increases on the basis that they are no longer required for maximum-revenue improvement.

Even were we convinced that the carriers' composite ROI would rise above 12 percent under the San Diego agreement, this would not warrant disappoval of the proposed increases in electronics SCR's. The carriers' earnings under the IATA agreement reflect the impact of the agreement as a package, which includes increases in rates other than SCR's for electronic parts. There is no reason to believe that the increases in this particular class of commodities—electronic SCR's—would produce excessive carrier returns. The carriers' historical earnings, at a 7.94 percent composite ROI, are substandard and show a clear need for revenue improvement. It has long been the Board's policy that such relief should come primarily from discounted promotional rates, and the San Diego agreement is consistent with this policy. If the composite ROI were to rise above 12 percent as a result of the agreement—and we have some doubt that this will occur (Appendix B)—it does not follow that electronics shippers will be paying "excessive rates." Other commodity rates have been increased substantially, generally by 9–15 percent and will now be increased a further 10–12 percent, while the increases in electronics SCR's since 1971 have been restricted to fuel surcharges.

Turning to WEMA's allegations that the Board is obligated to make a specific finding that the proposed electronics rates are reasonably related to the costs of carrying that product before the rate increases can be approved, we must disagree. Specific commodity rates, which are discounted from the general cargo rate level, have never been introduced primarily on the basis that the costs of carrying a particular commodity (due to density, handling characteristics, etc.) may be less than those of carrying other freight. Commodity rates are generally introduced for the specific promotional purpose of developing new traffic, with the rate levels established according to the value of service to the shipper. However, the carriers are not obligated to continue to offer promotional rates, and the Board's long-standing policy has been to give the carriers wide latitude in increasing or eliminating them. Moreover, no shipper has a vested right to the continuation of a low specific commodity rate.[31]

In fact, as the parties are all well aware, the Board has specifically encouraged the carriers to reduce reliance on commodity rates which have been in existence for many years and now account for over 60 percent of the traffic in the Pacific, for instance, and can hardly be described as promotional rates generating new traffic. This is particularly true of the electronics SCR's which move a good portion of total North/Central Pacific freight traffic and, except for fuel surcharges in 1974 totalling 13 percent, have not been increased since 1971.[32]

While density and other cost characteristics are sometimes factors in justifying the introduction of new SCR's, the essential basis for the carriers' offering new SCR's is almost invariably traffic generation. This is particularly the case here. As stated in the Board's previous orders, the present electronic SCR's have never had any basis in carrier costs, and were introduced for totally unrelated reasons during the open-rate period beginning in October 1971. The carriers justified the rate reductions at that time on the basis of additional traffic generation, not lower costs of carriage, and have cited the availability of empty backhaul capacity generated by one-way MAC operations, as well as intervention by foreign governments, as important considerations. The unusual combination of circumstances which produced these low levels in the context of a "rate war," with no relation to costs and no logical structure, no longer exists and there is no reason to delay further in raising the electronics SCR's to the level set for other commodities in line with current costs. While the ability to achieve a perfectly cost-related overall rate structure is severely limited by the necessity of accommodating the legitimate interests of other sovereign governments (See fn 34), nevertheless the Board has encouraged the carriers to make the greatest possible strides in this direction, and the agreement already approved represents significant progress.

In any event, the proposed electronics SCR's do, in fact, appear to be reasonably related to costs. They are consistent with fully allocated average costs and WEMA has not, as it alleges, made a prima facie showing that the costs of carrying electronic parts are less than those of carrying other commodities and that therefore the present low rates are justified. Except for density, the shippers' allegations on the "lowcost" characteristics of electronic parts are mere general statements, not quantified with supporting data. And the density figures submitted by individual shippers in opposition to the previous IATA agreement are unsupported allegations only. Except for Fairchild Camera and Instrument Corporation, none of the shippers gave any indication of the nature, format or date of any studies behind their assertions on the density of electronic components. And Fairchild's density assertions, which also leave significant doubt as to the circumstances under which its survey was conducted, are clearly insufficient to draw conclusions as to the overall density of electronics in the North/Central Pacific market.

In its previous orders in this matter the Board dismissed the shippers' density allegations as unconvincing,[33] yet the shippers have provided nothing new. As indicated in our prior orders, the density figures cited by the shippers, among their infirmities, apparently refer to dockside rather than stowed densities, whereas the Board has found stowed density in the container to be the appropriate measure for establishing the capacity costs for carrying the traffic.[34] The wide range of

[29] However, there are reasons to doubt that the 13.19 percent ROI level will actually be achieved. As more fully discussed in Appendix B, our adjustments are conservative and understate Tiger's and Pan American's operating costs. Additionally, we have reservations about the revenue improvement that is expected to result from this agreement. The electronics SCR increases will apparently not be implemented from Singapore and Taipei due to those governments' refusal to approve the increases. As a consequence, it would appear that the carrier's estimated revenue improvement is overstated.

[31] See United Airlines, Inc. Specific Commodity Rates on Periodicals, Floral Products, and Seafood, Order 72-11-78, November 20, 1972; IATA Agreements Relting to Transatlantic Fares, Order 70-2-124, February 27, 1970; Revised Aggregate Rates Proposed by WTC Air Freight, Orders 73-2-61, February 14, 1973, and 73-4-34, April 6, 1973; Domestic Passenger Fare Investigation (Phase 5-Discount Fares), Order 72-12-18, December 5, 1972; *Southern Pac. Co.* v. *ICC*, 219 US 433, 411 (1911); *Atchinson T & SF Ry* v. *ICC*, 190 F. 591, 594 (1911); *Atlantic Coast Line R. Co.* v. *Trammel*, 287 F. 741, 744 (1923).

[32] WEMA's arguments ,that the Board's policy statements support its position, is misdirected. The fact that the general cargo rates (GCR's) may be above fully allocated costs certainly does not preclude increases in existing below-cost rates at the bottom of the structure. The Board has disapproved the carriers' proposals to increase GCR's and the subject IATA agreement encompasses decreases in some of the GCR's.

[33] See Orders 74-6-93, June 19, 1974; 75-1-46, January 13, 1975; and 75-12-145, December 30, 1975.

[34] See nonpriority Mail Rates, Orders 70-4-9 and 70-4-10, April 2, 1970.

densities alleged (12–40 lbs./cu. ft.) for the various types of electronic components in various markets clearly provides no basis to conclude that all of the commodities which would come under new Item 4416 are entitled to the extremely low existing rates, or that the present rates are actually related to the density of each item, and raises a serious question as to whether density is in any wise a relevant ratemaking factor in this case; and in any event, WEMA has not shown to what extent the alleged densities would actually impact carrier costs.

Further, to the extent the density of electronic parts is actually above the average, the shippers have a ready avenue to achieve savings in transportation costs through use of the general container rates which, as indicated above, we are holding at current levels. The container rates reflect a density incentive through a reduced rate per kg. for containers loaded above the pivot weight.[25] While the resulting charges per container or per kg. are higher than the existing electronics bulk SCR's, nevertheless at the range of densities alleged by WEMA the shipper could achieve a container rate lower than the proposed electronics SCR's. Thus if this traffic is in fact highly dense, the magnitude of the proposed rate increase can easily be ameliorated by the shippers' use of the container rates rather than tendering the traffic in bulk.

Nor have the shippers shown that carrier costs are significantly less for electronics shipments than for other freight due to electronic parts' alleged long length of haul, large volume, ease of handling and stowability, low susceptibility to damage and pilferage, no special handling requirements, directional balance, lack of seasonality or lack of mail priority. The length of haul argument (fixed costs spread over a greater distance) clearly does not justify lower rates for electronics than for other goods in city-pair markets of equal length of haul. Volume does not justify a low rate unless related to the individual shipment size; the Board has found low rates based on aggregate volumes over time to be unjustly discriminatory.[26] Ease of handling—shipment in "containers or standard cartons which are easy to handle * * * and stows well"—has not been shown to be superior to most other freight in the market. Low susceptibility to damage and pilferage and lack of special handling requirements involve a negligible portion of the carriers' costs of service and, like the other items cited by WEMA, have not been quantified. WEMA is incorrect as to a "directional balance" in electronics traffic; 1975 U.S. Department of Commerce data for Code 72 (Electrical Machinery, Apparatus and Appliances) show that U.S. imports from the Far East were 254 percent of exports.[27] Concerning lack of seasonality, the shippers have not shown that other goods in the transpacific market have a seasonality any greater than electronics. Electronic parts do not have a priority of shipment any less than any other freight; rates for mail, which does have a higher priority than freight, are established to reflect that priority.

Two other matters warrant comment. First, WEMA has reiterated its allegations that the proposed rates have no rational pattern or taper, and would prefer Japanese electronics firms because the increases would be less severe to/from Japan than for other Far East points. First of all, WEMA has presented no evidence that any of its members would thereby suffer undue preference and prejudice with the proposed structure. As we noted in Order 76–9–13, the existing electronics rates reflect variances in per-mile yields of almost 13 cents, as well as numerous directional differentials, while the proposed rates would reduce the yield variances to less than five cents per mile and would entirely eliminate directional differentials.[28] Rates to/from Japan would be increased in lesser amounts because they are presently at much higher per-mile levels than are the rates for other Far East points; the net effect would be to reduce the existing competitive rate advantage enjoyed by WEMA's members whose plants are located in other countries vis-a-vis plants in Japan. The consistency of WEMA's position on the rate structure and alleged potential discrimination is called into question by its complaint against the carrier tariff filings to implement the San Diego agreement. As indicated in concurrent Order 77–6–86, WEMA attacked the tariff filings because they did not increase the electronics SCR's from Singapore and Taipei, where the respective governments have not approved the increases, on the grounds that this would result in directional differentials and other anomalies; yet WEMA has not refuted Pan American's assertion that those foreign government actions resulted from lobbying by these same electronics firms.

Second, WEMA asserts that Tiger's claims as to the value of electronics shipments as compared to the air freight rates are misleading due to the carrier's self-serving use of 1975 U.S. Commerce Department export/import data. Tiger had argued that the rates at issue comprise only 0.6–2.1 percent of the value of electronic parts, apparently using an average value per pound of $50.89. In basing its claims on the value of semiconductors, which is rather high compared to the value of other electronic parts and products, Tiger did select the data most favorable to its position. On the other hand, WEMA, by limiting its focus on this data to imports from Taiwan, is equally at fault in its use of the basic data, since the values of these commodities are lower for Taiwan than for other Far East points. In 1975 Commodity Group 72 (Electrical Machinery, Apparatus and Appliances) had an average value of $13.80/lb. from Taiwan, while imports of Group 72 from the Far East as a whole had an average value of $18.06/lb. Excluding Japan, where WEMA states its members have few if any operations, the average value from the Far East was $28.85/lb. Further, this traffic is shipped by the WEMA member firms in both directions, and U.S. exports of Group 72 commodities to these countries was valued at $44.22/lb. The weighted average value in both directions was $34.56/lb. Thus it is clear that the air freight rates, and particularly the increases proposed, generally comprise a very small part of the value of the goods transported and WEMA has made no showing that its members would suffer an undue competitive disadvantage due to implementation of the proposed increases.[29]

Finally, in its petition for reconsideration of Order 76–9–13, WEMA requests a stay of the order pending court review.[30] The principal ground presented in support rests on the allegation that, absent a stay, the WEMA shippers will be irreparably damaged in that the shippers will be required to pay the increased charges without the opportunity for refunds or reparations. Alternatively, WEMA proposes that the shippers pay the increased charges, subject to placing the increase in bond or an escrow account.

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[25] A Type 3 container between Hong Kong/Taipei and the west coast, for instance, is subject to a minimum charge of $3,640 or about $1.82/kg. at the pivot weight of 2,000 kgs. Above the pivot each kg. is rated at a reduced level of $1.70.

[26] See Order 76–12–162, December 17, 1976.

[27] In fact, since the balance of electronics traffic is weighted in the peak, eastbound direction, consideration of directionality would support a higher level eastbound.

[28] A good part of the 4.67 cents/mile yield variance which would remain under the proposed rates is due to the fact that Hong Kong, Taipei and Manila are tradtionally common-rated to/from the U.S. west coast. As all are aware, the United States does not have the final word on the establishment of international rates, and the Board has specifically permitted departures from its per-mile formula for North Atlantic cargo rates to/from U.S. gateway points to permit maintenance of traditional common-rating and other special relationships among European points.

[29] In fact, because the value of these commodities shipped to/from Japan is generally significantly lower than at other Far East points, it appears that WEMA's members can absorb a greater rate increase than could their competitors in Japan.

[30] By Order 77–3–111 the Board granted a stay, at WEMA's request, of the effectiveness of Order 76–9–13, to the extent it relates to the charges for electronics until 15 days after the order on WEMA's petition for reconsideration.

Upon consideration of the pleadings, the Board has decided to deny the request of WEMA for a stay pending judicial review. The criteria for granting a stay as stated in the *Alaska Service Investigation* case, Order 72-1-94, and more recently repeated in the *Air Carrier Reorganization* case, Order 76-1-121, January 30, 1976, are as follows:

> Not unlike the courts in similiar situations, the Board must assess [the movants'] probability of success on the merits in the judicial proceeding; balance any irreparable injury to [the movants], should the stay be denied, against injury to—other parties—should the stay be granted; and most importantly, ascertain and effectuate the public interest.

Although the legal validity of our action in this proceeding ultimately rests with the courts, we are not persuaded that WEMA is likely to prevail on the merits of a judicial review. WEMA's assignment of errors in its petition for reconsideration do not raise any legal issues, but rather, questions of fact dealing with forecasts of carriers' revenues, expenses, and resulting ROI. Section 1006(e) of the Act provides that the Board's findings of fact, if supported by substantial evidence, are conclusive.

Also, we do not find any merit to WEMA's assertion that its members will suffer irreparable harm, if the stay is not granted. These shippers enjoy, and will continue to enjoy, specific commodity rates and charges for the carriage of their electronic products. These specific commodity charges will continue to be less than the general commodity rates, and are only being brought into line with rates paid by other specific commodity shippers, which have already been increased substantially. The electronics rates have not been increased since March 1974, when all North/Central Pacific rates took a 7-percent fuel surcharge, and there is no sound reason for further delay in raising them to compensatory levels.

The nub of WEMA's argument that its members will suffer irreparable damage is centered, not so much on the increase in the freight charges, but rather on the fact that there is no mechanism for reparation or refund of such increase. This is a matter over which the Board has no control. There is nothing in the Act authorizing or empowering the Board to order reparations, refunds, the filing of bonds, or setting up escrow accounts, in those cases where the Board authorizes an increase in rates and charges. Similarly there are no such provisions in the Act in circumstances where the Board determines that there should be an investigation into the lawfulness of a rate, fare or charge. Indeed, even in those cases where the Board suspends an increase in rates and charges for unlawfulness, section 1002 explicitly provides that at the conclusion of the suspension period without a final order having been made, "the proposed rate, fare, charge * * * *shall go into effect at the end of such period*" (emphasis added).[1] Unlike the Federal Power Act (16 USC 824d), and the Natural Gas Act (15 USC 717c) where the Federal Power Commission is given express authority to order refunds in rate suspension cases, our Act is not only silent on the subject, but the express language of the Act indicates a contrary Congressional intent. In view of this, we are not persuaded that section 204(a) of the Act empowering the Board to perform such acts, pursuant to and consistent with the provisions of the Act, as may be necessary to carry out the Act, is sufficient authorization to order refunds or to set up the escrow accounts as requested by WEMA, even if the facts so warranted such action. In any event, under the circumstances present here, where the Board has already found justification for an increase in these special rates, we cannot find that WEMA shippers will suffer irreparable harm if the stay is denied.

In the final analysis it is the public interest which guides our decision in acting on the request of a stay.[2] WEMA has not addressed this particular facet in its petition. It is enough to point out that the Board after careful consideration had decided that the carriers have justified the increase in the specific commodity rates involved here. There is no basis in law or in fact to exempt the electronic shippers from carrying their fair share of the carriers' costs. Moreover, we would note that WEMA has succeeded in delaying the implementation of the increase in specific commodity rates for electronic products approved as long ago as January 1975. In these circumstances and upon consideration of the equities, the public interest can best be served by denying WEMA's request for stay pending judicial review.

The Board, acting pursuant to the Federal Aviation Act of 1958, and particularly sections 102, 204(a) and 412 thereof, finds the following resolution, incorporated in Agreement C.A.B. 25719 as indicated, to be adverse to the public interest and in violation of the Act:

[1] Section 1002(j) dealing with suspensions of rate increases in foreign air transportation is substantially similar.

[2] To the same effect, see *Virginia Petroleum Jobbers Assoc. v. F.P.C.*, 259 F.2d 921 (CADC, 1958).

Agreement CAB	IATA No.	Title	Application
25719: R-8	536a	Charges for Bulk Unitization—North and Central Pacific	3/1.

Accordingly, *it is ordered* That: 1. The petition of the Western Electronics Manufacturers Association for reconsideration of Order 76-9-13 be and hereby is denied;

2. The motion of the Western Electronics Manufacturers Association for stay pending judicial review of Order 76-9-13 be and hereby is denied;

3. Agreement C.A.B. 25719, R-8, be and hereby is disapproved.

4. The motions of the Western Electronic Manufacturers Association, Pan American World Airways, Inc., and The Flying Tiger Line, Inc. to file otherwise unauthorized documents in Docket 27573 be and hereby are granted; and

5. Copies of this order shall be served upon the Western Electronic Manufacturers Association, Pan American World Airways, Inc., The Flying Tiger Line, Inc., Japan Air Lines Company, Ltd., and Northwest Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

North/Central Pacific Scheduled Cargo Operations—Adjusted
Forecast year ending Mar. 31, 1977

[In thousands]

	Present rates					Proposed rates				
	Tiger	Pan American			Composite	Tiger	Pan American			Composite
		Freighter	Belly	Total			Freighter	Belly	Total	
Revenues:										
Freight and mail	[1] $115,610	$29,681	$41,008			[1] $123,703	[6] $31,727	[6] $42,915		
Other	58	1,009	1,394			58	1,009	1,394		
Total	115,668	30,690	42,402			123,761	32,736	44,309		
Operating expenses	[2] 103,938	[3] 35,038	34,675			104,914	[3] 35,115	34,719		
Cost escalations		[4] (450)	[5] 2,617				[4] (450)	[5] 2,617		
Total operating expenses	103,938	34,588	37,292			104,914	34,665	37,336		
Operating profit (loss)	11,730	(3,898)	5,110			18,847	(1,929)	6,973		
Nonoperating income and expense, net	(3,257)	(765)	(1,120)			(3,257)	(765)	(1,120)		
Net income before tax	8,473	(4,663)	3,990			15,590	(2,694)	5,853		
Income tax (credit) at 48 pct	4,067	(2,238)	1,915			7,483	(1,293)	2,809		
Net income after tax	4,406	(2,425)	2,075			8,107	(1,401)	3,044		
Add: interest expense	3,257	765	1,120			3,257	765	1,120		
Return element	7,663	(1,660)	3,195	$1,535	$9,198	11,364	(636)	4,164	$3,528	$14,892
Investment	72,790	16,270	23,848	40,118	112,908	72,790	16,270	23,848	40,118	112,908
R.O.I. (percent)	10.53	(10.20)	13.40	3.83	8.15	15.61	(3.91)	17.46	8.79	13.19

[1] Freight plus mail equal 484,332,000 RTM (23.87 cents/RTM). Under proposed rates, increase by 7 pct per Tiger justification.

[2] Reflects calendar 1976 F. 242 costs of 13.90 cents/ATM, brought forward to Mar. 31, 1977 at 13.99 cents/ATM. At the forecast 65.20 pct load factor, cost per RTM equal 21.46 cents/RTM. Total cost equal 484,332,000 RTM (21.46 cents/RTM). Under proposed rates add $976,000 in revenue-related expenses per Tiger justification.

[3] Reflects calendar 1976 F. 242 costs of 17.10 cents/ATM, brought forward to Mar. 31, 1977 at 17.44 cents/ATM. At the forecast 59.31 pct load factor, cost per RTM equal 29.40 cents/RTM. Total cost equal 119,178,000 RTM (29.40 cents/RTM). Under proposed rates add $77,000 in revenues-related expenses per Pan Am justification.

[4] Reflects corrected B-707F fuel consumption.

[5] Excludes anticipatory fuel cost escalations, based on February 1977 price per gallon.

[6] Freight revenue adjusted upward to reflect 7.86 pct increase under proposed rates.

APPENDIX B

Much of the shippers' criticisms of the carriers' justifications involve the validity of the forecasts as to expected volume of traffic, i.e., WEMA contends that Tiger's and Pan American's forecasts of freight and mail traffic and revenues are seriously understated. While, as detailed below, it appears that Tiger has understated its forecast traffic and revenue, we do not agree that Pan American has also understated its traffic and revenue to any significant degree. As Pan American indicates, it has suspended all service at Saigon as well as freighter service at Taipei, Okinawa, and Bangkok and, contrary to WEMA's suggestion, traffic is forecast to decline in the North/Central Pacific as well as revenue. The declines in each case are relatively small (0.7 and 1.47 percent, respectively), leading to the conclusion that traffic growth at other points has not fully compensated for the cited service suspensions at four points which generated significant traffic in the past.

Nor are we convinced that Tiger's understatement of traffic and revenue in its forecast submitted in support of this agreement is as serious as WEMA alleges. In making its charge, WEMA relies partly on Tiger's forecast subsequently submitted in the Renewal Case in Docket 28656. That forecast showed substantially higher traffic and revenues for a future period which overlapped in part the period covered by the forecast in this proceeding, but which also extended further into the future and was premised upon more up-to-date actual experience. However, there is nothing so compelling about the carrier's later forecast in Docket 28656 that justifies its use as a standard for judging the forecast submitted in the instant IATA rate agreement case.

But even if the carriers have, in fact, understood their forecast level of operations this does not necessarily lead to the conclusion that earnings will be adequate under existing rates or excessive under the proposed rates. The more recent data now available showing traffic and revenue growth rates in excess of the forecasts prepared at the beginning of 1976 indicate that capacity has grown at about the same rate, with little change in load factor. WEMA, while arguing for inclusion of these additional revenues, noticeably omits the additional costs that accompany a higher level of operations. Thus the increased traffic and revenues alleged by WEMA have had no meaningful effect on carrier productivity or the need for a rate increase.

On the other hand, more recent data available to the Board indicate generally that basic unit costs are still rising, while there has not been a comparable improvement in yields. For example, Tiger's report of Pacific scheduled all-cargo operations for the year ended December 31, 1976, shows that costs per available ton-mile (ATM) at 13.90 cents/ATM have already exceeded the 13.52 cents/ATM forecast by Tiger for the year ending March 31, 1977. This represents a 2.81 percent increase over the cost per ATM experienced during the historical period, and bringing this forward to March 31, 1977 results in a cost of 13.99 cents/ATM. At the 65.20 percent load factor forecast by Tiger, its cost per revenue ton-mile (RTM) would be 21.46 cents/RTM. Overall yield at 23.53 cents per RTM is slightly better than that estimated at the present rates, and we have adjusted Tiger's revenues and costs at the forecast level of operations accordingly.[1]

We have also adjusted Pan American's results. First, WEMA argues that Pan American's revenue forecast did not annualize the final "second phase" of the electronics SCR increases originally intended for January 1, 1977 effectiveness. While Pan American's forecast was reasonable at the time and reflected the provisions of the agreement as filed (the first phase of increases were to have been effective from May 1 through December 31, 1976), nevertheless in view of the fact that the period of the first-phase rates has already passed and the carriers have now filed tariffs to implement the "Phase II" rates, it is now appropriate that Pan American's revenue forecast reflect the higher rates. In its answer to WEMA, Pan American estimates an $816,000 increase in revenue; WEMA's estimate of increased revenue for Pan American is $1,560,000 based on Tiger's forecast 8.32-percent increase in freight revenue. We will accept, for purpose of analysis, the higher figure with one modification. The 8.32-percent figure for Tiger is its forecast increase in transpacific freight revenue excluding fifth-freedom traffic, which WEMA has applied to Pan American's total freight revenue which would include fifth-freedom traffic. Under WEMA's assumptions the appropriate percentage increase under the agreement would be Tiger's forecast increase in total freight revenue at 7.86 percent.

Second, some adjustment is necessary to resolve the questions raised about Pan American's allocations of Form 242 Pacific Division all-cargo costs between the North/Central and South Pacific areas. There does appear to be an anomaly in operating expenses per ATM of 16.74 cents for the North/Central Pacific and 11.53 cents for the South Pacific during the same period, and, without more detail, we are not convinced by Pan American's explanation that the Form 242 cost data are derived on the basis of revenue aircraft miles operated in the respective ratemaking areas while in its IATA justifications costs are derived on the basis of block hours.

In these circumstances the Board has determined to compute Pan American's North/Central Pacific freighter costs using the Pacific division costs/ATM brought forward to March 31, 1977 at 17.44 cents/ATM. This is considerably less than the 19.10 cents/ATM forecast by the carrier, and at the 59.31 percent load factor estimated for the forecast period in the North/Central Pacific, amounts to a cost per RTM of 29.40 cents/RTM. We believe this figure, which reflects a forecast load factor of over 59 percent, understates Pan American's costs significantly, however.

The Pacific Division load factor in all-cargo service during calendar 1976 was 55.26 percent, and since North/Central Pacific load factors have historically been lower than in the South Pacific, it is reasonable to conclude that the North/Central Pacific load factor for

[1] See Appendix. The 13.90 cents/ATM cost figure for calendar 1976 understates Tiger's unit cost during the forecast period since it reflects a lower load factor (63.67 percent) and correspondingly lower traffic and revenue-related expenses than would occur at the forecast 65.20 percent load factor.

calendar 1976 was somewhat below the 55.26 percent reported for the entire division, and thus the carrier's most recent reported results have fallen far short of its forecast.[2]

We cannot accept WEMA's allegation that Tiger's operating costs are excessive due to its handling of DC-8 depreciation expenses. As indicated in Order 76-9-13, Tiger's DC-8 depreciation expense was allocated on the basis of aircraft-days assigned to Pacific operations, which the Board has found to be an acceptable method of allocation. In the Renewal Case, depreciation was allocated, at the direction of the Administrative Law Judge, on the basis of block hours according to DPFI Version 6 costing methodology. Allocating depreciation expense on the same basis here shows no appreciable difference in unit rates and, at the same scale of operations, the total depreciation expense would be the same, not substantially less as claimed by WEMA. The Board is not required, as WEMA contends, to "make findings as to which method is correct." While the Version 6 block-hour allocation, as developed in the Domestic Passenger Fare Investigation, has been used in consideration of domestic passenger-fare matters and in other cases, no showing has been made that aircraft-days assigned, an obviously closely related method, is an unreasonable or unacceptable method for allocating depreciation expense. In any event, this is not the occasion for such a determination, and it is unnecessary to the result that we resolve such a point in the present context.

WEMA also argues that the load-factor adjustment of Pan American's forecase operations, which "the Board has found is required," is inadequate because that carrier's B-707F capacity is allegedly understated on its Form AP-12. Contrary to WEMA's assertion, the Board did not find such a load-factor adjustment "to be required." As stated in Order 76-9-13, the carriers' composite ROI under the proposed rates was expected to be 7.93 percent during the forecast period, including adjustments to exclude anticipatory fuel-price increases for Pan American and Tiger and an adjustment to Tiger's investment in leased equipment to conform to Part 399.43 of the Board's Regulations. The Board considered the carriers' results with such a load-factor adjustment only as an additional optional test of reasonableness of the rates in issue using the most conservative assumptions. In previous orders acting on IATA North/Central Pacific cargo-rate agreements, the Board has adjusted the freighter load factors of the combination carriers to the historical level experienced by Tiger, the all-cargo specialist, as a necessary step since our determination of the reasonableness of proposed rates was based on results in all-cargo operations due, as we have often stated, to the lack of reliable combination-aircraft cost allocations between cargo and passenger service. The combination carriers were showing very high earnings in belly cargo operations and in that combination of circumstances it was reasonable to adjust their all-cargo load factors upward in our evaluation of all-cargo earnings. As clearly stated in Order 76-9-13, Pan American and Northwest have in this case allocated combination aircraft costs between passenger and cargo service utilizing a modified space method in accordance with the Board's instructions. Accordingly, our evaluation of the carriers' composite ROI was based on results in total cargo operations, including belly cargo.[3]

[FR Doc.77-17968 Filed 6-24-77;8:45 am]

[2] We have also adjusted Pan American's cost escalation figure for belly cargo operations upward to reflect higher fuel prices as of February 1977.

[3] Further, even assuming arguendo that WEMA is correct regarding Pan American's AP-12 Form, adjusting the carrier's B-707F cubic capacity in line with its figure in Docket 26487, Transatlantic, Transpacific and Latin American Service Mail Rates Investigation would result in a load factor of 54.54 percent during the forecast period, which does not appear unreasonable considering Pan American's service pattern in the North/Central Pacific.

CONSUMER PRODUCT SAFETY COMMISSION

[CP 75-16]

CATALYTIC HEATERS
Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: In this document the Commission denies a petition to develop a mandatory safety standard for catalytic heaters because the possible hazards associated with these heaters appear to be adequately addressed in a voluntary standard now being developed.

FOR FURTHER INFORMATION CONTACT:

George Anikis, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, phone 301-492-6453.

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reasons for denial in the FEDERAL REGISTER.

In a letter designated a petition on March 19, 1975, Mr. Steven O. Spelman, a manufacturer of catalytic heaters petitioned the Commission to develop a safety standard for catalytic heaters. These heaters are portable, generally flameless and are usually used by consumers in recreational environments such as for camping. The possible hazards that may be associated with catalytic heaters are carbon monoxide poisoning, anoxia and hot surfaces.

In response to earlier communications from the petitioner stating that unburned hydrocarbons emitted from catalytic heaters could be a substantial product hazard because of the danger of explosion, the Commission's Bureau of Engineering Sciences sponsored a series of tests by the National Bureau of Standards. These tests showed that in a confined space of about 100 cubic feet, similar to a small camper, sufficient air leakage would occur to prevent an explosive buildup of unburned hydrocarbons. Therefore, the staff did not believe that a substantial product hazard existed at that time.

In evaluating this petition, little injury information came to light. The incidence of injuries associated with catalytic heaters appears to be low. The two reported incidents, including one death, were caused by explosions that resulted in fires. A study by the University of Washington's Department of Environmental Health concluded that catalytic heaters could be dangerous under conditions of limited ventilation. The report emphasized the necessity for sufficient venting where catalytic heaters are used.

The Commission is advised that the American National Standard Institute (ANSI) has been developing a voluntary standard for catalytic heaters. Among other matters, the voluntary standard effort is directed to decreasing the problem of hot surface temperatures by requiring guards to prevent skin contact with the heater surfaces and addressing the potential for carbon monoxide poisoning by requiring warning labels regarding the need for ventilation. It appears that this voluntary standard when completed could help considerably to improve catalytic heater safety.

It is the Commission's belief that the voluntary standard being developed by the ANSI Z21.61 Subcommittee on Standards for Portable Gas Fired Camping Equipment, reasonably addresses hazards associated with catalytic heaters. It is expected that manufacturers of catalytic heaters would substantially conform to the requirements of this voluntary standard. Commission staff will monitor the development of the standard as well as subsequent conformance by manufacturers and advise the Commission accordingly.

After carefully considering the matters raised by petitioner, and the information presently available to the Commission, including advice on the substantial progress toward development and implementation of a satisfactory voluntary standard, the Commission concludes that a mandatory standard is not needed at this time to deal with possible hazards associated with catalytic heaters. Therefore, the petition is denied.

Copies of the petition and the staff's briefing package to the Commission on the petition may be seen in or obtained from the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, during working hours Monday through Friday.

Dated: June 22, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-18216 Filed 6-24-77;8:45 am]

ISSUES RELATING TO REPURCHASE UNDER THE FEDERAL HAZARDOUS SUBSTANCES ACT

Request for Comments

AGENCY: Consumer Product Safety Commission.

ACTION: Request for written comments.

SUMMARY: The Consumer Product Safety Commission requests written comments on certain issues relating to repurchase under the Federal Hazardous Substances Act.

DATES: Comments should be submitted by July 8, 1977.

ADDRESSES: Comments should be submitted, preferably in five (5) copies, to the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, NW, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Robert Poth, Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. (301) 492-6400.

SUPPLEMENTARY INFORMATION: On June 8, 1977, the Commission published in the FEDERAL REGISTER (42 FR 29326) a notice of a hearing to be held on June 17, 1977, for the purpose of clarifying or resolving issues relating to repurchase of TRIS products or enforcement of the TRIS ban previously issued by the Commission. The notice that announced the hearing stated that written submissions were encouraged and that if possible they should be submitted prior to the date of the hearing.

The Commission realizes that these issues are complicated and have substantial economic impact. Accordingly, the Commission believes that additional time for the submission of written comments is warranted and announces that it will consider written comments concerning these issues that are submitted by July 8, 1977.

Written comments should be submitted, preferably in five (5) copies, to the Office of the Secretary, 1111 18th Street N.W., Washington, D.C. 20207. The comments may be supported by a memorandum or brief.

Dated: June 22, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-18219 Filed 6-24-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20778]

INTERNATIONAL CARRIERS AND THEIR COMMUNICATIONS SERVICES BETWEEN U.S. AND OVERSEAS AND FOREIGN POINTS

Order Regarding Preliminary Audit and Study of Operations

Adopted: June 14, 1977.

Released: June 21, 1977.

In the matter of preliminary audit and study of operations of international carriers and their communications services between the United States and overseas and foreign points, Docket No. 20778.

1. By memorandum Opinion and Order in the above-referenced proceeding released May 7, 1976, 59 F.C.C. 2d 240, the Commission instituted a preliminary examination of the United States International communications carriers.[1] In connection with that examination, the Commission directed the subject carriers to file fully distributed (FDC) and current cost studies which are presently scheduled to be submitted on July 1, 1977. We have before us for consideration requests by the several carriers for an extension of the time in which to file those studies.

2. Requests for extension were received from American Telephone and Telegraph Company, Hawaiian Telephone Company, ITT World Communications Inc., RCA Global Communications, Inc., and Western Union International, Inc. which may be summarized as follows:

Carrier	FDC cost study	Current cost study
A.T. & T.	Oct. 1, 1977	Jan. 1, 1978
HTC	do	Oct. 1, 1977
ITTW	Nov. 30, 1977	Nov. 30, 1977
RCAG	Jan. 1, 1978	Jan. 1, 1978
WUI	do	Do.

Additionally, TRT Telecommunications Corp. filed a request for an extension of the same duration as that granted the other carriers and did not suggest a specific date.

3. In support of their requests, the parties generally note the substantial amount of work involved in preparing the required cost studies, their limited personnel and delays in developing reporting requirements.

4. We believe that the parties have shown good cause for some extension of time. We recognize that the cost studies in this proceeding will entail a substantial amount of time and effort if the results are to be useful to us in advising the Commission. While we could require cost studies to be filed on July 1, 1977, we are concerned with the possible quality of the resulting studies. Therefore, in balancing our desire for the expeditious conduct of this matter against the need for the best information possible, we believe that the public interest will be served by postponing the date for filing the cost studies.

5. We note that different parties have requested postponements of differing length, ranging from October 1, 1977 until January 1, 1978. We are of the opinion that six months is too long a period reasonably to delay the proceeding. We believe, however, that an extension of the due date until November 15, 1977 for all cost studies should ameliorate the parties' problems without unreasonably delaying resolution of this matter.

6. Accordingly, pursuant to § 0.303 of the Commission's rules and regulations, 47 CFR 0.303 (1976), the date for all parties to file the FDC, Current Cost and any optional cost studies herein is extended until November 15, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
PHILIP V. PERMUT,
Acting Deputy Chief, Common Carrier Bureau.

[FR Doc.77-18234 Filed 6-24-77;8:45 am]

[1] See 41 FR 19377, May 12, 1976.

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 71, "VHF Automated Radiotelephone Systems" Notice of 1st Meeting, Tuesday, July 12, 1977—9:30 a.m., Conference Room A-110, 1229-20th Street, NW., Washington, D.C.

AGENDA

1. Call to Order; Introduction of Moderator.
2. Introduction of Attendees; Appointment of Secretary.
3. Adoption of Agenda.
4. Recommendation for Chairman.
5. Review of Reference Documents.
6. Discussion on Terms of Reference.
7. Discussion of Technical & Operational Areas.
8. Development of Work Assignments.
9. Other Business.
10. Establishment of Meeting Schedule.

Robert McIntyre, Moderator, Federal Communications Commission, Washington, D.C., Phone: 202-632-7197.

Special Committee No. 66, "Receiver Standards for the Maritime Mobile Service," Notice of 41st Meeting, Wednesday, July 13—9:30 a.m. (All-day meeting), Conference Room A-205, 1229-20th Street, NW., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Adoption of Agenda; Appointment of Rapporteur.
3. Acceptance of SC-66 Summary Record.
4. Continue preparation of MMS R-5, Standard for "General Purpose Marine Receivers".
5. Discussion of problem areas.
6. Solicitation of Work Assignments.
7. Other business.
8. Establishment of next meeting date.

H. R. Smith, Chairman, SC-66, ITT Mackay Marine, 441 U.S. Highway #1, Elizabeth, N.J. 07202, Phone: 201-527-0300.

To: Members of Special Committee No. 65 "Ship Radar".

Subject: Notice of 57th Meeting.

Date/Time: Thursday, July 14, 1977-1:30 p.m.

Location: Conference Room 8210, 2025 M Street, NW., Washington, D.C.

Agenda for SC-65 Committee Meeting appears later in this notice. SC-65 Working Group schedule. To be held at 2025 M Street, NW., Washington, D.C. Working Group, Reliability; Room 8210; Date, July 14; Time 9:30 a.m. If other Working Group meetings are scheduled, Group Members will be notified.

NOTE: Meeting Room location is subject to change. Check at Room 8210 first.

AGENDA

1. Call to Order; Chairman's Report: Adoption of Agenda.
2. Acceptance of SC-65 Summary Records; Appointment of Rapporteur. 18 May 1977, Paper 74-77/SC 65-239; 15 June 1977, Paper 98-77/SC 65-242.
3. Progress Report of Reliability Working Group.
4. Report of Action of Executive Committee on Paper 82-77/EC-223/SC 65-240.
5. Mini-meeting of: (a) CAWG on Evaluation, (b) BRWG on updating, (c) Manual Plotting.
6. Other business.
7. Establishment of next meeting date. (October 19, 1977.)

For approval at this meeting. Irvin Hurwitz, Chairman, SC-65, Federal Communications Commission, Washington, D.C. 20554, Phone: 202-632-7197.

To comply with the advance notice requirements of Pub. L. 92-463, a comparatively long interval of time occurs between publication of this notice and the actual meeting. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of the meeting. Those planning to attend the meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for the meeting is available at that meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. (Phone (202) 632-6490)

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements are preferred but by previous arrangement, oral presentations will be permitted within time and space limitations.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-18233 Filed 6-24-77;8:45 am]

[Docket No. 21179]

UHF CHANNEL READOUT ON TELEVISION RECEIVERS

Extension of Time for Filing Comments

Order. In the matter of UHF Channel Readout on Television Receivers, Docket No. 21179.

Adopted: June 17, 1977.

Released: June 21, 1977.

1. Springfield Television Broadcasting Corp.; National Business Network, Inc.; Delta Television Corp.; and Oklahoma City Broadcasting Co. have requested a further extension of time for the filing of comments and reply comments in this proceeding.[1]

[1] See 42 FR 25350, May 17, 1977.

2. In support of their request, petitioners state that more time than anticipated is required to complete surveys they have undertaken to make, tabulate the results and present them to the Commission. Because we wish to develop as much information as possible to help us resolve questions posed in the Notice of Inquiry and want to encourage participants to be careful, thorough and comprehensive in their development of this information, we are granting the request.

3. *Accordingly, it is ordered,* Pursuant to § 0.251(b) of the rules and regulations, 47 CFR 0.251(b), that the time for filing comments in this proceeding is extended to August 1, 1977 and that the time for filing reply comments is extended to August 22, 1977.

J. CLAY SMITH,
Acting General Counsel.

[FR Doc.77-18235 Filed 6-24-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CANADIAN ALLOCATION PROGRAM

Allocation Notice for the July Through September 1977 Allocation Period

In accordance with the provisions of FEA's Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214, the allocation notice specified in § 214.32 for the allocation period commencing July 1, 1977 is hereby published.

On June 2, 1977, FEA issued a final rule (42 FR 29295, June 8, 1977) amending 10 CFR Part 214 to provide for allocation by FEA of the Canadian light and heavy crude oil streams separately to priority refineries according to their use of each crude oil type in the base period, with provisions permitting priority refineries to fill out their base period volume of Canadian crude oil with heavy crude oil to offset the shortfall of light crude oil.

Under the amended regulations, allocations of Canadian light and heavy crude oil to a particular priority refiner or other firm will not exceed its nominations to FEA. FEA first allocates the Canadian light crude oil to first and second priority refiners according to their use of light crude oil in the base period, with the base period volume requirements of first priority refineries being satisfied before any light crude oil is allocated to second priority refineries. Canadian heavy crude oil is allocated to first and second priority refiners according to their respective base period volumes of both Canadian light and heavy crude oils, taking into account any rights for light crude oil that are issued for a refiner's first or second priority refinery, with the base period volume requirements of first priority refineries being satisfied first. Any remaining heavy crude oil is allocated to first and second priority refineries on a pro-rata basis with reference to their respective nominations for heavy crude oil, with the nominations of first priority refineries being satisfied first.

The issuance of Canadian crude oil rights for the July 1, 1977 allocation period to refiners and other firms, pursuant to § 214.31, is set forth in the Appendix to this notice. As to this allocation period, the Appendix lists: (1) the name of each refiner and other firm to which rights have been issued; (2) the base period volume[1] of Canadian crude oil for each refiner's first or second priority refinery; (3) the base period volume of Canadian light and heavy crude oil, respectively, for each refiner's first or second priority refinery; (4) the nominations to FEA for Canadian light and heavy crude oil, respectively, of each refiner or other firm; (5) the number of rights for Canadian light and heavy crude oil, respectively, expressed in barrels per day, issued to each such refiner or other firm; and (6) the specific first or second priority refineries for which rights are applicable.

The listing contained in the Appendix also reflects any adjustments made by FEA to base period volumes to compensate for reductions in volumes due to unusual or nonrecurring operating conditions as provided by § 214.31(d).

Based on its review of the affidavits, supplemental affidavits and reports filed pursuant to Subpart D of Part 214, and other information available to the agency, FEA has designated each refinery or other facility listed in the Appendix as a first or second priority refinery as defined in § 214.21. If a refinery or other facility has not been designated as a priority refinery by FEA, such refinery or other facility is not entitled to process or otherwise consume Canadian crude oil subject to allocation under the program.

As provided by 214.31(e), in the allocation period commencing July 1, 1977, each refiner or other firm which has been issued Canadian crude oil rights for light and heavy crude oil, respectively, is entitled to process, consume or otherwise utilize in the priority refinery or refineries specified in the Appendix to this notice a number of barrels of Canadian light and heavy crude oil, respectively, subject to allocation under Part 214 equal to the number of rights specified in the Appendix.

The Canadian National Energy Board (NEB) has advised FEA that the total volumes of Canadian light and heavy crude oil authorized for export to the United States, and therefore subject to allocation under Part 214, for the three-month allocation period commencing July 1, 1977, will be at the average level of 137,000 barrels per day (B/D) of Canadian light crude oil and 106,522 B/D of Canadian heavy crude oil. The NEB

[1] "Base period volume" for the purposes of this notice means average number of barrels of Canadian crude oil included in a refinery's crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the base period on a barrels per day basis.

has further advised FEA that, for the month of July, 30,000 B/D of the total export volume of light crude oil will be condensate. Any change in the average export levels for Canadian light crude oil, including condensate, and Canadian heavy crude oil anticipated for this allocation period will be reflected in revised allocations for this period pursuant to a supplemental allocation notice.

The NEB has further advised FEA of the following operational constraints with respect to the export of Canadian light and heavy crude oil for the allocation period:

50 B/D of light crude oil must be delivered through the Union Oil pipeline from the Dragon field in Canada to the Thunderbird refinery at Cutbank, Montana.

100 B/D of heavy crude oil must be delivered through the Harris Exploration pipeline to Phillips Petroleum at Great Falls, Montana.

12,000 B/D of condensate must be delivered through the Rangeland—Aurora—Glacier pipeline system to Montana.

Pursuant to 10 CFR 214.35, FEA has given effect to these operational constraints in the allocations set forth in the Appendix.

ALLOCATION OF CANADIAN LIGHT CRUDE OIL

The authorized export level for Canadian light crude oil for this allocation period is 137,000 B/D. The adjusted base period volumes of Canadian light crude oil for all first priority refineries nominating for light crude oil totals 183,143 B/D. Accordingly, with the exception of the operational constraint of 50 B/D to the Thunderbird refinery at Cutbank, Montana, a second priority refinery, no allocations of light crude oil are shown for second priority refineries and the export level of light crude oil, as adjusted to reflect the operational constraint as to the Thunderbird refinery, was allocated among first priority refineries on a pro-rata basis in the following manner.

First, a factor of 0.747776 [1] was applied to each first priority refinery's base period volume of light crude oil. Second, the allocation for Consumers Power was reduced to conform to its nominations for light crude oil for its Essexville facility and to reflect the operational constraint applicable to its Marysville facility.[2] Third, the factor was recomputed [3] to reflect these adjustments and was reapplied to each first priority refinery's (excluding Consumers Power's Essexville and Marysville facilities) base period volume of light crude oil to arrive at the final allocations. The allocations of Canadian light crude oil to the first priority refineries in Montana include the 12,000 B/D of condensate required to be delivered to Montana.

ALLOCATION OF CANADIAN HEAVY CRUDE OIL

The authorized export level for Canadian heavy crude oil is anticipated to be at the average level of 106,522 B/D. First priority refineries nominating for heavy crude oil have been allocated a total of 86,640 B/D of Canadian heavy crude oil, which was calculated by combining their respective base period volumes of light and heavy crude oil and subtracting their allocations of light crude oil. In no case do the allocations of heavy crude oil to first priority refineries exceed their respective nominations for heavy crude oil.

The remaining supply of Canadian heavy crude oil, 19,882 B/D, was allocated among second priority refineries on a pro-rata basis in the following manner. First, a factor of 0.146983 [4] was applied to each second priority refinery's base period volume of light and heavy crude oil, as adjusted to reflect allocations of light crude oil. Second, the resulting allocations of heavy crude oil for Amoco's refinery at Whiting, Indiana, and Phillips Petroleum's refinery at Great Falls, Montana, were reduced to reflect their nominations for heavy crude oil.[5] Third, the factor was recomputed [6] to reflect these adjustments and was reapplied to each second priority refinery's (excluding Amoco's Whiting refinery and Phillips' Great Falls refinery) adjusted base period volume of Canadian crued oil to arrive at the final second priority allocations for heavy crude oil.

On or prior to the thirtieth day preceding each allocation period, each refiner or other firm that owns or controls a first priority refinery shall file with FEA the supplemental affidavit specified in § 214.41(b) to confirm the continued validity of the statements and representations contained in the previously filed affidavit or affidavits, upon which the designation for that priority refinery is based. Each refiner or other firm owning or controlling a first or second priority refinery shall also file the periodic report specified in § 214.41(d)(1) on or prior to the thirtieth day preceding each allocation period; provided, however, that the information as to estimated nominations specified in § 214.41(d)(1)(i) is not required to be reported.

Within 30 days following the close of each three-month allocation period, each refiner or other firm that owns or controls a priority refinery shall file the periodic report specified in § 214.41(d)(2) certifying the actual volumes of Canadian crude oil and Canadian plant condensate included in the crude oil runs to stills of or consumed or otherwise utilized by each such priority refinery (specifying the portion thereof that was allocated under Part 214) for the allocation period.

This notice is issued pursuant to Subpart G of FEA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with FEA's Office of Exceptions and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before July 27, 1977.

Issued in Washington, D.C. on June 20, 1977.

ERIC J. FYGI,
Acting General Counsel.

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[1] See the following:

$$0.747776 = \frac{\text{Adjusted export level for Canadian light crude oil} = 136{,}950\ \text{B/D}}{\text{Sum of first priority refineries' base period volume of light crude oil} = 183{,}143\ \text{B/D}}$$

[2] In affidavits filed pursuant to Subpart D of Part 214, Consumers Power has advised FEA that its Marysville facility can process only condensate. Under the operational constraint applicable to condensate, as described above, the Marysville facility can receive only 18,000 B/D of Condensate in July. Accordingly, the allocation for Consumers Power for the Marysville facility was reduced to 18,000 B/D for July.

[3] As recomputed, the factor is:

$$0.822640 = \frac{\text{Adjusted export level for light crude oil (136,950 B/D), less allocations to Consumers Power's Essexville and Marysville facilities (20,022 B/D)} = 116{,}928\ \text{B/D}}{\text{Sum of first priority refineries' (excluding Consumers Power) base period volume of light crude oil} = 141{,}965\ \text{B/D}}$$

[4] See the following:

$$0.146983 = \frac{\text{Export level of Canadian heavy crude oil available to second priority refineries} = 19{,}882\ \text{B/D}}{\text{Sum of second priority refineries' base period volume of Canadian crude oil adjusted to reflect allocations of light crude oil} = 135{,}267}$$

[5] In this regard, Phillips Petroleum's nomination for heavy crude oil for its refinery at Great Falls, Montana, corresponded to the operational constraint for heavy crude oil described above.

[6] As recomputed, the factor is:

$$0.153476 = \frac{\text{Export level of Canadian heavy crude oil available to second priority refineries (19,882 B/D), less allocations of heavy crude oil to Amoco's Whiting refinery and Phillips Petroleum's Great Falls refinery (3415 B/D)} = 16{,}467\ \text{B/D}}{\text{Sum of second priority refineries' (excluding Amoco's Whiting refinery and Phillips Petroleum's Great Falls refinery) adjusted base period volumes of Canadian crude oil} = 107{,}294\ \text{B/D}}$$

APPENDIX

CANADIAN ALLOCATION PROGRAM

RIGHTS - July 1, 1977 to September 30, 1977
(Barrels Per Day)

		Base Period Volumes			Nominations		Allocation	
Priority	Refiner/Refinery	Total Canadian Runs	Canadian Light Crude Oil	Canadian Heavy Crude Oil	Light	Heavy	Light	Heavy
	AMOCO							
II	Whiting, Ind.	26,751	25,560	1,191	11,000	3,315	0	3,315
II	Casper, Wyo	2,991	2,991	0	0	0	0	0
II	Mandan, N.D.	8,995	8,995	0	10,000	0	0	0
II	Sugar Creek, Mo.	317	317	0	0	0	0	0
	ARCO							
II	Cherry Point, Wash.	34,225	34,225	0	9,013	0	0	0
	ASHLAND							
II	Buffalo, N.Y.	36,752	32,033	4,719	0	6,000	0	5,641
II	Findlay, Ohio	2,198	33	2,165	0	11,000	0	337
I	St. Paul Park, Minn	44,707	39,904	4,803	36,700	8,000	32,867	8,000
	DOW CHEMICAL, U.S.A							
II	Bay City, Mich.	2,767	2,767	0	1,000	0	0	0
	CLARK							
II	Blue Island, Ill	18,764	18,764	0	0	0	0	0
	CONSUMERS POWER							
I	Essexville, Mich	13,872	13,872	0	2,022	0	2,022	0
I	Marysville, Mich.	27,306	27,306	0	27,306	0	18,000 1/	0
	CONTINENTAL							
I	Billings, Mont.	25,994	25,994	0	26,000	0	21,410	0
II	Denver, Colo.	4,639	4,639	0	0	0	0	0
II	Ponco City, Ok.	1,188	1,188	0	0	0	0	0
I	Wrenshall, Minn.	20,651	20,651	0	20,700	0	17,009	0

1/ Operational Constraint

Priority	Refiner/Refinery	Base Period Volumes: Total Canadian Runs	Base Period Volumes: Canadian Light Crude Oil	Base Period Volumes: Canadian Heavy Crude Oil	Nominations: Light	Nominations: Heavy	Allocation: Light	Allocation: Heavy
	CRA							
II	Coffeyville, Kan.	318	318	0	318	0	0	0
II	Phillipsburg, Kan.	173	173	0	173	0	0	0
II	Scottsbluff, Neb.	401	401	0	401	0	0	0
	CRYSTAL							
II	Carson City, Mich.	1,104	1,104	0	3,000	2,000	0	169
	ENERGY COOPERATIVE							
II	East Chicago, Ind.	10,804	10,267	537	0	0	0	0
	EXXON							
I	Billings, Mont.	15,908	15,908	0	19,000	0	13,102	0
	FARMERS UNION							
I	Laurel, Mont.	13,439	13,439	0	13,500	0	11,069	0
	GLADIEUX							
II	Fort Wayne, Ind.	774	774	0	2,500	2,500	0	119
	GULF							
II	Toledo, Ohio	13,253	13,253	0	41,521	0	0	0
	HUSKY							
II	Cheyenne, Wyo.	4,865	4,865	0	0	0	0	0
II	Cody, Wyo.	806	806	0	0	0	0	0
	KOCH							
I	ST. Paul, Minn	74,383	5,691	68,692	5,000	85,000	4,687	69,696
	LAKE SUPERIOR D.P.							
I	Ashland, Wisc.	125	125	0	125	0	103	0
	LAKETON							
II	Laketon, Ind.	141	10	131	0	0	0	0
	LAKESIDE							
II	Kalamazoo, Mich.	1,240	1,240	0	3,000	2,000	0	190
	LITTLE AMERICA							
II	Casper, Wyo.	2,248	2,248	0	0	0	0	0

Priority	Refiner/Refinery	Base Period Volumes: Total Canadian Runs	Base Period Volumes: Canadian Light Crude Oil	Base Period Volumes: Canadian Heavy Crude Oil	Nominations: Light	Nominations: Heavy	Allocation: Light	Allocation: Heavy
	MARATHON							
II	Detroit, Mich.	10,301	10,159	142	9,435	0	0	0
	MOBIL							
II	Buffalo, N.Y.	24,995	24,995	0	0	0	0	0
II	Ferndale, Wash.	45,444	45,444	0	5,000	0	0	0
II	Joliet, Ill.	14,606	2,132	12,474	0	10,000	0	2,242
	MURPHY							
I	Superior, Wisc.	25,625	20,253	5,372	19,651	10,000	16,681	8,944
	NCRA							
II	McPherson, Kan.	836	836	0	0	0	0	0
II	PESTER REFINING CO. EL DORADO, ARK.	196	196	0	1,000	0	0	0
	PASCO							
II	Sinclair, Wyo.	709	709	0	0	0	0	0
	PHILLIPS							
II	Great Falls, Mont.	1,222	1,222	0	2,000	100	0	100 1/
II	Kansas City, Kan.	3,352	3,105	247	0	0	0	0
	ROCK ISLAND							
II	Indianapolis, Ind.	1,063	1,063	0	0	0	0	0
	SHELL							
II	Anacortes, Wash.	55,919	55,919	0	35,000	0	0	0
II	Wood River, Ill.	8,673	8,673	0	25,000	0	0	0
	SUN							
II	Toledo, Ohio	16,427	16,427	0	13,000	0	0	0
	SOHIO							
II	Toledo, Ohio	29,182	29,182	0	25,000	15,000	0	4,479
	TENNECO							
II	Chalmette, La.	1,767	1,767	0	0	0	0	0
	TESORO							
II	New Castle, Wyo.	676	676	0	300	0	0	0

1/ Operational Constraint

Priority	Refiner/Refinery	Base Period Volume: Total Canadian Runs	Base Period Volume: Canadian Light Crude Oil	Base Period Volume: Canadian Heavy -- Crude Oil	Nominations: Light	Nominations: Heavy	Allocation: Light	Allocation: Heavy
	TEXACO							
II	Anacortes, Wash.	41,229	41,229	0	58,696	0	0	0
II	Casper, Wyo.	1,380	1,380	0	4,500	0	0	0
II	Lockport, Ill.	1,244	1,244	0	26,000	0	0	0
	THE REFINERY CORP.							
II	Commerce City, Colo	174	174	0	0	0	0	0
	THUNDERBIRD							
II	Cutbank, Mont.	554	554	0	64	0	50 1/	0
	TOTAL PETROLEUM							
II	Alma, Mich.	9,727	3,020	6,707	0	5,000	0	1,493
	TEXAS AMERICAN							
II	West Branch, Mich.	2,011	2,011	0	2,011	0	0	0
	UNION OIL OF CALIF							
II	Lemont, Ill.	11,711	11,711	0	10,000	10,000	0	1,797
	UNITED REFINING							
II	Warren, Pa.	9,917	9,789	128	9,836	0	0	0
	TOTAL PRIORITY I	262,010	183,143	78,867	170,004	103,000	136,950	86,640
	TOTAL PRIORITY II	469,029	440,588	28,441	308,768	66,915	50	19,882
	TOTAL I&II	731,039	623,731	107,308	478,772	169,915	137,000	106,522

1/ Operational Constraint

[FR Doc.77-18044 Filed 6-21-77;2:07 pm]

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of June 3 Through June 10, 1977

Notice is hereby given that during the week of June 3 through June 10, 1977 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date or receipt by an aggrieved person of actual notice, whichever occurs first.

ERIC J. FYGI,
Acting General Counsel.

JUNE 20, 1977.

APPENDIX—*List of cases received by the Office of Exceptions and Appeals, Week of June 3 through June 10, 1977*

Date	Name and location of applicant	Case No.	Type of submission
June 3, 1977	Gas Del Oro, Inc.; Gas Del Oro International, Inc.; and El Dorado Marketing Co., Houston, Tex. (If granted: The Office of Private Grievances and Redress would direct FEA personnel to respond to a request for an interpretation submitted by Gas Del Oro, Inc.; Gas Del Oro International, Inc., and the El Dorado Marketing Co.)	FSG-0049	Request for special redress.
Do	Southern Natural Resources, Inc., Birmingham, Ala. (If granted: Southern Natural Resources, Inc. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at its Lapeyrouse and Patterson gas plants.)	FEE-4320 FEE-4321	Price exception (sec. 212.165).
Do	Coastal States Gas Corp., Houston, Tex. (If granted: The FEA's May 13, 1977, decision and order would be modified and Coastal States Gas Corp. would receive additional exception relief which would permit the firm to further increase its selling prices for natural gas liquids and natural gas liquid products produced at its Almeda gas plant above the maximum permissible price levels specified in 10 CFR part 212, subpart K.)	FXA-1346	Appeal of the relief granted in Coastal States Gas Corp., FEE-4045 (decided May 13, 1977) (unreported decision).
Do	Dixie Gas, Inc., Marks, Miss. (If granted: The FEA's Mar. 30, 1977, decision and order would be rescinded and Dixie Gas, Inc. would not be required to refund revenues which the firm realized as a result of charging prices for propane during the period Sept. 1, 1973 through Mar. 31, 1974, which were apparently in excess of the maximum allowable selling prices computed pursuant to the provisions of 10 CFR 212.93.)	FXA-1347	Appeal of the FEA's decision and order in Dixie Gas, Inc., 5 FEA par. 83,115 (Mar. 30, 1977).
Do	Mary E. Griggs, Logan, Ohio (If granted: Mary E. Griggs would be allowed to retain overcharges realized as a result of the sale of crude oil attributable to her royalty interest in a producing property at prices in excess of the maximum levels permitted in 10 CFR 212.73.)	FEE-4335	Price exception.
Do	Mary E. Griggs, Logan, Ohio (If granted: The remedial order issued by FEA region V on May 9, 1977, would be rescinded.)	FRA-1349	Appeal of a remedial order issued by FEA region V on May 9, 1977.
Do	Monsanto Co., St. Louis, Mo. (If granted: Monsanto Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at its Adena, Como, Diamond "M," Dollarhide, Gillette, McKamie, Pledger, and Spivey gas plants.)	FEE-4322 FEE-4328	Price exception (Sec. 212.165).
Do	OKC Corp., Washington, D.C. (If granted: OKC Corp. would receive an exception from the provisions of 10 CFR 211.67 (the old oil entitlements program) with respect to its entitlement purchase obligations during its 1976 fiscal year.)	FEE-4330	Exception to the old oil entitlements program.
Do	Petroleum Management, Inc., Wichita, Kans. (If granted: The remedial order issued by FEA region VII would be rescinded and Petroleum Management, Inc. would not be required to refund overcharges made on its sales of crude oil.)	FRA-1311	Appeal of a remedial order issued by FEA region VII on Apr. 27, 1977.
Do	Burl C. Smith, Portage, Ohio (If granted: The remedial order issued by FEA region V would be rescinded and Burl C. Smith would not be required to refund overcharges made in its sales of motor gasoline and middle distillates.)	FRA-1348	Appeal of a Remedial Order issued by the FEA region V on Feb. 25, 1977.
Do	Sun Co., Inc., Dallas, Tex. (If granted: Sun Co., Inc. would receive an extension of the exception relief granted in the FEA's Apr. 4, 1977, decision and order which permitted to firm to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquids produced at its Maurice gas plant.)	FXE-4331	Extension of the relief granted in Sun Co., Inc., FXE-3903 (decided Apr. 4, 1977) (unreported decision).
June 7, 1977	Johns-Manville Corp., Denver, Colo. (If granted: The FEA's Apr. 13, 1977, information request denial would be rescinded and Johns-Manville would receive a copy of the summary evaluation of the feasibility of total conversion of coal firing for the Waukegan BM Plant of Johns-Manville Corp.)	FFA-1350	Appeal of FEA's information request denial.
June 8, 1977	Colonial Oil Co., Jacksonville, Fla. (If granted: Colonial Oil Co. would receive an extension of the exception relief granted in the FEA's Apr. 7, 1977, decision and order which would permit the firm to be assigned a new, lower priced supplier of motor gasoline to replace its base period supplier, American Petrofina, Inc.)	FXE-4333	Extension of the relief granted in Colonial Oil Co., 5 FEA par. 83,128 (Apr. 7, 1977).

Date	Name and location of applicant	Case No.	Type of submission
Do.....	American Can Co., Greenwich, Conn. (If granted: The Assistant Administrator for Energy Conservation and Environment would make a determination as to the appropriateness of including the energy consumption of American Can Co's. (ACC) Chemplex subsidiary in ACC's 1975 energy consumption data. That data is utilized to determine whether ACC is one of the 50 most energy consumptive firms in SIC 28.)	FEX-0162	Supplemental Order.
Do.....	Atlantic Richfield Co., Dallas, Tex. (If granted: Atlantic Richfield Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at its Empire Abo gas plant.)	FEE-4332	Price exception (sec. 212.-165).
Do.....	C & H Refinery, Inc., Lusk, Wyo. (If granted: C & H Refinery, Inc. would receive an exception from the provisions of 10 CFR 211.67(e)(2).)	FEE-4318	Allocation exception (sec. 211.67).
Do.....	Columbia Hydrocarbon Corp., Columbus, Ohio (If granted: Columbia Hydrocarbon Corp. would be assigned a base period use for propane and Dome Petroleum Ltd. would be assigned as its base period supplier.)	FEE-4336	Allocation exception.
Do.....	Mid-Michigan Truck Service, Inc., Grand Rapids, Mich. (If granted: Mid-Michigan Truck Service, Inc. would receive an extension of the relief granted in the FEA's Jan. 6, 1977, decision and order which permits the firm to be supplied motor gasoline directly by the Gulf Oil Corp.)	FXE-4334	Extension of the relief granted in Mid-Michigan Truck Service, Inc., 5 FEA par. 87,003 (Jan. 6, 1977).
Do.....	Sabre Refining, Inc., Bakersfield, Calif. (If granted: Sabre Refining, Inc. would receive an extension of the exception relief granted in the FEA's Dec. 23, 1976, decision and order and would not be required to purchase entitlements to account for its crude oil receipts and runs to stills.)	FXE-4337	Extension of the relief granted in Sabre Refining, Inc., 5 FEA par. 83,014 (Dec. 23, 1976).
Do.....	Stephens & Cass, Dallas, Tex. (If granted: The FEA's May 20, 1977, decision and order would be modified and Stephens & Cass would not be required to establish an escrow account as a condition of a stay of this remedial order issued to the firm.)	FMR-0108	Modification of the decision and order in Stephens & Cass, 5 FEA par. ..... (May 20, 1977).
Do.....	United Refining Co., Warren, Pa. (If granted: The FEA's May 13, 1977, decision and order would be rescinded and United Refining Co. would receive an exception from the provisions of 10 CFR 211.67 (the old oil entitlements program) which would permit an increase in the firm's monthly entitlements obligations.)	FXA-1351	Appeal of the FEA's decision and order in United Refining Co., 5 FEA par. ..... (May 13, 1977).
June 9, 1977..	Florida Gas Exploration Co., Winter Park, Fla. (If granted: The remedial order issued by FEA region IV on Apr. 19, 1977, would be rescinded and Florida Gas Exploration Co. would not be required to refund overcharges made in its sales of crude oil produced from the Discorbis 15 Drilling Unit and the Unknown Pass Field.)	FRA-1329	Appeal of the remedial order issued by FEA region IV on Apr. 19, 1977.
Do.....	Gary Western Co., Englewood, Colo. (If granted: The stay relief granted in the FEA's April 25, 1977, decision and order would be rescinded.)	FEX-0163	Rescission of decision and order in Gary Western Co., 5 FEA par. ..... (Apr. 25, 1977).
Do.....	Maralo, Inc., Round Mountain, Tex. (If granted: The FEA's May 16, 1977, decision and order would be rescinded and Maralo, Inc. would be permitted to treat 6 of its crude oil reservoirs as separate properties.)	FXA-1353	Appeal of the FEA's decision and order in Maralo, Inc., 5 FEA par. ..... (May 16, 1977).
Do.....	Monsanto Co., St. Louis, Mo. (If granted: Crude oil produced from the Bagnason No. 1 well and the Milo No. 1 Well, Grenora Field in Williams County, N. Dak. and State 16 No. 1 Well, Dwyer Field in Sheridan County, Mont., would be sold at upper tier ceiling prices.)	FEE-4338 through FEE-4340	Price exception (sec. 212.73).
Do.....	Texaco, Inc., New York, N.Y. (If granted: The FEA's Apr. 29, 1977, decision and order would be modified and Texaco, Inc. would receive access to documents requested in its Aug. 20, 1976, and Oct. 18, 1976, submissions regarding the passthrough of nonproduct costs.)	FMR-0109	Modification of the FEA's decision and order in Texaco, Inc., 5 FEA par. ..... (Apr. 29, 1977).
Do.....	Texaco, Inc., New York, N.Y. (If granted: The FEA's information request denial would be rescinded and Texaco, Inc. would receive access to documents requested in its Aug. 20, 1976, and Oct. 18, 1976, submissions regarding the passthrough of nonproduct costs.)	FFA-1352	Appeal of the FEA's information request denial.

[FR Doc.77-18042 Filed 6-24-77;8:45 am]

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Issuance of Construction Order to Deerhaven 2

The Federal Energy Administration (FEA) hereby gives notice that on June 21, 1977, it issued a construction order, pursuant to the authorities granted to it by Section 2 of the Energy Supply and Environmental Coordination Act of 1974, (ESECA) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94-163, and in accordance with 10 CFR, Parts 303 and 307, to the following powerplant in the early planning process:

Docket No.	Owner	Generating station	Unit No.	Location
OCU-186	Gainesville-Alachua County, Regional Utilities Board.	Deerhaven.....	2	Hague, Fla. (Alachua County).

By Notice of Intention published in the FEDERAL REGISTER on January 13, 1977, (42 FR 2714), FEA gave notice of its intention to issue a construction order to the above-listed powerplant in the early planning process. Written comments were requested on the proposed orders. No written comments were received by FEA during the period provided for comment. In addition a public hearing was held in Gainesville, Florida on January 28, 1977.

This order will require the above-listed powerplant in the early planning process to be designed and constructed so as to be capable of using coal as its primary energy source. The construction order will not become effective, however, until FEA has considered the environmental impact of making the Order effective pursuant to 10 CFR 208.3(a)(4) and 307.7 and has served the affected powerplant with a Notice of Effectiveness, as provided in § 303.10(b), 303.47(b) and 307.5 of the FEA regulations implementing Section 2 of ESECA. Section 307.7 requires that prior to the issuance of a Notice of Effectiveness, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness.

The above-listed powerplant in the early planning process has been served a construction order by registered mail. In addition, copies of this Construction Order will be on display for any interested members of the public at the FEA Freedom of Information Reading Room located in Room 2107, 12th Street and Pennsylvania Avenue, N.W., Washington, D.C. Copies will also be on display in the appropriate FEA regional office.

Any questions regarding this notice should be directed to Mr. Bill Lemeshewsky, Office of Coal Utilization, Federal Energy Administration, 12th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 566-97065.

Issued in Washington, D.C., June 21, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-18294 Filed 6-24-77;8:45 am]

APPEALS AND APPLICATIONS

Issuance of Decisions and Orders; Week of May 2 Through May 6, 1977

Notice is hereby given that during the week of May 2 through May 6, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

PETITION FOR SPECIAL REDRESS

Consumer Federation of America, Washington, D.C.; FSG-0042; Middle distillates

The Consumer Federation of America (CFA) filed a Petition for Special Redress relief. In its Petition the CFA requested that the Office of Private Grievances and Redress direct that financial assistance be provided to the CFA to ensure that it would be able to fully participate in a rulemaking proceeding which the FEA had initiated with respect to the possible reimposition of allocation and price controls on middle distillates. In Consumers Union of United States, Inc., 5 FEA Par. 87,014 (February 18, 1977), the FEA discussed the general criteria which it would apply in evaluating an application for financial assistance to facilitate the representation of the consumer viewpoint in proceedings before the agency. In that Decision, the FEA referred to a determination of the Comptroller General of the United States which stated that an agency may facilitate public participation in its proceedings by using its appropriate fund to reimburse intervenors when (i) it believes that such participation is required by statute or is necessary to represent adequately opposing points of view on a matter; and (ii) it finds that the intervenor is indigent or otherwise unable to bear the financial costs of participating in the proceedings. In applying those criteria to the present case, the FEA noted that the proposed rulemaking proceeding would be of major concern to consumers throughout the nation, and that the participation of consumer representatives would provide a full perspective of the issues to be considered. The FEA further determined that the CFA through its Energy Policy Task Force was uniquely qualified to represent consumer interests in the proposed rulemaking proceeding, and that its intervention in that proceeding would contribute to a fair determination of the issues to be considered. The FEA also fund that the CFA would be unable to bear the full costs which it would be likely to incur in this matter without some financial assistance. The FEA therefore granted the CFA Petition, and directed that the CFA be reimbursed for all payments made in retaining economic and financial analysts and all direct out-of-pocket expenses which it incurs, up to an aggregate maximum amount of $6,000. The FEA also stated that it would entertain a further request by the CFA at the conclusion of the rulemaking proceeding for additional financial reimbursement for reasonable legal fees incurred by the CFA.

APPEALS

Central Carolina Farmers, Inc.; Durham, N.C., FXA-1062; Propane

Central Carolina Farmers, Inc. (CCF) appealed from a Decision and Order denying a request for exception which it had filed from the provisions of 10 CFR 211.9. Central Carolina Farmers, Inc., 4 FEA Par. 83,174 (November 1, 1976). In its exception request, CCF sought to be assigned a new, lower-priced supplier to replace its base period suppliers of propane. The firm contended that there was a significant disparity between its cost of propane and the comparable costs of its competitors, and that as a result it was experiencing a serious financial hardship. In rejecting these claims, the FEA found that the data elicited during the course of the proceeding indicated that the firm was not experiencing a substantial cost disparity and that the evidence in the record did not lead to the conclusion that CCF was experiencing a serious financial hardship as a result of FEA regulatory requirements. CCF contended on appeal that the FEA had erred in calculating the difference between its cost of propane and the average price offered for that product by suppliers in its market area because it included in that comparison the prices of certain suppliers which do not supply CCF's competitors. In view of the fact that CCF sells propane in a market area which is limited in size, the FEA concluded that the firm's claim was correct, and that only the suppliers which offer propane for sale to CCF's competitors in this area should have been included in the survey of suppliers in the November 1 Decision. The new survey of suppliers which the FEA conducted indicated that the cost disadvantage experienced by CCF was substantially greater than that found to exist in the November 1 Decision. However, the FEA nevertheless determined that based on new data which CCF submitted in connection with its Appeal, the firm's propane division earned substantial profits during the first five months of its 1977 fiscal year in contrast to a loss during the comparable period in 1976. In addition, the firm's total petroleum-related activities were currently profitable. In view of these circumstances, the FEA concluded that CCF failed to demonstrate that it was experiencing serious financial or operating difficulties as a result of the cost disparity which it was experiencing, and the firm's Appeal was denied.

Guam Oil and Refining Co., Inc.; Dallas, Tex., FIA-1212; Crude oil

The Guam Oil and Refining Company, Inc. (GORCO) filed an Appeal from an Interpretation which the Acting General Counsel of the FEA issued to the firm on February 11, 1977. The Interpretation held that the unfinished oils in GORCO's refinery feedstocks do not qualify as crude oil for purposes of 10 CFR 211.67. Accordingly, the Interpretation concluded that the portion of those feedstocks consisting of unfinished oils is not eligible for inclusion in the volume of crude oil runs to stills which GORCO reports to the FEA for purposes of the Entitlements Program. In considering GORCO's Appeal the FEA noted that in order to formulate the feedstocks which it supplies to GORCO, the Exxon Corporation mixes kerosene and naphtha blend stocks with Arabian crude oil. Since both naphtha and kerosene are substances which are refined from crude oil the FEA determined that they therefore are not themselves "crude oil." The FEA further concluded that the regulatory provisions applicable to blends of covered products which appear at 10 CFR 212.31 not apply to 10 CFR Part 211, and that the use of the term "crude oil" in Part 212 refers only to crude oil itself and not to other substances which may have been blended with crude oil. The FEA further concluded that Bureau of Mines Form 6-1300-M, which is the basis for measuring a refiner's crude oil runs to stills for purposes of the Entitlements Program, requires that crude oil and unfinished oils be reported separately. The FEA also rejected GORCO's contention that the FEA should regard the term "crude oil" as including mixtures which are physically indistinguishable from virgin crude oil and have historically and consistently been priced, accounted for, and refined as crude oil. The FEA concluded that there is no basis in the language of the regulations which would support the adoption of this approach and further more that its adoption would lead to the disruption of the Entitlements Program. The FEA further concluded that there is no basis in the regulations for GORCO's contention that disruption of the Entitlements Program could be avoided by limiting the interpretation which it desires to the specific factual circumstances which it is encountering. Accordingly the GORCO Appeal was denied.

Gulf Oil Corp.; Houston, Tex.; FRA-1171; Service station rent

Gulf Oil Corporation appealed from an amended Remedial Order which was issued by the FEA on March 19, 1976. In the amended Remedial Order, the FEA found that during the period August 20, 1973 through April 30, 1974, Gulf charged Mr. Anthony

Weber (Weber) a rental for a retail gas station which exceeded the maximum rental which Gulf was permitted to charge under the Economic Stabilization Program and FEA Regulations. The Gulf Appeal, if granted, would result in the rescission of the amended Remedial Order, or the issuance of an order permitting Gulf to offset the overcharges specified in the Remedial Order with additional rental amounts which Gulf alleged it was entitled to receive during the period from April 30, 1974 through December 7, 1975. In reviewing the factual history of this case, the FEA noted that Gulf, which had entered into a lease agreement with Weber on December 8, 1972, had agreed to a temporary modification of that contract on February 2, 1973 in order to assist Weber in establishing his business operation. That temporary modification agreement, which was in effect through May 15, 1973, reduced the rental which Weber was required to pay Gulf. Contrary to Gulf's claim in its Appeal that the provisions of its December 8, 1972 contract were "prevailing" on May 15, 1973, the FEA found that the February 2 modification was in effect on May 15, 1973 and superseded the December 8 contract. These terms were therefore found to be determinative of the base rent which Gulf could charge Weber under the FEA rent regulations which were in effect prior to April 30, 1974. The FEA also found that the concept of a "transaction" used in other sections of FEA Regulations had no relevance to rents because the rent regulations never utilized a class of purchaser concept as was the case with the sale of covered products. The FEA noted that Gulf's contention that the firm should be permitted to offset the overcharges was based on the assertion that retroactive effect should be given to the Temporary Emergency Court of Appeals decision in *Shell Oil Co. v. FEA*, which held that the rent regulations were beyond the scope of the FEA's regulatory authority. In discussing that position, the FEA found that this same contention had been previously considered and rejected by the FEA in Atlantic Richfield Co., 4 FEA Par. 87,031 (December 6, 1976). The FEA observed however that since the rent regulations were revoked by the FEA effective November 11, 1975, the rent which Gulf was permitted to charge between that date and December 7, 1975 should be governed by its lease with Weber. Under these circumstances, the FEA found that the amount of the Gulf overcharges which the Remedial Order found to exist should be reduced by the difference between the rent which it could have collected under the Weber lease and the rent which it actually collected during that period. Accordingly, the FEA stayed the Remedial Order and remanded the matter to FEA Region III. In all other respects, the Gulf Appeal was denied.

Harris Enterprises, Inc.; Portland, Oreg.; FXA–1113; Motor gasoline

Harris Enterprises, Inc. appealed from a Decision and Order in which the FEA had denied an Application for Exception which the firm had previously submitted from the provisions of 10 CFR 211.9. Harris Enterprises, Inc., 4 FEA Par. 83,217 (December 3, 1976). In its Appeal, Harris requested that the FEA reverse the previous determination and assign it a lower-priced supplier of motor gasoline to replace the Mercury Oil Company, one of its base period suppliers. In considering the Harris Appeal the FEA determined that there was no merit to Harris' claim that in its prior analysis the FEA incorrectly determined the average prevailing market price in Harris' marketing area. In making that computation the FEA had used an average of the prices of Harris' primary base period suppliers and the suppliers of its principal competitors. The FEA found that there was no merit to Harris' contention that the prices of its primary base period suppliers should not have been included in that computation since Harris had not shown that its four primary base period suppliers do not also supply other competing firms in the relevant market area. The FEA also rejected Harris' contention that the December 3 Decision was erroneous merely because it utilized price data which Harris previously submitted and which Harris contended on Appeal was erroneous. Finally, the FEA found that even if the corrections which Harris requested in that data were in fact made there was still no proper basis for concluding that a significant price disparity existed which warranted exception relief. Accordingly, the Harris Appeal was denied.

Perrault Production Co.; Tulsa, Okla.; FXA–1223; Crude oil

Perrault Production Company (Perrault) appealed from a Decision and Order in which the FEA denied the firm's request for retroactive exception relief from the provisions of 10 CFR, Part 212, Subpart D. Perrault Production Co., 5 FEA Par. 83,079 (February 25, 1977). The Appeal, if granted, would have permitted Perrault to receive upper tier ceiling prices for the crude oil which it produced from two leases in Osage County, Oklahoma during the month of February 1976, notwithstanding Perrault's failure to certify the leases as stripper well properties in a timely manner as required by Section 212.131(a)(1). In its Appeal, Perrault contended that in the prior determination the FEA erred in concluding that the firm would not incur a serious hardship if it were denied retroactive exception relief for the month of February 1976. In considering the Appeal, the FEA noted that although the firm incurred a net operating loss for the first eleven months of 1976 of approximately $23.167, that loss resulted from the firm's expenditure of over $25,000 in the latter half of the year to enhance the crude oil production from the two leases. Consequently, the FEA found that if Perrault is now experiencing any financial hardship, that hardship resulted from its own discretionary expenditures, and not from the application of FEA Regulations to the firm. In addition, the FEA found that Perrault has realized a substantial operating profit in recent months and therefore failed to establish that it will curtail its operation of the two leases or that the operation will be affected in any other manner if exception relief was not approved. Accordingly, the Perrault Appeal was denied.

Ruthven, Inc.; Russell, Kans.; FXA–1081; Crude oil

Ruthven, Inc. appealed from a Decision and Order denying the firm's request for exception relief from the provisions of 10 CFR. Part 212, Subpart D. Ruthven, Inc., 4 FEA Par. 83,199 (November 15, 1976). Its Appeal, if granted, would result in the rescission of the prevision Order and the issuance of an Order granting Ruthven retroactive exception relief. If the retroactive exception relief which the firm requests was approved, Ruthven would be permitted to treat its Ben Rein lease as a stripper well property during the period December 1, 1973 through December 31, 1975. In its Appeal, Ruthven contended that the previous FEA determination that the firm's Well 5 on the Ben Rein lease was not a multiple completion well and the lease therefore did not qualify for the stripper well exemption was erroneous. In considering the Appeal, the FEA found that Ruthven's Well 5 failed to qualify as a multiple completion well under the criteria set forth in Ruling 1975–12. Moreover the firm did not provide any factual or other material in its Appeal in support of its assertion that the FEA intended other types of wells not considered in Ruling 1975–12 to be regarded as multiple completion wells. For example, Ruthven had failed to show that the cost of completing or operating its Well 5 substantially exceeded the investment which is ordinarily required to complete and operate a single or separate well. Ruthven's further assertion that Ruling 1975–12 should not be applied retroactively was rejected since the retroactive application of that Ruling did not adversely affect Ruthven in any way. It was also determined that Ruthven was not entitled to rely upon a definition of the term "well" by the Kansas Corporation Commission for purposes of determining whether its lease qualified as a stripper well property under the FEA regulatory program because Ruthven had failed to seek any authoritative advice from the FEA concerning the proper application of federal regulations to the Ben Rein lease. Finally, Ruthven failed to support its claim that it would experience a serious financial hardship if it were required to refund the overcharges specified in a Notice of Probable Violation which was issued to the firm by FEA Region VII. Ruthven's Appeal was accordingly denied.

Eddie L. Smith, d.b.a. Ringwood Propane; Ringwood, Okla.; FRA–1187; Propane

Eddie L. Smith, d.b.a. Ringwood Propane appealed from a Remedial Order which was issued to him by FEA Region VI on January 31, 1977. In the Remedial Order, the FEA found that during the period November 1, 1973 through May 31, 1975, Ringwood Propane sold propane to its customers at unlawful price levels. Based on this finding, Smith was directed to refund the previous overcharges plus interest. In the Appeal, Smith did not challenge the factual or legal basis of the Remedial Order but instead contended that he is financially unable to comply with the refund requirements of the Remedial Order. In considering Smith's Appeal, the FEA stated that the arguments which Smith advanced in the Appeal do not form an appropriate basis for appealing a Remedial Order, and should properly be considered only in the context of an Application for Exception. However, the FEA also determined that the Smith submission made the type of prima facie showing which in previous cases led the FEA to consider in the context of an appeal of a Remedial Order issues which would otherwise be evaluated only in an exception proceeding. Cf. Mobil Oil Corp., 4 FEA Par. 80,451 (September 24, 1976). In this connection, the FEA determined that the Smith submission indicated that if Smith were required to comply with the refund requirements of the Remedial Order he would almost certainly be placed in personal bankruptcy and would in turn become a burden on the community of Ringwood. The FEA therefore determined that Smith would experience a severe and irreparable injury unless he is relieved of the obligation to refund revenues as specified in the January 31, 1977 Remedial Order. Accordingly, Smith was granted retroactive exception relief, and the January 31, 1977 Remedial Order was rescinded.

Watson W. Wise; Tyler, Tex.; FXA–1106; Crude oil.

Watson W. Wise (Wise) filed an Appeal from a Decision and Order issued by the FEA. Watson W. Wise, 4 FEA Par. 83,018 (July 22, 1976). In the prior determination the FEA denied Wise's request for an exception which would have permitted him to sell the crude oil produced from the Stone Johnson Lease at prices which exceed the ceiling prices computed pursuant to the FEA Mandatory Petroleum Price Regulations. The present Appeal, if granted, would result in

the reversal of the July 22 Decision and Order and the approval of the exception relief originally requested. In his Appeal, Wise claimed that the July 22 Decision and Order was erroneous in law because it failed to correct a gross inequity which resulted in the establishment of artificially low ceiling prices for the crude oil produced from the Stone Johnson Lease. Wise also contended that FEA regulatory control of crude oil prices is arbitrary and capricious, denies him due process of law, and constitutes a taking of private property without just compensation. In its consideration of the Appeal, the FEA determined that Wise had presented no new material which would refute the previous determination that the ceiling price of the crude oil involved was not so low as to result in a gross inequity to the firm. The FEA also found that in view of recent Decisions of the Temporary Emergency Court of Appeals regarding the same constitutional arguments which Wise presented, there was no merit to the firm's contention that an unconstitutional taking of property had occurred. Wise's Appeal was therefore denied.

REQUESTS FOR EXCEPTION

Jamar Oil Co.; Tulsa, Okla.; FEE-3588; Crude oil

Jamar Oil Company (Jamar) filed an Application for Exception from the provisions of 10 CFR 211.9 which, if granted, would result in the assignment of the Sun Oil Company (Sun) as Jamar's new base period supplier of motor gasoline to replace the Foremost Petroleum Company (Foremost). In considering Jamar's exception application, it was noted that Sun had been assigned by the FEA to supply Jamar during the period February 10, 1975 through August 19, 1976 on the basis of Jamar's representation to the FEA that certain Jamar retail sales outlets were new outlets. These assignment orders were subsequently rescinded as a result of a determination by the FEA that the outlets in question were not in fact new outlets at the time the assignment orders were issued. Nevertheless, the FEA found considerable merit to Jamar's contention that the continued application of the provisions of 10 CFR 211.9 resulted in a serious hardship to the firm. The FEA determined that the prices which Foremost charged Jamar for motor gasoline were substantially above the prices which Jamar's competitors paid their suppliers. Although Jamar had reduced its markup in order to remain competitive in retail and wholesale sales, the situation which the firm was encountering was so severe as to threaten its continued existence as an independent marketer. The FEA also found that Jamar had been unable to alleviate the severe financial difficulties which it was experiencing by purchasing surplus motor gasoline at competitive price levels. On the basis of these findings, the FEA concluded that the application of Section 211.9 resulted in a serious hardship to Jamar and exception relief was therefore approved which permitted Jamar to receive a portion of its base period use of motor gasoline for the period May through July 1977 from a new supplier.

Allen K. Trobaugh; Midland, Tex.; FEE-3707; Crude Oil

Allen K. Trobaugh filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted him to sell the crude oil produced from the No. 1 well of the Bailey Lease, located in Hockley County, Texas, at upper tier ceiling prices. In considering the exception request, the FEA found that Trobaugh's operating costs had increased to the point where he no longer had an economic incentive to continue production of crude oil from the Bailey No. 1 well if the crude oil was to be sold at lower tier ceiling prices. The FEA also determined that if Trobaugh abandoned his operations of the Bailey No. 1 well, a substantial quantity of crude oil would not be recovered. The FEA therefore concluded that Trobaugh's Application should be granted and the working interest owners should be permitted to recover their unrecovered increased operating expenses at the Bailey No. 1 well. On the basis of the criteria applied in previous decisions under similar circumstances, Trobaugh was permitted to sell at upper tier ceiling prices 37.83 percent of the crude oil produced from the Bailey No. 1 well for the benefit of the working interest owners.

Wilmar Oil, Inc.; Oklahoma City, Okla.; FEE-3932; Crude Oil

Wilmar Oil, Inc., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted it to sell the crude oil produced from the No. 1 Pine well (the Pine well) located in Jefferson Davis Parish, Louisiana at upper tier ceiling prices. In considering Wilmar's exception application, the FEA found that Wilmar's operating costs has increased to the point where the firm no longer had an economic incentive to continue the production of crude oil from the Pine well. The FEA also determined that if Wilmar abandoned its operations at the well, a substantial quantity of domestic crude oil would not be recoverable. The FEA therefore concluded that Wilmar's application should be granted, and on the basis of the criteria applied in previous similar cases, Wilmar was permitted to sell at upper tier ceiling prices 74.43 percent of the crude oil produced from the Pine well for the benefit of the working interests. The FEA also determined that Wilmar had failed to demonstrate that it would experience a severe and irreparable injury in the absence of retroactive exception relief which would permit the firm to pass through the costs of the well workover which had been completed in early 1976, and its request for retroactive exception relief was accordingly denied. Finally, with respect to Wilmar's contention that it should receive additional exception relief at the present time to enable it to defray the cost of future well workovers, the FEA detremined that this contention was speculative and did not form a proper basis for exception relief.

REQUEST FOR STAY

Basset Oil & Equipment Co., Inc.; Basset, Va.; FRS-1276; Refined Petroleum Products

Basset Oil and Equipment Co., Inc. (Basset); filed an Application for Stay of a Remedial Order which the Director of the Compliance Division of FEA Region III issued to the firm on April 13, 1977. The Remedial Order determined that during the period November 1, 1973 through December 31, 1975, Basset improperly sold certain quantities of kerosene and No. 2 heating oil at unlawful price levels. On the basis of this determination, the Remedial Order directed Basset to refund $46,138.85 to the marketplace through prospective reductions in the prices it charges to its retail customers for No. 2 heating oil and kerosene, and $5,597.31 to certain identifiable customers by check or credit. Basset's request for stay, if approved, would relieve the firm of its obligation to make those refunds pending a final determination of its Appeal of the Remedial Order. In considering the request for stay, the FEA concluded that Basset had raised substantial issues concerning the propriety of the Remedial Order. Basset also made a strong showing that it could incur an irreparable injury if it were required to immediately make the refunds and price reductions since Basset could experience substantial difficulty in recovering the funds if it prevails on the merits of its Appeal. The FEA therefore held that Basset satisfied the criteria set forth in *General Crude Oil Co.*, 3 FEA Par. 85,040 (June 25, 1976), for the approval of a stay of the refund requirements specified in a Remedial Order. The FEA further concluded that Basset should not be required to place into an escrow account that portion of the overcharges which the Remedial Order requires it to refund to the marketplace. However, the stay was conditioned upon Basset's establishing an escrow account into which it is required to place the $5,597.31 plus interest which the Remedial Order directs the firm to refund to certain identifiable customers.

SUPPLEMENTAL ORDER

Getty Oil Co.; New York, N.Y.; FRX-0152; Crude Oil

The Getty Oil Company requested that an evidentiary hearing be held in connection with its Appeal from a Remedial Order which was issued to it by the FEA on August 12, 1976. As a preliminary matter, the FEA noted that the hearings which are generally conducted in exceptions and appeals proceedings are described in Section 205.172 of the Administrative Procedures and Sanctions Regulations. Under that provision, hearings are generally convened "solely for the exchange of views incident to a proceeding," and are designed to permit the parties to present oral arguments with respect to the issues of the case as delineated in their formal written submissions. However, the FEA also recognized that Section 205.172 is sufficiently broad to permit a more formal type of hearing to be conducted when necessary to properly adjudicate the facts and issues presented in a particular case.

In order to permit a more precise determination as to the nature of the hearing to be held with respect to Getty's Appeal, the firm was directed to submit a detailed specification of the particular findings of fact contained in the August 12, 1976, Remedial Order which it contends are incorrect. Similarly, Getty was directed to identify each other factual assertion which it wishes to establish and which it contends is necessary to support its position that the August 12, 1976, Remedial Order is erroneous and should be rescinded. With respect to each such issue which it identified, Getty was also directed to (i) state its position as to the proper determination which should be reached with respect to the particular matter; and (ii) state the manner in which it proposes to establish the validity of the position which it advances. Where Getty asserted that it can only establish its position through direct testimony at the hearing which will be held on the appeal, the firm was also directed to (i) identify each witness whose testimony is required; (ii) state the reasons why the testimony of that witness is necessary and relevant to establish the position which Getty asserts to be valid; and (iii) state the reasons why the validity of the Getty position cannot be established in a manner other than the direct questioning of witnesses. Getty subsequently filed a submission in which it stated that it had no further evidence to submit regarding the first category of issues arising solely from the Remedial Order. With respect to the second category of issues, viz., those which do not arise solely from factual determinations reached in the Remedial Order, Getty did identify four alleged issues of fact which it claimed could only be developed through an evidentiary hearing.

Following receipt of the Getty submission, the FEA reviewed the entire record of the Getty Appeal to reach a determination as to whether an evidentiary hearing under the circumstances is required by the Due Process Clause of the Fifth Amendment of the U.S. Constitution. In a case in which an evidentiary hearing is not specifically required by any statutes or regulations of an administrative agency, the federal courts have held that an evidentiary hearing is not required by due process considerations except when facts are in dispute. In its various filings, Getty has maintained that the possible state of mind of the FEA personnel responsible for the administration of the Entitlements Program raises factual issues with respect to (i) the treatment of crude oil exchanges prior to the effective date of the clarification of Section 211.67(g); (ii) the alleged retroactive application of Section 211.67(g) as clarified; and (iii) the alleged vagueness of that provision as it existed prior to the clarification of February 1, 1976. Based on its review of the contentions which Getty advanced, the FEA concluded that the firm failed to establish the need for an evidentiary hearing. The issues which Getty identified were found to present questions of law which must be resolved by examining the language of the regulations themselves, or by reference to official agency actions which relate to the construction placed on those regulations such as rulings, interpretations, forms and the record of the rulemaking proceedings in which the regulations were promulgated.

SUMMARY DECISIONS

The FEA issued a summary decision which extended the time in which the Regional Administrator of FEA Region III was required to issue a Decision and Order to the following firm:

General Distributors, Inc.; Snow Hill, Md.; FEX-0153

The FEA issued a summary decision which corrected a minor omission in a Decision and Order which was previously issued to the following firm:

Peters Fuel Corp.; Oakland, Md.; FRX-0155

Furthermore, the state of mind of the FEA personnel responible for the administration of the Entitlements Program was rejected as constituting a permissible subject for inquiry in the context of this case, since no showing has been made by Getty that there was any bad faith or improper behavior on the part of those individuals. The request for an evidentiary hearing which Getty submitted was accordingly denied.

DISMISSALS

The following submissions were dismissed for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

Brinkerhoff Drilling Co., Denver, Colo.; FXE-4047

Teclaw Fuel and Heating, North White Plains, N.Y.; FEE-4028

The following submission was dismissed following a determination by the FEA that no basis exists for the type of reconsideration proceeding which the firm seeks to initiate:

Atlantic Richfield Co., Los Angeles, Calif.; FMR-0104

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

ERIC J. FYGI,
Acting General Counsel.

JUNE 21, 1977.

[FR Doc.77-18290 Filed 6-24-77;8:45 am]

Office of Exceptions and Appeals

APPEALS AND APPLICATIONS

Issuance of Decisions and Orders; Week of April 25 Through April 29, 1977

Notice is hereby given that during the week of April 25 through April 29, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Burke & Parsons, New York, N.Y.; FFA-1242; Freedom of Information

Burke & Parsons filed an Appeal from an Order issued to it by the Information Access Officer of the FEA which denied a Request for Information which Burke & Parsons had filed under the Freedom of Information Act (the Act). In its Request for Information, Burke & Parsons sought a copy of a Contract of Affreightment which had been entered into by ECOL, Ltd., Shell Marine (UK) Limited, and Shell International Marine Limited on September 18, 1975. In considering the Burke & Parsons Appeal, the FEA determined that the contract contains sensitive commercial and financial information and that it had been provided to the FEA by ECOL, Ltd., a "person" outside the government. The FEA further determined that the contract contains "confidential" information, as that term was interpreted in *Nat'l Parks & Conservation Ass'n* v. *Morton*, 498 F. 2d 765 (D.C. Cir. 1974), because disclosure of the terms of the contract would cause substantial harm to the competitive position of ECOL, Ltd. The FEA therefore determined that the FEA Information Access Officer properly concluded that the Contract of Affreightment contains proprietary information which is exempt from disclosure under the provisions of Section 552(b)(4) of the Act and that the release of that information would not be in the public interest. Accordingly, the Appeal was denied.

Exxon Co., U.S.A., Houston, Tex.; FEA-1016; Crude Oil

The Exxon Company, U.S.A. (Exxon) appealed from a Decision and Order which was issued to it by the FEA. *Exxon Co., U.S.A.*, 4 FEA Par. 83,122 (October 1, 1976). In the October 1 Decision, the FEA denied Exxon's request for an exception which, if granted, would have reduced the firm's crude oil sales obligations under the provisions of 10 CFR 211.65 (the Crude Oil Buy/Sell Program). Exxon's Appeal sought the rescission of the October 1 Decision and the approval of the exception relief as originally requested. In considering Exxon's Appeal, the FEA determined that the principles' established in *Continental Oil Co.*, 2 FEA Par. 80,503 (January 7, 1975) had been incorrectly applied in the October 1 Decision. In the Continental Oil case, the FEA held that exception relief was warranted on gross inequity grounds where the firm demonstrated that as a result of previous exception relief granted to two small and independent refiners, the crude oil sales obligations of all refiner-sellers under the Buy/Sell Program were reduced while Continental alone experienced the burdens which resulted from the exception relief granted to the two small refiners. The FEA determined that contrary to the findings expressed in the October 1 Decision, Exxon had made an almost identical showing, and noted that as a result of exception relief previously granted to the Louisiana Land and Exploration Co. (LL&E), Exxon was no longer able to purchase from LL&E 2,730,000 barrels per allocation quarter of high quality crude oil which it would otherwise be entitled to obtain pursuant to 10 CFR 211.63. At the same time, the exception relief to LL&E indirectly benefited all refiner-sellers by reducing their total sales obligation under the Buy/Sell Program by 2,730,000 barrels per allocation quarter. The FEA concluded that this situation in which all refiner-sellers were benefited by the FEA action taken in the LL&E case while Exxon alone experienced the burdens resulting from that action constituted a gross inequity under the precedent established in the Continental Oil case. The FEA therefore concluded that Exxon should be granted exception relief which would reduce its sales obligations under the Buy/Sell Program by an amount equivalent to the volume of crude oil which it is no longer able to purchase from LL&E.

Getty Oil Co.; Los Angeles, Calif.; FXA-1116 thru FXA-1141; Natural gas liquids

Getty Oil Co.; Los Angeles, Calif.; FXA- a Decision and Order which was issued to it by the FEA on December 3, 1976. *Getty Oil Co.*, 4 FEA Par. 83,216 (December 3, 1976). In the December 3 Order, the FEA permitted Getty to increase the prices which it charges for natural gas liquids and natural gas liquid products at 21 natural gas processing plants above the level specified in 10 CFR 212.165 to reflect certain unrecovered non-product cost increases. However, the December 3 Order also denied exception relief with respect to five Getty plants on the grounds that the nonproduct cost increases at those plants were not materially in excess of the passthroughs permitted under Section 212.165. The determinations reached in the December 3 Decision and Order as to the amount of non-product cost increases which Getty had incurred since May of 1973 at each of its natural gas processing plants were predicated on non-product cost data which Getty provided for the first and second calendar quarters of 1976. Getty's Appeals, if granted, would result in a recalculation of the non-product cost increases which Getty has experienced since May 1973 on the basis of cost and production data which the firm has submitted for the second quarter of 1976 alone in accordance with the criteria set forth in *Superior Oil Co.*, 2 FEA Par. 83,271 (August 29, 1975).

In considering the Appeals, the FEA determined that in Getty's case the application of the *Superior* criteria involves a comparison of non-product cost increases incurred between the second quarter of 1973 and the most recently completed fiscal period, *i.e.*, the second quarter of 1976. The FEA therefore concluded that the level of exception relief approved in the December 3 Order should be recalculated. Based on a reconsid-

eration of the appropriate cost and production data, the FEA concluded that insufficient benefits had been conferred upon 14 natural gas plants while excessive relief had been approved for six of Getty's plants. The FEA further determined that a proper application of the *Superior* criteria required the approval of exception relief at three natural gas processing plants where relief had previously been denied, as well as the rescission of relief for another plant which failed to experience unrecovered non-product cost increases which were materially in excess of the permissible passthrough specified in 10 CFR 212.165. Accordingly, Getty's Appeals were granted.

Lebsack Oil Production, Inc.; Hays, Kans.; FXA-1198; Crude oil

Lebsack Oil Production, Inc. (Lebsack) appealed from a Decision and Order in which the FEA denied the firm's request for a retroactive exception from the provisions of 10 CFR, Part 212, Subpart D. *Lebsack Oil Prod., Inc.*, 5 FEA Par. 83,009 (December 23, 1976). The present Appeal, if granted would permit Lebsack to retain $25,000 in revenues which it may have realized in 1974 as a result of charging unlawful price levels for the crude oil which the firm produced and sold from the Lebsack-Hartle Lease (the Hartle lease). In considering the Appeal, the FEA found that the information which Lebsack supplied failed to refute the previous determination that the firm would have been able to operate the Hartle lease in 1974 on a profitable basis even if the crude oil produced from that lease had been sold at the applicable ceiling price. The FEA also found that the firm would not incur an irreparable injury if it were required to refund the $25,000 since that sum represented only 21.39 percent of the income which the Hartle lease generated during the period January 1973 through October 1976. Based upon this finding, the FEA concluded that a refund of this amount would not preclude the firm from continuing its essential operations. Lebsack's Appeal was therefore denied.

New England Power Co.; Westborough, Mass.; FFA-1241; Freedom of Information

The New England Power Company (NEP) appealed from a partial denial by the FEA Information Access Officer of a Request for Information which the firm submitted under the Freedom of Information Act (the Act). In its initial Request, NEP sought copies of documents in the possession of the FEA which related to the possible issuance to the firm of Notices of Intent (NOI) to require powerplants to cease burning natural gas or petroleum products as their primary energy sources. These NOIs would be issued under the Energy Supply and Environmental Coordination Act of 1974 (ESECA). The FEA Information Access Officer released 43 documents to the firm but withheld from disclosure 40 documents or portions of those documents which were determined to be within the scope of the NEP request for information. The Information Access Officer denied access to one of the documents on the ground that it was exempt from disclosure as an intra-agency memorandum pursuant to 5 U.S.C. 552(b)(5). With respect to the remaining 39 documents, the Infirmation Access Officer concluded that they were exempt from disclosure under the provisions of both the intra-agency memoranda exemption and the exemption for investigatory records specified in 5 U.S.C. 552(b)(7)(A).

In considering NEP's Appeal, the FEA determined that none of the documents which were withheld related to an existing enforcement proceeding, and therefore the Information Access Officer erred in withholding these documents pursuant to the investigatory records exemption, Section 552(b)(7)(A) of the Act. The FEA held, however, that the intra-agency memoranda exemption in Section 552(b)(5) was applicable with minor exceptions to all of the material which was withheld from NEP by the Information Access Officer. The material withheld from NEP consists primarily of recommendations and analyses, prepared by FEA staff and outside consultants retained by FEA, regarding certain factors which FEA officials are required to take into account in implementing the coal conversion policies established by the Congress in ESECA. The FEA determined that the release of this material could severely hamper the free flow of information and ideas within the agency during its deliberative process would also severely and adversely affect the quality of the FEA's decision-making process concerning ESECA. However, the FEA also concluded that several of the deleted portions of the documents which were withheld from NEP contained small segments of easily segregable factual material which, in accordance with principles established in *EPA* v. *Mink*, 410 U.S. 73 (1973), should have been disclosed, and the Information Access Officer was directed to release this material to NEP.

Texaco, Inc., New York, N.Y.; FFA-1247; Freedom of Information

Texaco, Inc. appealed from a partial denial by the FEA Information Access Officer of two Requests for Information which the firm had submitted under the Freedom of Information Act (the Act). In its Request, Texaco sought the disclosure of documents relating to the FEA Price Regulations. The Information Access Officer released certain of the requested materials but withheld portions or all of 143 other documents pursuant to various exemptions of the Act. On appeal, the FEA determined that five documents which contained materials relating to the audit and investigative practices and procedures of the FEA were correctly withheld pursuant to both Section 552(a)(2)(C) and Section 552(B)(2) of the Act. The FEA determined that the release of the material could permit a refiner such as Texaco to discover the most effective method of preventing or obstructing an FEA investigation.

The FEA also determined that portions of 27 documents were exempt in their entirety or in part from mandatory public disclosure pursuant to Section 552(b)(4) of the Act because they contained confidential financial and commercial materials which, if released to the public, could be used to the detriment of certain refiners and would adversely affect their competitive position. In considering the 118 documents withheld as inter-agency and intra-agency memoranda pursuant to Section 552(b)(5) of the Act, the FEA noted that the documents could be divided into three separate categories. The first group of materials consisted of internal memoranda, outlines, preliminary drafts, positions papers and legal memoranda prepared by various FEA personnel for use within the agency. The FEA determined that this material consisted of pre-decisional documents which reflected the FEA's group thinking in formulating its effective law and policy. The FEA therefore concluded that these documents were properly withheld from public disclosure pursuant to Section 552(b)(5) of the Act. The documents in the second category which consisted of drafts of speeches, statements and letters prepared for the use of senior FEA officials were also found to be pre-decisional documents which reflected the deliberative process of the agency. The FEA determined that these documents were also properly withheld from public disclosure pursuant to Section 552(b)(5) of the Act. However, the FEA determined that certain documents in the third category, which consisted of final letters written by FEA officials to members of Congress or letters written by members of Congress to FEA officials were improperly withheld from public disclosure. Consequently, the FEA granted Texaco's Appeal with respect to that Congressional correspondence, and denied the Appeal in all other respects.

REQUESTS FOR EXCEPTION

Advanced Sales Corp.; St. Petersburg, Fla.; FEE-3991; Motor gasoline

Advanced Sales Corporation filed an Application for Exception from the provisions of 10 CFR 211.9 which, if granted, would result in the assignment of a new, lower-priced supplier of motor gasoline to one of the firm's retail outlets. The new supplier would to replace its present base period supplier, the Gulf Oil Company. In considering Advanced Sales' exception application, the FEA found that the prices which Gulf charged Advanced Sales for motor gasoline were substantially higher than the prices which Advanced Sales' primary competitors paid their suppliers. The FEA also found that Advanced Sales was unable to obtain surplus motor gasoline. In addition, the analysis of the firm's financial condition which the FEA performed indicated that the firm operated at a substantial loss during 1976 and had filed a petition under the protective provisions of Chapter XI of the Bankruptcy Act. Although Advanced Sales had not shown that its present financial difficulties resulted primarily from the application of the FEA Regulations, the FEA concluded that the continued application of the regulations was constituting a significant impediment to the firm's efforts to preserve its financial and competitive viability. In view of the fact that as an independent marketer Advanced Sales is entitled to special protection under the provisions of Section 4(b)(1)(D) of the Emergency Petroleum Allocation Act of 1973, as amended, the FEA determined that exception relief should be approved and a new, lower priced supplier of motor gasoline should be assigned to the firm. Since the cost disparity which Advanced Sales was experiencing resulted from factors which are not likely to change, the FEA determined that a new supplier should be assigned on a permanent basis.

H. S. Edwards; Abilene, Tex.; FEE-3507; Crude oil

H. S. Edwards (Edwards) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would permit Edwards to sell condensate produced from certain properties on the Providence Atoka Field and the Prudence Atoka Field at prices that are in excess of the upper tier ceiling price. Edwards also requested that the exception relief be extended on a retroactive basis to February 1, 1976. In considering the Edwards request with respect to the Providence Atoka Field, the FEA noted that Edwards had invested in an advanced central separator and gathering system which increased the production of both condensate and natural gas from the Field. However, the FEA also determined that contrary to Edwards' contentions, his investment was not uneconomic if the crude oil produced were subject to the generally applicable FEA regulations that required it to be sold at upper tier ceiling price levels. That portion of the firm's exception request was therefore denied. With respect to the Edwards request for exception relief for condensate which will be produced in the future from the Prudence

Atoka Field, Edwards argued that he would have no economic incentive to install the type of advanced system in operation at the Providence Atoka Field if he is limited to charging the upper tier ceiling price for the condensate produced. After considering this contention and evaluating the information presented by the firm, the FEA determined that Edwards had failed to substantiate the allegations presented. Accordingly, the exception request was denied.

Irving Oil Corp.; Bangor, Maine; FPI-0108; No. 2 fuel oil

Irving Oil Corporation filed an Application for Exception from the provisions of 10 CFR 213.35(c) which, if granted, would result in the issuance of an Order by the FEA authorizing the firm to import 600,000 barrels of No. 2 fuel oil into PAD District I on a fee-exempt basis during the current allocation period. In its Application, Irving stated that the exception relief is necessary to alleviate a supply emergency. Irving also stated that unless it received fee-exempt authority the firm would have no economic incentive to import the No. 2 fuel oil. In considering Irving's exception request, the FEA found that the firm had failed to establish the existence of a significant shortage of No. 2 fuel oil in either Maine or New England. The firm also failed to show that it had any present supply obligations for No. 2 fuel oil which it could not perform due to inadequacy of supplies. The FEA also found that under the provisions of Section 213.35(a)(9) Irving could offset duties paid on its imports of residual fuel oil during the six months prior to the current month against license fees paid during the current month. The record in the exception proceeding indicated that as a result of this offset Irving could currently import a significant quantity of No. 2 fuel oil on a fee-exempt basis. The FEA also observed that subsequent to the date on which Irving's exception request had been filed the agency had issued Special Rule No. 8 to 10 CFR, Part 211, Subpart C, which provided for an extension of a fixed per barrel entitlement benefit of $2.10 on imports of No. 2 heating oils into PAD Districts I through IV in the months of February and March 1977. The FEA therefore concluded that license fee requirement presented no economic disincentive with respect to Irving's plans to import No. 2 fuel oil. Based on these considerations, Irving's request was denied.

Memphis Aero Corp.; Memphis, Tenn.; FEE-3539; Aviation fuels

The Memphis Aero Corporation (Memphis) filed an Application for Exception from the provisions of 10 CFR 212.93. The exception request, if granted, would permit Memphis Aero to retain $755,312 in revenues which it previously obtained from charging prices in excess of the levels specified in the FEA Regulations. Memphis also requested that the FEA permit it to increase its current selling prices for aviation fuels by 6.46 cents per gallon. In considering the Memphis Aero request for prospective exception relief, the FEA found that Memphis Aero is presently incurring 3.09 cents per gallon of increased non-product costs which it is not permitted by FEA regulations to reflect in its selling prices. It was also determined that Memphis Aero's present financial condition would be seriously affected if it is required to continue to absorb those non-product cost increases. On the basis of previous FEA decisions involving similar factual circumstances, the FEA concluded that prospective exception relief was warranted to permit Memphis Aero to increase its selling prices for aviation fuels by 3.09 cents per gallon. With respect to the firm's request for retroactive exception relief, the FEA determined that since no Remedial Order specifying precise refund requirements has as yet been issued to the firm, it is not presently possible to evaluate the firm's claim that it will experience an irreparable injury in the absence of retroactive exception relief. The FEA therefore concluded that the request for retroactive exception relief should be dismissed without prejudice to a resubmission if a Remedial Order is issued to the firm.

Pyramid Corp., Inc.; Wichita, Kans.; FEE-3640; Crude oil

The Pyramid Corporation, Inc. (Pyramid) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would permit the firm to sell certain crude oil produced and sold from its Pascoe A and Pascoe B leases between September 1973 and December 1974 at prices which exceed the ceiling prices computed pursuant to 6 CFR 150.354 and 10 CFR 212.73. In its exception application, Pyramid stated that it had received a Notice of Probable Violation (NOPV) from FEA Region VII regarding the propriety of the manner in which it had determined the prices for the crude oil produced from the Pascoe A and Pascoe B leases. Pyramid contended that the factual findings of the NOPV as they relate to the pascoe A lease are erroneous. Pyramid also contended that one of the three wells on the Pascoe B lease is a dually completed well and the FEA should have considered it as a "multiple completion well" even though it does not fall within the literal definition of that term as specified in FEA Ruling 1975-12. Pyramid stated that if the FEA considered this well as a multiple completion well, the Pascoe B lease would have qualified as a stripper well lease for the period in question. Finally, Pyramid contended that it would experience an irreparable financial injury if it is required to refund the alleged overcharges specified in the NOPV. With respect to the Pascoe A lease, the FEA noted that an exception proceeding is not the appropriate forum for considering a firm's arguments with respect to the factual findings of an NOPV. The FEA found that Pyramid had in fact presented arguments concerning the factual findings of the NOPV during the compliance proceeding, and that these arguments are presently under consideration in that matter. Consequently, the FEA determined that since a Remedial Order had not yet been issued in the proceeding, Pyramid's claims of financial hardship are speculative and should not be considered in the context of the present Application. With respect to the Pascoe B lease, the FEA concluded that Pyramid had failed to show any reasons why one of the three wells on the property should be considered as a "multiple completion well" for the purposes of the stripper well exemption. Accordingly, the Pyramid exception request was denied.

R. V. Whitmer Thermo-Gas Co., Inc.; Wauseon, Ohio; FEE-3543; Propane

R. V. Whitmer Thermogas Company, Inc. (Whitmer) filed an Application for Exception from the provisions of 10 CFR 212.93. Whitmer's exception request, if granted, would permit the firm to increase the prices which it may currently charge for propane above the maximum levels permitted by the provisions of 10 CFR 212.93. Whitmer also requested that it be granted retroactive exception relief which would permit it to retain the revenues which it obtained during the period November 1, 1973 through the present from charging unlawful prices for propane. In its exceptions application, Whitmer contended that the markup which it applied in its sales of propane on May 15, 1973 was unrepresentative of its historic markup because the firm's operating costs per gallon exceeded its markup on that date. In considering Whitmer's Application, the FEA determined that the firm had failed to submit any evidence which substantiated that contention. The FEA further determined that even if prospective exception relief is denied, Whitmer will still realize a substantial pre-tax profit during its current fiscal year. Finally, it was determined that Whitmer had failed to make a showing that the firm satisfied any of the standards under which retroactive exception relief is approved. The Application for Exception was accordingly denied.

Texas Pacific Oil Co., Inc.; Dallas, Tex.; FEE-3392; Crude oil

Texas Pacific Oil Co., Inc. (Texas Pacific) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit it to sell at upper tier prices the crude oil which it produces from a property which is currently inoperative. In considering the Texas Pacific Application, the FEA found that a substantial investment is necessary in order to repair three wells on the Wilson 4300' property in Adams County, Mississippi. The FEA further determined that this investment would be uneconomic if the crude oil which would be produced from the property after the completion of the repairs were sold at lower tier prices. The facts presented also indicated that if the repairs were not undertaken substantial quantities of crude oil could not be recovered from the reservoir. On the basis of these findings, the FEA concluded that exception relief should be granted to the working interest owners which would provide a sufficient economic incentive to undertake that capital investment necessary to make the repairs. The FEA concluded that if Texas Pacific were permitted to sell 41,055 barrels of crude oil which it produces for the benefit of the working interest at upper tier prices over the remaining five year life of the property, these objectives would be achieved.

Tosco Corp.; Los Angeles, Calif.; FEE-3324; Crude oil

Tosco Corporation (Tosco) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of a portion of its obligation to purchase entitlements beginning with the month of January 1977. In addition, Tosco requested that the FEA grant the firm retroactive exception relief in the amount of $2,907,425 in order to refund revenues which Tosco extended to purchase entitlements during the month of May 1976 to account for crude oil inventories which Tosco acquired from the Phillips Petroleum Company and included in its adjusted crude oil receipts for March 1976. In considering Tosco's Application, the FEA determined that the criteria established in *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) governing the evaluation of exception requests filed by small refiners from the Entitlements Program are not applicable to Tosco since the firm has expanded its refinery capacity to a level in excess of 175,000 barrels per day. As a result of its current level of operations Tosco does not meet the statutory definition of a "small refiner." Nevertheless the facts presented in the matter indicated that the financial difficulties which Tosco is presently encountering result in part from certain contractual agreements which the firm entered into so that the Avon refinery which it acquired from the Phillips Petroleum Company (Phillips) would have an assured supply of crude oil. Tosco's financial problems also result in part from changes in the Entitlements Program which have occurred subsequent to the ac-

quisition of the Avon refinery and which Tosco could not have reasonably anticipated at the time it evaluated the economic feasibility of the acquisition. The FEA found that changes which occurred in the FEA regulatory program subsequent to the Avon refinery acquisition adversely affect Tosco's current position to the extent that the prior determinations in which the agency sanctioned the Avon acquisition are being frustrated. As a result of those changes, the national domestic crude oil supply ratio fell sharply, the quantity of upper tier crude oil which is deemed to be old oil rose, and Tosco's projected entitlement purchase obligations during its 1977 fiscal year increased dramatically. Consequently, Tosco's cost for the crude oil which it uses is substantially higher than the costs incurred by the independent refiners which compete with Tosco in PAD V. The financial and operating data that Tosco submitted also indicated that in the absence of exception relief, the firm will incur a negative cash flow for its entire 1977 fiscal year. On the basis of those factors, the FEA concluded that Tosco is incurring a serious financial hardship which threatens the economic viability of the firm. Exception relief was therefore approved which reduced Tosco's entitlement purchase obligations during the period May through October 1977 by an amount sufficient to offset the projected negative cash flow. With respect to Tosco's request for retroactive exception relief for the entitlements the firm was required to purchase in May 1976 to account for the crude oil inventory purchased from Phillips, the FEA determined that Tosco should not have properly been required to include that inventory in its adjusted crude oil receipts for March 1976 and thereby incur an additional entitlements purchase obligation. The FEA accordingly permitted Tosco to sell additional entitlements valued at $2,907,425 during the month of May 1977 in order to refund the revenues the firm was erroneously required to expend during May 1976.

Union Oil Co. of California; Los Angeles, Calif.; FEE–3899; Aviation Jet Fuel

Union Oil Company of California (Union) filed an Application for Exception from the provisions of 10 CFR 212.83(c)(2). The exception request, if granted, would have permitted Union to recover the increased overhead costs which it is incurring in supplying fuel to Western Airlines in Salt Lake City, Utah. Union requested that it be permitted to allocate those non-product costs exclusively to the prices which it charges for the aviation jet fuel product category rather than by allocating them proportionally among all of its refined product categories. In its Application, Union contended the requirement of Section 212.83 results in a situation in which it was able to recover only a portion of the increased costs which it incurs. In considering the Union exception request, the FEA determined that Union had not provided any factual material which demonstrated that it is incurring a greater amount of total increased non-product costs in its production and distribution of aviation jet fuel than it is permitted to allocate to its selling prices for that product category. The FEA therefore concluded that Union failed to demonstrate that the application to it of Section 212.83 is affecting the firm in such a disproportionate manner as to constitute a gross inequity. Union's exception application was accordingly denied.

Wilmar Oil, Inc.; Oklahoma City, Okla.; FEE–3924; Crude Oil

Wilmar Oil, Inc. (Wilmar) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell the crude oil produced from the Frost Heights No. 1 well at upper tier ceiling prices. In considering the exception request, the FEA determined that the costs of producing crude oil from the Frost well have increased significantly since April 1973, and as a result, Wilmar's cost of production exceeds the prices which the firm is permitted to charge for the crude oil. Consequently, the FEA determined that Wilmar does not have an economic incentive to continue to operate the Frost well. The FEA also found that there would be little possibility that the recoverable crude oil from the lease's reservoir would be produced in the absence of exception relief. On the basis of previous precedents involving similar factual situations the FEA concluded that the application of the lower tier ceiling price rule resulted in a gross inequity to Wilmar. Accordingly, on the basis of the operating data which the firm submitted for its most recently completed fiscal period, Wilmar was granted exception relief which permitted the firm to sell at upper tier ceiling prices 100 percent of the crude oil produced and sold for the benefit of the working interest from the Frost well. With respect to Wilmar's contention that it should receive further exception relief at the present time for the well workovers that it may be required to perform in the future, the FEA determined that since those expenditures are speculative, they did not form a proper basis for exception relief at the present time. However, the FEA stated that if Wilmar was able to demonstrate that it is required to make a capital investment which is economically infeasible because of the FEA regulations the firm could file a further Application for Exception.

REQUESTS FOR STAY

Byron Elevator, Inc.; Owosso, Mich.; FRS–1249; Petroleum Products

Byron Elevator, Inc. (Byron) requested that a Remedial Order which was issued to the firm on March 16, 1977 be stayed pending a final determination of the firm's Appeal from that Order. In the Remedial Order, the FEA determined that Byron had sold No. 1 and No. 2 heating oil at unlawful price levels. On the basis of these findings, the Remedial Order directed Byron to refund the amount of the overcharges plus interest by immediately reducing its selling prices for those prdoucts by one cent per gallon from the firm's actual selling prices on March 1, 1977 until all of the overcharges including interest have been refunded. In considering the stay request, the FEA applied the principles established in *General Crude Oil Co.*, 3 FEA Par. 85,040 (June 25, 1976), and concluded that a stay should be granted with regard to the refund provisions of the Remedial Order. The FEA also stayed the provisions of the Remedial Order which specify the maximum permissible prices which Byron may charge while making refunds, since they are intended to operate in connection with the refund provisions of the Remedial Order. The FEA further concluded that in accordance with the considerations discussed in *General Crude* the stay should be continued upon the establishment of an escow account into which Byron places a portion of the amount of the refunds specified in the Remedial Order.

Fuels, Inc.; Marietta, Ga.; FRS–1261; Propane

Fuels, Inc. requested that a Remedial Order which the FEA issued to the firm on March 30, 1977 be stayed pending a final determination of the firm's Appeal from that Order. In the Remedial Order, the FEA found that Fuels had sold propane during the period November 1973 through October 1975 at unlawful price levels. The Remedial Order therefore directed Fuels to refund $10,215.52 in overcharges plus interest. In considering the request for stay, the FEA held that the fact that Fuels sold its assets and is not presently conducting propane operations does not in and of itself establish that the firm lacks sufficient financial resources to make the refunds specified in the Remedial Order. The FEA also determined that the Fuels' submission did not make a prima facie showing that it is likely to succeed on the merits of its Appeal. The FEA further concluded that Fuels failed to satisfy any of the criteria for the approval of a stay as set forth in 10 CFR 205.125(b). The request for stay was consequently denied.

Gary Western Co.; Englewood, Colo.; FES–4023; Refined Products

Gary Western Company (Gary) filed an Application for Stay which, if granted, would relieve the firm of its obligation to comply with the requirements of 10 CFR 212.83(c)(2) pending the FEA's determination on an Application for Exception which Gary filed on April 15, 1977. The firm's Applications relate to a refinery located in Fruita, Colorado which Gary acquired in December 1973. Section 212.83(c)(2)(iii)(E), as amended on January 27, 1977, specifies that beginning not later than March 1, 1977 a refiner must use the "output adjusted method" for the computation of all increased non-product costs. In considering Gary's stay request the FEA noted that application of the output adjusted method could result in a decrease in per unit non-product costs where a refiner has become more efficient and increased its output since the base period. The FEA further noted that Gary's submission indicated that the firm had substantially improved the efficiency and output of the Fruita refinery since its acquisition in December 1973 and that as a result the application of the output adjusted method would produce such a distorted effect on the firm's operations as to cause it to incur operating losses. After considering Gary's submission, the FEA concluded that Gary had made a substantial prima facie showing that it was likely to succeed on the merits of its exception request. The FEA indicated in this respect that because Gary was operating at a loss during its base period, the use of the output adjusted method would thrust Gary back into a loss situation and would drastically affect the firm's operations. The FEA further determined that if Gary were to reduce its selling prices to reflect decreased per unit costs, the firm might well encounter an inordinate degree of difficulty in recovering these funds in the event it is successful on the merits of its exception application. On the basis of these considerations, the FEA granted a stay which permits Gary to calculate its non-product cost increases by using the method referred to in 10 CFR 212.83(c)(2)(iii)(E)(I), as that provision existed prior to March 1, 1977.

Cecil Leung d.b.a. Imperial Richfield Service Station; Seattle, Wash.; FRS–1268; Motor Gasoline

Cecil Leung d/b/a Imperial Richfield Service Station (Imperial) filed an Application for Stay of a Remedial Order which was issued to the firm by the FEA Region X on April 5, 1977. In the Remedial Order the FEA found that Imperial had violated the provisions of 10 CFR 210.62 by charging customers who purchased less than a full tank of motor gasoline an additional $.25 fee which it did not charge such customers on May 15, 1973. The Remedial Order required that upon approval by the FEA of Imperial's calculation of overcharges, the firm must reduce its prices in order to refund the overcharges to the marketplace. In considering Imperial's stay request, the FEA noted that Imperial had stated in its Appeal that it had already removed all signs from the premises of its

service station which made reference to the $.25 fee and had never in fact imposed the fee on any of its customers. The FEA determined that under these circumstances, no showing had been made that Imperial had been adversely affected by any of the requirements imposed by the Remedial Order. The stay request was therefore denied.

San Joaquin Refining Co.; Newport Beach, Calif.; FES-0093; Crude Oil

San Joaquin Refining Company requested that the FEA stay the requirement that it purchase 126,145 entitlements which it was directed to buy in the February 1977 Entitlement Notice which the FEA published on April 26, 1977. In considering the Application for Stay, the FEA found that the Office of Regulatory Programs had incorrectly calculated San Joaquin's February entitlement obligation. On the basis of the analysis conducted, the FEA concluded that San Joaquin had made a substantial prima facie showing that it would succeed on the merits of the Appeal which it had also filed from the February 1977 Entitlement Notice. The San Joaquin Application for Stay was therefore granted.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration has issued Decisions and Order granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Amount of price increase (dollars per gallon)
Great Western Drilling Co.	FEE-3910	Prentice	$0.01037
	FEE-3921	West Seminole.	.0235
Hunt Industries	FEE-3939	Zoller	.04488
Standard Oil Co. of California.	FEE-3972	Gavilota	.0733
	FEE-3973	Inglewood	.0145
	FEE-3974	KNDGP-2F.	.0058
	FEE-3975	McKittrick.	.0133
	FEE-3976	32-Z	.0068

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Oil Development Co. of Texas; Houston, Tex.; FEE-3966

Southland Oil Co.; Washington, D.C.; FXE-4040

The following submission was dismissed after the applicant repeatedly failed to respond to requests for additional information:

James Taylor Wilson; Leroy, Ala.; FEE-3540

The following submission was dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

Asamera Oil (U.S.) Inc.; Washington, D.C.; FEE-3735

SUMMARY DECISIONS

The following submissions were dismissed in Summary Decisions for failure to correct deficiencies in the applicant's filing as required by the FEA Procedural Regulations:

Burl C. Smith; Portage, Ohio; FRA-1217
Snedigar Flying Service; Rapid City, S.D.; FRS-1227; FRA-1227

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporters system.

ERIC J. FYGI,
Acting General Counsel.

JUNE 21, 1977.

[FR Doc.77-18291 Filed 6-24-77;8:45 am]

APPEALS AND APPLICATIONS

Issuance of Decisions and Orders; Week of May 9 Through May 13, 1977

Notice is hereby given that during the week of May 9 through May 13, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Blees Oil Co.; Bowman, N. Dak.; FEA-1099; Propane

Blees Oil Company appealed from a Decision and Order which was issued to it on November 8, 1976 by FEA Region VIII. In the November 8 Order, the Regional Office denied a request for exception which, if granted, would have permitted Blees to retain $8,225.06 in revenues which it received by charging unlawful prices for propane during the period November 1, 1973 through September 30, 1974. In considering the Appeal, the FEA found that under the terms of a Remedial Order which was issued to the firm on December 6, 1976, Blees is permitted to refund the $8,225.06 in overcharges in five equal annual installments. In view of Blees' current level of profitability, the FEA determined that the firm would not experience a severe and irreparable injury if it were to refund these overcharges over a five year period. The FEA further found that the fact that Blees is operated as a sole proprietorship does not affect this conclusion. The FEA also observed that Blees' contention that it had not changed its pricing practices during the past 16 years does not constitute a valid defense to the pricing violations since Blees, like all firms in the petroleum industry, has an affirmative obligation to be cognizant of the correct application of FEA regulations to its business operations. The FEA therefore concluded that Blees had failed to demonstrate that the November 8 Decision was in any way erroneous and the Appeal was denied.

Cities Service Co.; Tulsa, Okla.; FEA-0968; Refined Products

Cities Service Company appealed from a Remedial Order which had been issued to it by FEA Region VI. In the Remedial Order, the FEA found that, during the period November 1973 through August 1975, Cities had improperly carried forward unrecovered product cost increases which it had incurred during June and July 1973 and had used these cost increases to justify increases in its base prices in violation of Cost of Living Council (CLC) and FEA price regulations. Cities was therefore directed in the Remedial Order to refund to purchasers of its covered products the revenues which it improperly obtained. In its Appeal, Cities contended that the CLC refiner price regulations which were in effect during the period August through November 1973 permitted the recovery of product cost increases which had been incurred during June and July 1973. In rejecting this contention, the FEA concluded that under the applicable CLC regulations a refiner was permitted to carry forward for recovery through increases in its base prices only those product cost increases which were incurred after August 1, 1973. Cities also contended that, even if unrecovered product cost increases incurred during June and July 1973 could not be carried forward under the CLC regulations, it had relied to its detriment on contrary oral advice given by CLC officials. The FEA initially stated the general rule that oral advice given by federal employees will generally not be accepted in justification of conduct which is unlawful under federal regulations in the absence of a showing of strong countervailing factors. In applying this rule to the present case the FEA found that Cities had failed to establish in a clear and convincing manner the nature of the advice which it had allegedly received. Furthermore, since CLC regulations clearly provided that opinions of the agency did not have binding effect unless given formally and in writing, the FEA determined that Cities could not have justifiably relied on that type of advice.

In the Appeal which it filed Cities also contended that the Remedial Order was arbitrary and capricious because it directed the firm to make refunds to its purchasers on the basis of their volumetric share of purchases during the months in which the overcharges occurred. With respect to this claim the FEA held that, in view of the large numbers of transactions involved and Cities' own claims regarding the difficulty of identifying individual transactions, the regional officials had not abused their discretion in designing appropriate remedial action. The FEA further held that under these circumstances, the finding by Region VI as to the precise amount of the total overcharge was sufficient to support the action taken. Cities' contention that it had been subject to unfair discrimination because of the type of remedial action required was also rejected because the firm presented no evidence that any other refiner in similar circumstances had been treated in a different manner. Finally, the FEA found that contrary to an argument advanced by Cities, the FEA had sufficient authority to require refunds and assess interest on overcharges. The Cities Appeal was therefore denied.

Estate of Edna Hill Meeker; Fort Worth, Tex.; FXA-1174; Crude Oil

The Estate of Edna Hill Meeker appealed from a Decision and Order which the FEA had issued to the Pennzoil Producing Company on December 23, 1976. Pennzoil Producing Co., 5 FEA Par. 83,012 (December 23, 1976). In that determination the FEA approved exception relief which permits 30.87 percent of the crude oil produced for the benefit of the working interest owners of the Perry Sand Waterflood Unit to be sold at upper tier ceiling prices. Meeker is a royalty interest owner of the crude oil producing property. In considering the Meeker Estate's Appeal the FEA determined that the repre-

sentative of the Estate did not provide sufficient information upon which to base a decision. Although this necessary additional information had repeatedly been requested by the FEA, the Meeker Estate failed to respond to these requests and did not show good cause why it was unable to do so. The FEA therefore dismissed the Appeal with prejudice in accordance with 10 CFR 205.106 (a) (2).

Golden Flame Fuel Co.; Uniontown, Pa.; FRA-1226; No. 2 Heating Oil

Golden Flame Fuel Company appealed from a Remedial Order which FEA Region III had issued to it on February 23, 1977. In the Remedial Order, Region III found that Golden Flame had charged prices for No. 2 heating oil which were in excess of the maximum levels permitted under the provisions of 10 CFR 212.93 and directed the firm to refund the amount of the overcharges plus interest to its customers. In considering the Appeal, the FEA found that Golden Flame's submission consisted entirely of arguments and evidence which had been fully considered in previous proceedings. Since Golden Flame had failed to submit any new information or any legal arguments alleging that the Remedial Order was erroneous in fact or law or arbitrary or capricious, its Appeal was denied.

Johns-Manville Corp.; Denver, Colo.; FFA-1283; Freedom of Information

Johns-Manville Corporation (JM) appealed from a determination issued to it by the Information Access Officer of the FEA which denied a Request for Information which JM had filed under the Freedom of Information Act, 5 U.S.C. 552. In the Request, JM sought a document entitled "Summary Evaluation of the Feasibility of Total Conversion of Coal Firing for the Waukegan BM Plant of Johns-Manville Corporation." In considering the Appeal, the FEA observed that in prior decisions, it was held that an appeal must identify with particularity the alleged errors in fact or in law which occurred in a determination being appealed, and that specific arguments must be advanced by the appellant in support of those contentions. Since JM's Appeal failed to satisfy these requirements, it was dismissed with leave to file an amended Appeal which corrects these deficiencies within fifteen days.

Kershaw Properties; Muskogee, Okla.; FXA-1150; Crude Oil

Kershaw Properties filed an Appeal from a Decision and Order which the FEA issued to the Tenneco Oil Company on December 8, 1976. Tenneco Oil Company, 4 FEA Par. 83,229 (December 8, 1976). In the December 8 Order the FEA granted exception relief from the provisions of 10 CFR, Part 212, Subpart D to Tenneco, the working interest owner of the Kopp Unit. The exception, which was granted in order to provide the working interest with an economic incentive to drill a replacement well on the property, permits Tenneco to sell at upper tier ceiling prices a portion of the crude oil produced from the Unit for the benefit of the working interest owner. In its Appeal, Kershaw contended that it and the other royalty interest owners of the Kopp Unit are entitled pursuant to their lease agreements with Tenneco to share in the additional revenues which are generated as a result of the exception relief. In considering the Appeal, the FEA held that even if the exception determination is inconsistent with the terms of the applicable lease agreements, the FEA nevertheless has the authority to approve the exception in the manner specified if the action were necessary to effectuate the objectives of the Emergency Petroleum Allocation Act of 1973 and subsequent legislation. The FEA determined in accordance with prior Decisions and Orders issued with respect to similar matters that since the royalty interest owners are not responsible for payment of any of the increased costs or investment expenses associated with the production of crude oil from the Unit, neither Kershaw nor the other royalty interest owners was experiencing an inequity or hardship as a result of the FEA price regulations. Consequently, allowing royalty owners to share in the revenues generated from the sale of crude oil at the higher price levels authorized in the exception decision would have no justifiable basis and could exceed the FEA's authority contained in the Federal Energy Administration Act of 1974. Finally, the FEA found that Kershaw's contention that the December 8 Order constitutes a taking of private property is an issue which has previously been considered by the federal courts and found to be without merit. See, *Griffin v. U.S.*, ---- F.2d ---- (T.E.C.A. 1976), Fed Energy Guidelines Par. 26,050 (June 8, 1976). Since Kershaw had not demonstrated that the previous Decision was erroneous in fact or law or was arbitrary or capricious, the Appeal was denied.

REQUEST FOR EXCEPTION

Boswell Oil Co. of Louisiana; St. John the Baptist Parish, La.; FEE-3548; Crude oil

Boswell Oil Company of Louisiana filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program), which, if granted, would permit the firm to sell entitlements during the month immediately preceding and during the two months immediately following the commencement of operations of a new refinery which the firm is constructing in St. John the Baptist Parish, Louisiana. In considering the Boswell request, the FEA observed that when Boswell begins its refinery operations it will be classified as a small refiner under FEA regulations, and will receive very substantial benefits from the Entitlements Program, including the "small refiner bias." In fact, the FEA found that the Boswell refinery would be unable to operate on a profitable basis in the absence of the benefits the firm will receive under the Entitlements Program. The FEA further noted that although Boswell would be ineligible to receive entitlements during its first two months of operation, any difficulties which it would experience as a result of that situation were primarily a result of the manner in which the equity owner of the refinery chose to finance the project and were not caused by FEA regulatory requirements. In this regard, the FEA observed that the provisions of Section 211.67 have been in effect in substantially the same form during the entire period of time in which the Boswell refinery was being planned and constructed and that Boswell had failed to explain why it had not taken into account the provisions of that regulatory program in its planning. The FEA therefore concluded that no showing had been made that the application to Boswell of any aspect of the FEA regulatory program results in a serious hardship or a gross inequity and the exception request was denied.

City of Long Beach, Calif., Long Beach, Calif., FEE-3549; Crude oil

The City of Long Beach, California filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which, if granted, would permit Long Beach and the two other working interest owners of Fault Block Unit 3 (Unit 3) of the Wilmington Field in Long Beach, to sell a portion of the crude oil which they produce from that field at upper tier ceiling prices. In considering the exception application, the FEA found that the production costs which are being experienced by Unit 3 exceeded the price which the working interests are permitted to charge for the crude oil which they sell and, consequently, the working interests do not have an economic incentive to continue the operation of the Unit. The FEA further found that if the working interests were to abandon the operation on Unit 3, a substantial quantity of crude oil would not be recovered. On the basis of the criteria which it had applied in previous similar cases, the FEA concluded that exception relief should be granted and that Long Beach should be permitted to sell at upper tier ceiling prices 32.8155 percent of the crude oil produced from Unit 3 for the benefit of the working interest owners.

Donald J. Johnson; Salt Lake City, Utah; FEE-3996; Crude oil

Donald J. Johnson filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell the crude oil produced from the Roosevelt Unit in Unitah County, Utah at prices which are in excess of the lower tier ceiling price levels specified in 10 CFR 212.73. In his Application, Johnson contended that, under the current regulatory program his firm would not have a sufficient economic incentive to undertake the capital investment projects which were necessary to continue its crude oil operations at the Unit. In considering the Application, the FEA observed that a substantial amount of crude oil could be recovered from the Unit over a two year period if the proposed investments were in fact made. The FEA also determined that under crude oil price regulations Johnson was required to charge prices that did not exceed the lower tier ceiling prices for the crude oil recovered from the Unit, and that under those circumstances the revenues which would be generated as a result of the proposed investments would provide a negative rate of return on the capital required to undertake the projects. Johnson therefore had no economic incentive to make the investments in the Unit. On the basis of previous precedents, the FEA concluded that exception relief should be granted to provide Johnson with a sufficient economic incentive to make the necessary investments while at the same time avoiding the possibility that windfall profits would be obtained. Accordingly, Johnson was permitted to sell a specified amount of crude oil produced from the Unit for the benefit of the working interest owners at upper tier ceiling prices.

Gardenhire Oil Co.; Cisco, Tex.; FEE-3293; Motor gasoline

Gardenhire Oil Company requested an exception from the provisions of 10 CFR 211.25 which, if granted, would result in the issuance of an Order directing the Sun Oil Company (Sun), Gardenhire's base period supplier, to (i) cease supplying that firm with motor gasoline through a third party under the supplier substitution provisions of Section 211.25 and (ii) supply motor gasoline directly to Gardenhire. After reviewing the provisions of Section 211.25 and the events which led to Sun's use of a substitute supplier, the FEA found that Gardenhire had failed to make the type of showing which had justified the approval of exception relief under similar circumstances in *Whitco, Inc.*, 2 FEA Par. 83,170 (June 9, 1975). In particular, the FEA found that Gardenshire failed to present any data showing that the price it paid the substitute supplier for motor gasoline was in excess of the price it would otherwise be required to pay Sun or that the price which it paid

that supplier placed it at a competitive disadvantage in relation to its competitors. The FEA therefore concluded that no showing had been made that the insertion of a substitute supplier into the Gardenhire distribution chain results in a serious financial hardship or gross inequity to the firm. Accordingly, its request for exception was denied.

Mountain Fuel Gas Supply Co.; Salt Lake City, Utah; FEE-3909; Natural gas liquids

Mountain Fuel Supply Company (Mountain Fuel) filed an Application for Exception from the provisions of 10 CFR 211.164 which, if granted, would permit the firm to charge prices in excess of the maixmum levels permitted by FEA Regulations for a portion of the natural gas liquids and natural gas liquid products (NGL's) produced at the Brady plant in Sweetwater County, Wyoming. In considering the application, the FEA found that Mountain Fuel began construction of the Brady plant in May 1974 and that the firm is therefore not able to use an imputed first sale price for NGL's as specified in the FEA Regulations. An imputed price may be used only by new gas processing plants constructed after January 1, 1975 or existing plants which made certain capital expenditures after January 1, 1975. See Sections 212-1.64 (c), (d) and (e). The FEA found that the regulatory intent of those Sections was to provide an economic incentive for the construction of new gas processing plants and the expansion of existnig ones. Since the construction of the Brady plant began well before the promulgation of the regulatory provisions of Subpart K, and occured in the absence of the economic incentives provided by those provisions, the FEA determined that those policy objectives would not be furthered by permitting Mountain Fuel to utilize a higher imputed first sale price. The FEA also found that Mountain Fuel presented no financial data indicating that it is affected in a serious adverse manner by the application of the FEA Regulations to its Brady Plant. Mountain Fuel's exception request was therefore denied.

United Refining Co.; Warren, Pa; FEE-3743; Crude oil

United Refining Company filed an Application for Exception from the provisions of 10 CFR 211.67 which, if granted, would permit the firm to sell additional entitlements in each month in order to offset the increased crude oil costs which it is experiencing. United contended that its inability to secure sufficient supplies of Canadian crude oil has resulted in a higher cost of crude oil which has not been adequately offset by the Entitlements Program and that this situation has adversely affected its financial and operating position. In considering the United application, the FEA observed that the financial data submittted by the firm did not support United's claim that it is experiencing a serious financial hardship as a result of the FEA Regulatory Program. The FEA also noted that a showing by United that the Entitlements Program does not fully equalize its cost of crude oil as compared to that of other refiners does not in and of itself demonstrate that a gross inequity exists. In this connection, the FEA found that United had failed to make a showing that it is more adversely affected by the provisions of the Entitlements Program than other firms. Finally, the FEA rejected United's contention that it was eligible for exception relief under the criteria established in *Delta Refining Co.*, 2 FEA 83,275 (September 11, 1975). In this regard, the FEA noted that United is a net seller of entitlements which has received and continues to receive substantial benefits from the Entitlements Program. Accordingly, the United exception request was denied.

REQUESTS FOR STAY

Atlantic Richfield Co.; Los Angeles, Calif.; FRS-1272; Motor gasoline.

The Atlantic Richfield Company (Arco) filed an Application for Stay of a Remedial Order which FEA Region IX issued to the firm on April 12, 1977. In the Remedial Order, the Regional Office affirmed the determination which it reached in a previous Remedial Order issued to the firm on March 15, 1976 that Arco had sold motor gasoline to the Digas Company during January and February of 1975 at price levels which exceeded Arco's maximum permissible selling prices. The March 15 Remedial Order had been remanded to the Regional Office in a Decision and Order which was issued to Arco on October 8, 1976. *Atlantic Richfield Company*, 4 FEA Par. 80,550 (October 8, 1976). In considering Arco's request that the refund requirement specified in the April 12, 1977 Remedial Order be stayed, the FEA found that Arco had raised significant substantive issues concerning the analysis performed by the Regional Office in arriving at its determination that Arco had overcharged Digas. Arco also made a strong showing that it could incur an irreparable injury if it were required to make immediate refunds to Digas. In this regard, the FEA observed that since Digas would in all likelihood pass on the refunds to its own customers, Arco could encounter inordinate difficulty in attempting to recover those funds in the event its Appeal were granted. The FEA therefore held that Arco satisfied the criteria set forth in *General Crude Oil Company*, 3 FEA Par. 85,040 (June 25, 1976), for the approval of a stay of the refund requirements of a Remedial Order. The FEA further concluded that in accordance with the considerations discussed in the *General Crude* Decision, the stay should be subject to the continuation of an escrow arrangement which had been established pursuant to a prior Decision and Order issued to Arco on April 28, 1976. The FEA therefore granted Arco's request and directed that the provisions of the April 28, 1976 Stay Order remain in effect pending a final determination of Arco's Appeal from the April 12, 1977 Remedial Order.

Louis Kahan; Washington, D.C.; FRS-1281; Crude oil

Louis Kahan (Kahan) requested that a Remedial Order which the FEA issued to the firm on April 11, 1977 be stayed pending a final determination of its Appeal from that Order. In the Remedial Order, the FEA found that during 1975 Kahan had improperly classified the Penner A lease as a stripper well property and consequently had sold the crude oil produced from the lease at prices which exceeded maximum lawful levels. On the basis of this finding, Kahan was ordered to refund $68,269 in overcharges plus interest to the Continental Oil Company, the purchaser of the crude oil. In considering the request for stay, the FEA concluded that Kahan had demonstrated that he could experience an irreparable injury in the event he is required to make the refunds immediately. Continental would in all likelihood pass through the refunds to its own customers and Kahan could therefore experience considerable difficulty in recovering the funds in the event that he prevails on the merits of his Appeal. Furthermore, the FEA found that Kahan had raised significant substantive issues which must be considered in making a determination on the merits of his Appeal. Consequently, the FEA determined that a stay of the Remedial Order was warranted on the condition that Kahan place the full amount of the disputed funds into an escrow pending a final determination of his Appeal.

Texas City Refining Inc.; Washington, D.C.; FRS-1273; Crude oil

Texas City Refining, Inc. (TCR) filed an Application for Stay of a Remedial Order which was issued to the firm on April 11, 1977 by the Deputy Regional Administrator of FEA Region VI. In the Remedial Order, Region VI found that during the period September 1974 through April 1975, TCR violated the provisions of 10 CFR 212.83(c) by overstating the cost of domestic crude oil which it received in certain foreign-domestic crude oil sales and exchanges. On the basis of this finding, TCR was directed to recompute its crude oil costs and refile amended Forms FEO-96 within 90 days. The firm requested a stay of the requirement that it file these revised forms pending a final determination on its Appeal from the Remedial Order. In considering the Application for Stay, the FEA rejected TCR's assertion that compliance with the reporting requirements of the Remedial Order would be unduly burdensome. In this regard, the FEA noted that TCR possessed substantial financial resources which it could utilize in order to complete the task within the period of time specified in the Remedial Order without incurring any disruption of its regular business activities. The FEA also held that TCR failed to present any compelling reasons which would demonstrate that the public interest would be advanced by approval of the requested stay. Finally, it was determined that TCR has not at this point in the proceeding made a prima facie showing that it will prevail on the merits of its Appeal from the Remedial Order. The Application for Stay was accordingly denied.

REQUESTS FOR MODIFICATION OR RESCISSION

Edgington, Oil Co.; Long Beach, Calif.; FMR-0097; Crude oil

Edgington Oil Company filed an Application for Modification of a Decision and Order which the FEA issued to the firm on December 15, 1976. *Edgington Oil Co. (New Edgington)*, 4 FEA Par. 83,243 (December 15, 1976). Under the terms of that Decision, Edginton was relieved of $1,240,238 of its monthly entitlement purchase obligations during the period December 1976 through May 1977. In its present submission, Edginton requested that the FEA modify the December 15 Order so as to relieve the firm of an additional portion of its entitlement purchase obligation during the months of April and May 1977. In considering the Application, the FEA found that the level of exception relief previously approved should be reconsidered since there was a gross disparity between the assumptions used in the December 15 Order and the financial operating results which Edgington would actually experience during its fiscal year ending June 30, 1977. However, due to the short time period between the completion of Edgintgon's filing of the present Application and the publication of the April Entitlement Notice, the FEA was only able to consider Edgington's request on a prospective basis for May 1977. The FEA determined that Edgington had submitted no material to support a claim of severe and irreparable injury which would warrant retroactive exception relief for April 1977. Nevertheless, with respect to the month of May, the FEA found that Edgington had satisfied the criteria set forth in prior cases for modification of a decision granting exception relief from entitlement purchase obligations. In particular, the FEA found that (1) substantial changes had occurred in the assumptions which were used by Edgington regarding the amount of demed old oil contained in its

crude oil mix; (ii) as a result, a gross disparity existed between the financial projections used in the earlier proceeding and the projections which now appear to be reasonable; and (iii) use of the revised data has a very substantial effect on the relief granted. Accordingly, Edgington was relieved of $2,226,866 of its entitlement purchase obligation pursuant to the Entitlement Notice which the FEA publishes in May 1977.

Marathon Oil Co.; Findley, Ohio; FMR-0096; Motor Gasoline

Marathon Oil Company filed an Application for Modification of a Decision and Order which the FEA issued to it on January 3, 1977. Marathon Oil Co., 5 FEA Par. 80,514 (January 3, 1977). In the January 3 determination, the FEA denied an Appeal which Marathon filed from an earlier Decision and Order issued to Beukema's Oil Company. Beukema's Oil Co., 4 FEA Par. 83,032 (August 6, 1976). In the August 6, 1976 Decision, the FEA granted Beukema an exception from the provisions of 10 CFR 211.9 and directed that the firm be assigned a new supplier for motor gasoline to replace its base period supplier. In implementing that directive, the FEA Region V designated Marathon as Beukema's new base period supplier for motor gasoline. Marathon's request, if granted, would have resulted in the rescission of the August 6, 1976 Decision and Order, and Marathon would have been relieved of any obligation to supply Beukema with motor gasoline. In its submission, Marathon contended that two FEA decisions, Francis Uthe, 4 FEA Par. 83,231 (December 6, 1976) and James Andros, d/b/a Jim's Mobile, 4 FEA Par. 83,178 (November 5, 1976), which were issued during the pendency of Marathon's prior Appeal proceeding, require that the FEA reconsider its January 3 decision. Marathon contended that the fact that the two decisions were issued but not published until after its Appeal had been denied constituted significantly changed circumstances. In rejecting this contention, the FEA noted that the Office of Exceptions and Appeals maintains a Public Docket Room where its Decisions are immediately made available to the public. The FEA found that while the firm may not have used those facilities in this instance, Marathon was aware of the services offered and had in fact, used the Public Docket Room on previous occasions. The FEA concluded that under these circumstances the Marathon submission failed to demonstrate the existence of "significantly changed circumstances" for the purposes of 10 CFR 205.135. The FEA also determined that contrary to Marathon's contention, the principles of the Uthe and Andros Decisions did not affect the January 3 Decision. The FEA accordingly concluded that no basis existed for Marathon's request that the January 3 Order be modified and its request was denied.

Monsanto Co.; St. Louis, Mo.; FEA-1204; Reporting requirements

Monsanto Company filed an Application for Modification of an FEA Notice which had been published in the FEDERAL REGISTER on December 16, 1976. That Notice identified Monsanto as a corporation which had consumed at least 1 trillion Btu's of energy during 1975, and which was among the 50 most energy-consumptive firms in SIC Code 22. As a result of that Notice Monsanto is required to participate in a reporting program under the provisions of Section 375 of Part D of the Energy Policy and Conservation Act (EPCA), Pub. L. 94-163 (December 22, 1975). In considering Monsanto's application, the FEA found that the firm's energy consumption in 1976 was less than 1 trillion Btu's and that its energy consumption will be further reduced as a result of the closing of one of its plants which manufactures products in SIC Code 22. However, the FEA observed that the successful administration of a reporting program which is designed to monitor industrial energy-efficency improvement targets requires that firms participate in the program on a long-term basis. The FEA therefore found that the fact that a firm's energy-consumption fell below 1 trillion Btu's per year, so that it no longer met the criteria for classification as a reporting firm, did not constitute the type of "significantly changed circumstances" which warranted modification of the list of reporting corporations. The FEA concluded that one of the principal elements which it will consider in determining whether "significantly changed circumstances" have occurred in such cases is the role which the firm plays as a producer within the relevant SIC Code. Since Monsanto had failed to demonstrate that it had significantly changed its status as a major producer within SIC Code 22, the firm's request for modification was denied.

SUPPLEMENTAL ORDER

Sunland Refining Corp.; Los Angeles, Calif.; FEX-0154; Crude oil

On April 18, 1977, the FEA issued a Supplemental Decision and Order to the Sunland Refining Corporation, Sunland Ref. Corp., 5 FEA Par. ____ (April 18, 1977), in which the FEA rescinded the exception relief which had previously been granted to the firm from the provisions of the Entitlements Program for the period January through March 1977. In the present Supplemental Order, the FEA determined that prior to the issuance of the April 18 Order Sunland was erroneously permitted to sell entitlements valued at $798,178 during the month of March 1977. Accordingly, the FEA determined that in addition to any entitlements purchase or sales obligation which will accrue to Sunland in the Entitlements Notice which the FEA will issue in the month of May 1977, Sunland shall be required to purchase entitlement valued at $798,178 in order to return the entitlements revenues which it erroneously received during the month of March 1977.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Amount of price increase (per gallon)
Coastal States Gas Corp.	FEE-3078	Albany	$0.0295
	FEE-3079	Bay City	.0082
	FEE-3080	Corpus Christi	.0137
	FEE-3081	Freer	.0083
	FEE-3082	Hidalgo	.0020
	FEE-3083	Mission	.0082
	FEE-3084	San Antonio	.0154
	FEE-4045	Almeda	.01206
Getty Oil Co.	FEE-3945	Bastian Bay	.0112
	FEE-3946	Calumet	.0336
	FEE-3947	Cocodrie	(1)
	FEE-3948	Hollywood	(1)
	FEE-3949	Houma	.0072
	FEE-3950	Katy	(1)
	FEE-3951	Levelland	.0063
	FEE-3952	Old Ocean	(1)

[1] Denied.

TEMPORARY STAY

The following Application for Temporary Stay was denied on the grounds that the applicant had failed to make a compelling showing that temporary stay relief was necesary to prevent an irreparable injury:

Petroleum Management, Inc.; Wichita, Kans.; FRT-0042

DISMISSALS

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Merchants Delivery Co.; Kansas City, Mo.; FEE-4076

The following Request for Stay was dismissed after a determination by the FEA that the Request was moot since the firm's underlying Application for Exception had been denied.

Pyramid Corp.; Wichita, Kans.; FES-3640

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

ERIC J. FYGI,
Acting General Counsel.

JUNE 21, 1977.

[FR Doc.77-18292 Filed 6-24-77;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[H.C. No. 226]

BUCKEYE FEDERAL SAVINGS AND LOAN ASSOCIATION AND TRANSOHIO FINANCIAL CORPORATION

Receipt of Application for Permission To Acquire Control

JUNE 22, 1977.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from TRANSOHIO Financial Corporation, Cleveland, Ohio ("TRANSOHIO"), for approval of acquisition of control of Buckeye Federal Savings and Loan Association, Columbus, Ohio ("Buckeye"), under the provisions of Section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and Section 584.4 of the Regulations for Savings and Loan Holding Companies. TRANSOHIO intends to effect the acquisition by a merger of its wholly owned subsidiary, New Buckeye Corporation ("New Buckeye"), into Buckeye through an exchange of 1.25 shares of the common stock of TRANSOHIO held by New Buckeye for each of the 1,224,400 shares of common stock of Buckeye issued and outstanding. All 500 issued and outstanding shares of common stock of New Buckeye will then be converted into 1,224,400 new shares

and distributed to TRANSOHIO. New Buckeye will cease to exist and Buckeye will become a wholly owned subsidiary of TRANSOHIO. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, by July 27, 1977.

RONALD A. SNIDER,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc.77-18256 Filed 6-24-77;8:45 am]

FEDERAL MARITIME COMMISSION

CANTON RAILROAD CO. AND COTTMAN CO.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before July 18, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Claude K. Williams, Jr., General Manager, Canton Company, World Trade Center, P.O. Box 447, Baltimore, Maryland 21203.

Agreement No. T-3479 between Canton Railroad Company (Canton) and Cottman Company (Cottman) provides for the three-year lease to Cottman of certain wharf facilities including all improvements and buildings located thereon together with the right to use certain berthing areas, as further detailed in the agreement. Cottman will use the premises for the purpose of operating its own terminal with shipping services such as, but not limited to, the receiving, delivery, handling and storage of cargo, the docking of vessels and the loading and discharging of cargo to and from such vessels. As compensation, Canton will receive rental from Cottman in the amount of $200,000 per year payable in equal monthly installments.

Although this agreement may not be subject to section 15 of the Shipping Act, 1916, interested parties are given an opportunity to comment thereon if they so desire.

By Order of the Federal Maritime Commission.

Dated: June 22, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-18254 Filed 6-24-77;8:45 am]

[Independent Ocean Freight Forwarder License No. 1126]

PUERTO RICAN CONSOLIDATORS

Order of Revocation

By letter dated May 17, 1977, Mr. Ralph S. Newcomer, President, Puerto Rican Consolidators, 4819 Cecelia Street, Cudahy, CA 90210 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1126 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before June 15, 1977.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Puerto Rican Consolidators has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) § 5.01(c) dated June 30, 1975;

IT IS ORDERED, That Independent Ocean Freight Forwarder License No. 1126 issued to Puerto Rican Consolidators be returned to the Commission for cancellation.

IT IS FURTHER ORDERED, That Independent Ocean Freight Forwarder License No. 1126 be and is hereby revoked effective June 15, 1977.

IT IS FURTHER ORDERED, That a copy of this Order be published in the FEDERAL REGISTER and served upon Puerto Rican Consolidators.

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc.77-18255 Filed 6-24-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CS73-392, *et al.*]

ZOLLER & DANNEBERT, INC. ET AL.

Applications for "Small Producer" Certificates [1]

JUNE 15, 1977.

Take notice that each of the Applicants listed herein has filed an applicaion pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications 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 July 11, 1977, file with the Federal Power 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 particpavte 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 Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates 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 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.	Date filed	Applicant
C873-392	May 31, 1977	Zoller & Dannebert, Inc.,[1] Suite 2100, First of Denver Plaza, 633 17th Street, Denver, Colo. 80202.
C875-636	.....do.....	Mark Production Co.,[2] 230 Citizens Bank Bldg., Tyler, Tex. 75702.
C876-1116	June 6, 1977	Brown Saddle Corp.,[3] 4605 Post Oak Pl., Suite 108, Houston, Tex. 77027.
C877-575	May 27, 1977	John N. Loflin, 2400 Niels Esperson Bldg., Houston, Tex. 77002.
C877-576	May 31, 1977	Kentucky Rover Coal Corp., 167 West Main St., Suite 804, Lexington, Ky. 40507.
C877-577	.....do.....	H. D. Oden, Inc., P.O. Box 5544, Midland, Tex. 79701.
C877-578	May 23, 1977	New Jersey Natural Resources Co., 601 Bangs Ave., Asbury Park, N.J. 07712.
C877-579	May 27, 1977	Virginia Abney Whelan, 303 Miller Dr., Marshall, Tex. 75670.
C877-580	May 31, 1977	Herbert S. Woods & Associates, P.O. Box 1367, El Dorado, Ark. 71730.
C877-581	June 1, 1977	Chapman Oil Co., 2400 Niels Esperson Bldg., Houston, Tex. 77002.
C877-582	June 3, 1977	Helen Morris Moore, 1280 Holly Sugar Bldg., Colorado Springs, Colo. 80903.
C877-583	.....do.....	T. D. Flewellen, P.O. Box 2835, Lubbock, Tex. 79408.
C877-584	June 6, 1977	Harvey H. Holman, 1622 Crestmont Dr., Norman, Okla. 73069.
C877-585	.....do.....	Triple L Oil Co., Inc., 2501 Suntide Rd., Corpus Christi, Tex. 78410.
C877-586	.....do.....	Robert J. Butts, 100 First National Bank Bldg., Enid, Okla. 73701.
C877-587	.....do.....	Sueco Oil Corp., P.O. Box 662, Pampa, Tex. 79065.
C877-588	.....do.....	Jane H. Caplitz, 1228 West Ione Rd., Muskegon, Mich. 49441.
C877-589	.....do.....	Autry C. Stephens (operator), et al., 3633 Princeton Ave., Midland, Tex. 79701.
C877-590	.....do.....	Peacock Oil Co., 615 East Main, Rangely, Colo. 81648.
C877-591	June 7, 1977	Phillip Thompson, 6909 South Country Club Dr., Oklahoma City, Okla. 73159.
C877-592	.....do.....	Bob Crowson, 10716 Greystone, Oklahoma City, Okla. 73120.
C877-593	.....do.....	Ann Thompson, 6909 South Country Club Dr., Oklahoma City, Okla. 73159.

[1] Notice filed to reflect change of name from Zoller & Danneberg, Inc., to Premier Resources, Ltd.
[2] Notice filed to reflect change of name from Mark Production Co. to Mewbourne Oil Co.
[3] Notice filed to reflect change of name from Brown Saddle Corp. to Paramount Petroleum Corp.

[FR Doc.77-18085 Filed 6-24-77;8:45 am]

FEDERAL RESERVE SYSTEM

MARBLE FALLS FINANCIAL CORP.

Formation of Bank Holding Company

Marble Falls Financial Corporation, Marble Falls, Texas, has aplied for the Board's aproval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of The Home State Bank, Marble Falls, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to coment on the application should submit views in writing to the Reserve Bank, to be received not later than July 21, 1977.

Board of Governors of the Federal Reserve System, June 21, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-18263 Filed 6-24-77;8:45 am]

REPUBLIC OF TEXAS CORP.

Order Denying Acquisition of Bank

Republic of Texas Corporation, Dallas, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under Section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of the successor by merger to Preston State Bank, Dallas, Texas ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of all the shares of Bank. Applicant presently indirectly controls voting shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views has been given in accordance with Section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application of all comments received in light of the factors set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fourth largest banking organization in the State of Texas, has eight banking subsidiaries with aggregate deposits of $2.8 billion, representing 5.9 percent of commercial bank deposits in the State.[1] Acquisition of Bank, the State's 30th largest banking organization, would increase Applicant's share of commercial bank deposits in Texas by 0.35 percent but would not alter Applicant's ranking in the State.

By Order dated October 25, 1973 (38 FR 30581), the Board approved the application of Applicant to become a bank holding company through the direct acquisition of Republic National Bank of Dallas ("Republic Bank") and the indirect acquisition of 29.9 per cent of the voting shares of Oak Cliff Bank & Trust Company, Dallas, Texas. In addition to its interest in Bank, Republic Bank at the time also owned indirectly between 5 and 24.99 per cent of the voting shares in twenty other banks, seventeen of which were in the Dallas banking market.[2] Applicant represented to the Board that it would file separate applications for prior approval by the Board for acquisition of additional shares in each of certain of those banks, and would divest completely its interests in others. In its Order the Board stated that each such application filed by the Applicant would be considered on its own merits in light of the statutory standards set forth in Section 3 of the Act. Since that time Applicant has divested its interests in seven of the Dallas-area banks, and has applied to acquire additional shares of four of the Dallas-area banks.[3]

Bank is the seventh largest banking organization and the sixth largest bank in the Dallas banking market and holds deposists of $167.0 million, representing 1.8 per cent of the total deposits of commercial banks in the market. Applicant is already a significant competitor in the Dallas banking market. The recent addition of Garland Bank and Dallas National Bank as subsidiaries increased Applicant's share of the deposits to 25.4 per cent, and at the present time Applicant controls the second and ninth largest banks in the market plus two smaller banks. In addition, the nine banks in the Dallas market (including Bank) in which Applicant presently holds minority interests have aggregate deposits of $416.3 million, representing 4.5 per cent of market deposits. The acquisition of Bank would increase Applicant's share of market deposits to 27.2 per cent and entrench its position as the largest banking organization in the market. Accordingly, the Board views the effects of the proposal on concentration in the Dallas banking market as an adverse factor in its consideration of this application. Those effects are regarded as more significant in light of the fact that the market is already somewhat concentrated with the three largest banking organizations holding 60.7 per cent of the deposits.

In addition to having adverse effects upon the concentration of banking resources in the Dallas banking market, consummation of the proposal would eliminate substantial existing competition between Bank and Applicant's subsidiary banks, particularly Republic Bank. Applicant maintains that Bank and Republic Bank serve essentially different kinds of customers,[4] and that the longstanding relationship between Republic Bank and Bank lessens the competition between them. While Applicant or Republic Bank has indirectly owend 20 percent or more of the shares of Bank since 1941, Republic Bank did not sponsor Bank's formation in 1939, and it appears that the nature of the relationship has not been such that it has precluded the development of meaningful competition between Republic Bank and Bank.

[1] All banking data are as of June 30, 1976. By separate Order dated March 23, 1977 (42 FR 16855 and 16856) the Board approved Applicant's acquisition of Dallas National Bank in Dallas (formerly Fair Park National Bank of Dallas) Dallas, Texas, and First National Bank in Garland, Garland, Texas ("Garland Bank"). Applicant consummated both of these acquisitions on May 2, 1977.

[2] The Dallas banking market is approximated by the Dallas RMA.

[3] By separate action of this date, the Board approved Applicant's acquisition of Midway National Bank of Grand Prairie, Grand Prairie, Texas.

Furthermore, the record shows that each derives a significant amount of its deposits from the service area of the other, and that Republic Bank and Bank are, respectively, the first and second largest issuer of credit card plan loans in the market with 32.3 and 25.4 per cent, respectively, of all card plan loans held by banks in the Dallas banking market. Thus, the Board concludes that consummation of the proposal would eliminate substantial existing competition between Applicant and Bank. Accordingly, the Board finds on the basis of the foregoing and other facts of record that competitive considerations relating to this application weigh sufficiently against approval so that it should not be approved unless the anticompetitive effects are clearly outweighed by benefits to the public in meeting the convenience and needs of the community to be served.

The financial and managerial resources of Applicant, its subsidiaries and Bank are regarded as generally satisfactory and consistent with approval of the application. Considerations relating to banking factors are also consistent with approval of the application. While Applicant proposes to expand Bank's commercial and industrial lending, there is no indication that the needs of Bank's customers are not currently being met, and that the proposed new loans cannot be obtained elsewhere in the Dallas banking maket. Accordingly, the Board finds that considerations relating to convenience and needs of the community to be served do not outweigh the adverse competitive effects that would result from Applicant's acquisition of Bank.

On the basis of the facts in the record, and in light of the factors set forth in section 3(c) of the Act, it is the Board's judgment that approval of the proposal would not be in the public interest. Accordingly, the application is denied for the reasons summarized herein.

By Order of the Board of Governors,[1] effective June 20, 1977.

RUTH A. REISTER,
Assistant Secretary of the Board.

[FR Doc.77-18261 Filed 6-24-77;8:45 am]

REPUBLIC OF TEXAS CORP.

Order Approving Acquisition of Bank

Republic of Texas Corporation, Dallas, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of the successor by merger to Midway National Bank of Grand Prairie, Grand Prairie, Texas ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank. Applicant presently indirectly controls 24.9 per cent of the voting shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those of the Comptroller of the Currency, in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fourth largest banking organization in the State of Texas, has eight banking subsidiaries with aggregate deposits of $2.8 billion, representing 5.9 percent of commercial bank deposits in the State.[1] Acquisition of Bank, one of the State's smaller banking organizations, would increase Applicant's share of commercial bank deposits in Texas by only 0.06 percent.

By Order dated October 25, 1973 (38 FR 30581), the Board approved the application of Applicant to become a bank holding company through the direct acquisition of Republic National Bank of Dallas ("Republic Bank") and the indirect acquisition of 29.9 percent of the voting shares of Oak Cliff Bank & Trust Company, Dallas, Texas. In addition to its interest in Bank, Republic Bank at the time also owned indirectly between 5 and 24.99 percent of the shares of twenty other banks, seventeen of which were in the Dallas banking market.[2] Applicant represented to the Board that it would file separate applications for prior approval by the Board for acquisition of additional shares in each of certain of those banks, and would divest completely its interests in others. In its Order the Board stated that each such application filed by Applicant would be considered on its own merits in light of the statutory standards set forth in § 3 of the Act. Since that time Applicant has divested its interests in seven of the Dallas-area banks, and has applied to acquire additional shares of four of the Dallas-area banks.[3]

Bank is the 34th largest banking organization in the Dallas banking market and holds deposits of $29.3 million, representing 0.3 percent of the total deposits held by commercial banks in the market. Applicant is already a significant competitor in the Dallas banking market. The recent addition of Garland Bank and Dallas National Bank as subsidiaries increased Applicant's share of the deposits to 25.4 percent, and at the present time Applicant controls the second and ninth largest banks in the market plus two smaller banks. In addition, the nine banks in the Dallas market (including Bank) in which Applicant presently holds minority interests have aggregate deposits of $416.3 million, representing 4.5 percent of market deposits.

While consummation of the proposal would appear to eliminate some existing competition inasmuch as Applicant and Bank operate in the same market, the Board notes that Applicant, or its predecessor in interest, Republic Bank, has held 20 percent or more of the shares of Bank since its formation in 1963, and that the nature of this relationship is such that little, if any, meaningful competition presently exists between Bank and Applicant's subsidiary banks in the Dallas market. But for the history of the established relationship between Applicant and Bank, the effects on existing competition would be viewed as more serious, but viewed in light of that relationship the effects are only slight. Moreover, while Applicant is one of the largest organizations in the banking market, in view of the facts presented in the record of this application, the Board does not regard the slight increase in concentration of market deposits as significant. Accordingly, the Board concludes that the proposed acquisition of Bank by Applicant would not have significant adverse effects on competition.

The financial and managerial resources of Applicant, its subsidiaries, and Bank are regarded as generally satisfactory and consistent with approval of the application. Considerations relating to banking factors are also consistent with approval of the application. Following consummation of the transaction, Applicant intends to assist Bank in expanding its residential real estate lending activities, as well as its commercial loan and deposit services. These considerations relating to convenience and needs of the community to be served do not appear to be substantial but they do lend some weight toward approval of the application, and in the Board's view outweigh any slightly adverse effects on competition that might result from consummation of this proposal. Accordingly, it is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons sum-

[1] Applicant characterizes the business of Republic Bank as "wholesale banking" and that of Bank as "consumer banking". The Board does not view this as an appropriate distinction for purposes of competitive analysis.

[1] Voting for this action: Vice Chairman Gardner and Governors Wallich, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns and Governor Coldwell.

[1] All banking data are as of June 30, 1976. By separate Orders dated March 23, 1977 (42 FR 16855 and 16856) the Board approved Applicant's acquisition of Dallas National Bank in Dallas (formerly Fair Park National Bank of Dallas) Dallas, Texas, and First National Bank in Garland, Garland, Texas ("Garland Bank"). Applicant consummated both of these acquisitions on May 2, 1977.

[2] The Dallas banking market is approximated by the Dallas RMA.

[3] By separate action of this date, the Board denied Applicant's proposal to acquire Preston State Bank, Dallas, Texas.

marized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By Order of the Board of Governors,[1] effective June 20, 1977.

RUTH A. REISTER,
Assistant Secretary of the Board.

[FR Doc.77-18262 Filed 6-24-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

JUNE 22, 1977.

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 9, July 11 from 9 a.m. through July 13, 4:15 p.m., Conference Room, 26th floor, Tishman Building, 525 Market Street, San Francisco, California. The meeting will be devoted to the initial steps of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for proposed projects in the following locations:

(1) Expansion of Federal Archives and Records Center, 1000 Commodore Drive, San Bruno, California.

(2) Various repair and alteration items in Five Federal Buildings in Phoenix, Mesa, Flagstaff, Tucson and Nogales, Arizona.

(3) Alterations to various Federal Buildings in Sacramento, Fresno, Merced, Bakersfield, Stockton and Visalia, California.

(4) Repair and alterations to two historic Federal Buildings in San Francisco, California.

(5) Alterations to U.S. Border Inspection Stations at San Diego, Calexico, Tecate, Andrade, California as well as Federal Buildings in San Diego, California.

The meeting will be open to the public.

ROSS A. BIATIC,
Acting Regional Administrator.

[FR Doc.77-18525 Filed 6-24-77;9:16 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

EMERGENCY ADULT EDUCATION PROGRAM FOR INDOCHINA REFUGEES

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 315 of the Adult Education Act, 20 U.S.C. 1211b, as added by Pub. L. 94-405, the Indochina Refugee Children Assistance Act, applications are being accepted from State and local educational agencies for the purpose of operating special adult education programs for adult Indochina refugees.

Applications must be received by the U.S. Office of Education Application Control Center on or before July 29, 1977.

A. APPLICATION SENT BY MAIL

An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202; Attention: 13.579. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than July 25, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before July 29, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

B. HAND-DELIVERED APPLICATIONS

An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. APPLICATION INSTRUCTIONS AND FORMS

Information and application forms may be obtained from the Division of Adult Education, Bureau of Occupational and Adult Education, Office of Education, ROB-3, Room 5076, 7th and D Streets, S.W., Washington, D.C. 20202.

D. PROGRAM INFORMATION

(1) The Emergency Adult Education Program for Indochina Refugees is authorized only for fiscal year 1977. Grants will be awarded before September 30, 1977, for operation during fiscal year 1978.

(2) It is estimated that $10,250,000 will be available for approximately 150 grants to be awarded.

(3) No minimum or maximum amounts have been predetermined since funds required will vary according to the number of persons to be served and the types of services to be provided by the State or local educational agency.

E. APPLICABLE REGULATIONS

Awards made pursuant to this Notice will be subject to:

(1) The Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) published in the FEDERAL REGISTER on November 6, 1973 and (2) the regulations for the Emergency Adult Education Program for Indochina Refugees published in FR on May 2, 1977 (45 CFR Part 166).

(Catalog of Federal Domestic Assistance No. 13.579, Emergency Adult Education Program for Indochina Refugees)

Dated: June 21, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc.77-18215 Filed 6-24-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 072014]

MONTANA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

Correction

In FR Doc. 77-16314 appearing at page 29564 in the issue for Thursday, June 9, 1977, under "Charles Waters Memorial Campground" on page 29565, the 9th line now reading "NW¼W¼SE¼" should have read "NW¼SW¼SE¼".

[M 141]

MONTANA

Transfer of Submarginal Lands, Fort Belknap Indian Reservation

Correction

In FR Doc.77-16319 appearing at page 29566 in the issue for Thursday, June 9, 1977 the second line from the top of the first column on page 29567 now reading "Sec. 20, E½, NW½NW¼, SW¼NW¼, and SW¼;" should have read "Sec. 20, E½, N½NW¼, SW¼NW¼ and SW¼;".

Also, the 16th line of the same column now reading "Sec. 29, NE¼, N½NW¼, and SE¼NE¼;" should have read "Sec. 29, NE¼, N½NW¼, and SE¼NW¼;".

[NM 30835 and 30917]

NEW MEXICO

Applications

JUNE 17, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for three 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO

T. 24 S., R. 27 E.,
Sec. 29, SW¼NW¼;

[1] Voting for this action: Vice Chairman Gardner and Governors Wallich, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns and Governor Coldwell.

Sec. 30, lot 4, SE¼NE¼, E½SW¼, and N½SE¼;
Sec. 31, lot 1.
T. 18 S., R. 27 E.,
Sec. 21, SW¼NW¼.

These pipelines will convey natural gas across 1.626 miles of public lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-18239 Filed 6-24-77;8:45 am]

National Park Service

VOYAGEURS NATIONAL PARK, MINNESOTA

Availability of Environmental Assessment on Landing of Aircraft

The National Park Service has prepared an environmental assessment to consider the effects of alternative proposals concerning the landing of aircraft at Voyageurs National Park, Minnesota.

The assessment states the existing situation, describes components of the local and regional environment which may affect, or be affected by, the alternative proposals, and discusses three alternatives.

Copies of the environmental assessment are available at Voyageurs National Park, P.O. Drawer 50, International Falls, Minnesota 56649; and the Midwest Regional Office, 1709 Jackson Street, Omaha, Nebraska 68102. Anyone wishing to comment on this document should submit such comments in writing to the Park Superintendent or the Regional Director at the above addresses of this notice.

Dated: May 31, 1977.

MERRILL D. BEAL,
Regional Director, Midwest Region.

[FR Doc.77-18025 Filed 6-24-77;8:45 am]

VOYAGEURS NATIONAL PARK, MINNESOTA

Availability of Environmental Assessment on Snowmobile Operations

The National Park Service has prepared an environmental assessment to consider the effects of alternative proposals concerning the operation of snowmobiles at Voyageurs National Park, Minnesota.

The assessment states the existing situation, describes components of the local and regional environment which may affect, or be affected by, the alternative proposals, and discusses four alternatives.

Copies of the environmental assessment are available at Voyageurs National Park, P.O. Drawer 50, International Falls, Minnesota 56649; and the Midwest Regional Office, 1709 Jackson Street, Omaha, Nebraska 68102. Anyone wishing to comment on this document should submit such comments in writing to the Park Superintendent or the Regional Director at the above addresses within thirty (30) days of the date of this notice.

Dated: May 31, 1977.

MERRILL D. BEAL,
Regional Director, Midwest Region.

[FR Doc.77- Filed -77; am]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-29]

WELDED STAINLESS STEEL PIPE AND TUBE

Commission Memorandum Opinion[1][2]

PROCEDURAL BACKGROUND

On March 25, 1977, the presiding officer in this investigation issued his Prehearing Order No. 6, which includes a recommended ruling that the Commission grant the motion of Thypin Steel Co., Inc. that it be dismissed as a party to this investigation which was docketed as motion No. 29-4.

ORDER

Motion No. 29-4 is granted.

OPINION

A person is a proper party respondent to a section 337 investigation if he is alleged to be engaged in unfair methods of competition and unfair acts in the importation of the article into the United States, or in its sale, as the article's owner, importer or consignee, or the agent of either of these people. The particular alleged violation of section 337 determines who is a proper party respondent to the investigation.

The alleged violation of section 337 in this investigation is the "sale in the United States of such welded stainless steel pipe and tube at unreasonably low prices, often below the cost of production, with an intent to restrain or monopolize trade and commerce in these articles in the United States." Those parties alleged to be violating section 337 in this investigation should necessarily be those parties selling the Japanese product in the United States. The complaint describes the chain of export distribution as follows:

> In the chain of export distribution, welded stainless steel pipe and tube is initially purchased in the Japanese market by a trading company. It is then consigned to the account of a United States affiliate and sold to the United States distributing enterprise. (Complaint, at 5.)

Accordingly, it would appear on the basis of the pricing information supplied in the complaint that the Japanese trading company and its U.S. affiliate are the parties properly alleged to be violating section 337. Thypin, according to the so-called Bacher affidavit, is not involved in the importation of welded stainless steel pipe and tube into the United States or in its first sale as the owner, importer, consignee or agent of either. In the absence of a contrary showing and in light of the fact that no conspiracy has been noticed as within the scope of this investigation, Thypin is dismissed as a respondent.

Issued: June 21, 1977.

By order of the Commission:

KENNETH R. MASON,
Secretary.

[FR Doc.77-18296 Filed 6-24-77;8:45 am]

[1] Chairman Minchew dissents from the Commission Order and Opinion.

[2] Commissioner Ablondi concurs only in the granting of motion No. 29-4.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

CONTROLLED SUBSTANCES IN SCHEDULES I AND II

Final 1977 Revised Aggregate Production Quotas

Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On May 6, 1977 a notice of the proposed revised aggregate production quotas for 1977 was published in the FEDERAL REGISTER (42 FR 23212-13). All interested parties were invited to comment or object to the proposed aggregate production quotas on or before June 6, 1977. No comments or objections were received.

Therefore, under the authority vested in the Attorney General by Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration hereby orders that final aggregate quotas for the below-listed controlled substances, expressed in grams of anhydrous base, be established as follows:

Basic class:	*Final revised 1977 aggregate production quota*
Alphaprodine	54,000
Amobarbital	7,877,000
Codeine	57,900,000
Codeine for conversion	2,276,000
Dihydrocodeine	1,002,000
Ethylmorphine	25,000
Fentanyl	3,000
Hydrocodone	833,000
Meperidine (Pethidine)	13,829,000
Methaqualone	22,361,000
Methylphenidate	1,697,000
Mixed Alkaloids of Opium	20,000

Basic class:	*Final revised 1977 aggregate production quota*
Morphine	661,000
Morphine for conversion	55,771,000
Oxycodone	1,924,000
Pentobarbital	15,428,000
Secobarbital	2,470,000

This order is effective upon publication.

Dated: June 17, 1977.

PETER B. BENSINGER,
Administrator.

[FR Doc.77-18196 Filed 6-24-77;8:45 am]

LEGAL SERVICES CORPORATION

BOARD OF DIRECTORS

Meeting of the Committee on Regulations

A meeting of the Board of Directors Committee on Regulations will be held on Wednesday, July 6, 1977 at the Sheraton National Motor Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia.

The meeting will begin at 7 p.m. The agenda will include the proposed client grievance procedure regulation and such other business as may arise.

The meeting is open to the public.

THOMAS EHRLICH,
President.

[FR Doc.77-18245 Filed 6-24-77;8:45 am]

Meeting of the Committee on Regulations

BOARD OF DIRECTORS

Meeting

A meeting of the Board of Directors of the Legal Services Corporation will be held on Thursday and Friday, July 7-8, 1977 at the Sheraton National Motor Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia.

The meeting will begin at 9:30 a.m. on both days. The agenda will include matters relating to the Corporation's budget, proposed regulations, a resolution reappointing the President, selection of an auditor for the Corporation's accounts for Fiscal Year 1977, possible new facilities for the Corporation's Washington headquarters, a report on the Delivery Systems Study, a report on the support centers, a report on the Reginald Heber Smith Community Fellowship Program, a report on program monitoring evaluations by the Corporation, and other issues concerning the Corporation and its activities.

The meeting is open to the public.

THOMAS EHRLICH,
President.

[FR Doc.77-18246 Filed 6-24-77;8:45 am]

BOARD OF DIRECTORS, COMMITTEE ON APPROPRIATIONS AND AUDIT

Meeting

A meeting of the Board of Directors Committee on Appropriations and Audit will be held on Wednesday, July 6, 1977, at the Sheraton National Motor Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia.

The meeting will begin at 7:30 p.m. The agenda will include consideration of the Corporation's Fiscal Year 1978 budget and allocation of investment income.

The meeting is open to the public.

THOMAS EHRLICH,
President.

[FR Doc.77-18555 Filed 6-24-77;11:36 am]

NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

MEETINGS

The National Commission on Electronic Fund Transfer's Credit Markets Committee will meet on Wednesday, July 6, 1977 at 9:00 a.m. in Theatre 3, Montgomery Ward and Company, Inc., Montgomery Ward Plaza, 535 West Chicago Avenue, Chicago, Illinois. The purpose of the meeting is to hear from individuals specifically invited by the Committee to participate in a one-day seminar concerning the probable impact of EFT on credit-granting institutions and credit users.

On Thursday, July 7, 1977 the Credit Markets Committee will meet at 9:00 a.m. at the same address to develop recommendations for consideration by the Commission.

On Thursday, July 7, 1977 the Commission will hold a "Public Interchange" meeting, in the Adams Ballroom on the 6th floor of the Palmer House Hotel, 17 East Monroe Street, Chicago, Illinois, beginning at 9:30 a.m. The purpose of this meeting is to learn the views of consumer representatives, financial institution representatives and others in the Chicago area on the Commission's recommendations.

The Public Interchange meeting will begin with briefings by several Commissioners on EFT and the recommendations of the Commission, following which the audience and Commissioners will break into smaller groups for a discussion of these issues. Later the groups will reconvene, and each group will report on its conclusions.

While direct invitations have been sent to over 100 persons, primarily consumer representatives, to attend and participate in the Public Interchange meeting, any other person wishing to participate in that meeting should contact Dr. John B. Benton at (202) 254-7400.

On Friday, July 8, 1977, the Commission will meet, as previously scheduled, 41 F.R. 12356, in the Palmer House Hotel, beginning at 9:30 a.m. The meeting will consist of progress reports and discussions of the Commission's work.

All interested persons are invited to attend the Credit Market Committee meetings on July 6th and 7th, the Public Interchange meeting on July 7th, and the Commission meeting on July 8th, on a first-call basis to the extent that space permits. Interested persons should contact Ms. Janet Miller at (202) 254-7400 to check on the availability of space.

Dated: June 20, 1977.

JAMES O. HOWARD, Jr.,
General Counsel.

[FR Doc. 77-18195 Filed 6-24-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

PRE-COLLEGE TEACHER DEVELOPMENT IN SCIENCE

Project Directors' Meeting

A project director's meeting will be held from 3 p.m. to 5 p.m. on Thursday, July 14, 1977 and from 8:30 a.m. to 5 p.m. on Friday, July 15, 1977 at the Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, D.C.

The purpose of this meeting is to give project directors of the Pre-College Teacher Development in Science Program an opportunity to exchange information regarding the conduct of Science Career Facilitation Projects and to allow the program staff to set into motion mechanisms for monitoring of projects.

While this project director's meeting is not considered to be a meeting of an "advisory committee" as that term is defined in section 3 of the Federal Advisory Committee Act (Pub. L. 92-463) the meeting is believed to be of sufficient importance and interest to the general public to be announced in the FEDERAL REGISTER as a meeting open for public attendance and participation.

The meeting will be chaired by Dr. Theodore L. Reid. Because of space limitation, members of the public who wish to atttend should call 202-282-7795 regarding attendance at this meeting.

JUNE 22, 1977.

LEWIS A. GIST,
Division Director,
Scientific Personnel Improvement.

[FR Doc.77-18237 Filed 6-24-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-368]

ARKANSAS POWER & LIGHT CO.

Availability of NRC Final Environmental Statement for Arkansas Nuclear One-Unit No. 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of Arkansas Nuclear One-Unit No. 2 located in Pope County, Arkansas, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and in the Arkansas Polytechnic College Library, Russellville, Arkansas. The Final Enivronmental Statement is also being made available

at the Department of Local Services, State Planning and Development Clearinghouse, 900 First National Bank Building, Little Rock, Arkansas, and the West Central Arkansas Planning and Development District, Municipal Building, Hot Springs, Arkansas.

The notice of availability of the Draft Environmental Statement for the Arkansas Nuclear-One-Unit No. 2 and requests for comments from interested persons was published in the FEDERAL REGISTER on May 27, 1976 (41 FR 21704). The comments received from Federal, State and local agencies and interested members of the public have been included as an appendix to the Final Enivronmental Statement.

Copies of the Final Environmental Statement (Document No. NUREG–0254) may be purchased from the National Technical Information Service, Springfield, Virginia 22161 at a cost of $6.75 for printed copies and $3 for microfiche.

Dated at Rockville, Maryland, this 10th day of June 1977.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief Environmental Projects Branch No. 2, Division of Site Safety and Environmental Analysis.

[FR Doc.77–18058 Filed 6–24–77;8:45 am]

[Docket No. 50–261]

CAROLINA POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Facility Operating License No. DPR–23, issued to Carolina Power & Light Company (the licensee), which revised Technical Specifications for operation of the H. B. Robinson Steam Electric Plant Unit No. 2 (the facility) located in Darlington County, Hartsville, South Carolina. The amendment is effective as of its date of issuance.

The amendment changes the Technical Specifications to reflect a change in the licensee's organizational structure and to correct a typographical error.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as required by 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.

NOTE.—The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 26, 1977, (2) Amendment No. 28 to License No. DPR–23, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina. 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 Operating Reactors.

Dated at Bethesda, Maryland, this 9th day of June 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77–18055 Filed 6–24–77;8:45 am]

[Docket No. 50–346]

TOLEDO EDISON CO. AND CLEVELAND ELECTRIC ILLUMINATING CO.; DAVIS-BESSE NUCLEAR POWER STATION, UNIT NO. 1

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to Facility Operating License No. NPF–3, issued to the Toledo Edison Company and the Cleveland Electric Illuminating Company, for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio. The amendment is effective as of its date of issuance.

The amendment removes a temporary condition to the license which restricted operation of the facility in a hot standby mode.

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.

NOTE: 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) Amendment No. 2 to License No. NPF–3, and (2) the Commission's related Safety Evaluation supporting Amendment No. 2 to License No. NPF–3. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452. A copy of items 1 and 2 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Maryland, this 14th day of June 1977.

For the Nuclear Regulatory Commission.

DENNIS P. ALLISON,
Acting Branch Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc.77–18064 Filed 6–24–77;8:45 am]

[Doc. No. STN 50–447]

GENERAL ELECTRIC STANDARD SAFETY ANALYSIS REPORT

Issuance of Amendment to Preliminary Design Approval

Notice is hereby given that the staff of the Nuclear Regulatory Commission has issued Amendment No. 1 to Preliminary Design Approval No. PDA–1, dated June 13, 1977, for the nuclear island portion of a nuclear power plant as described in the General Electric Standard Safety Analysis Report and amendments thereto.

The amendment removes the four design conditions listed in Attachment A to Preliminary Design Approval No. PDA–1 and the requirement to submit additional information on the unresolved items contained in Table 1–3 of the staff's Safety Evaluation Report on the GESSAR–238 Nuclear Island Standard Design. The staff's evaluation of the matters covered by Amendment No. 1 to Preliminary Design Approval No. PDA–1 is given in Supplement Nos. 1, 2, and 3 to the Safety Evaluation Report for GESSAR–238 Nuclear Island (NUREG–0124) dated September 1976, February 1977, and June 1977, respectively.

Amendment No. 1 to Preliminary Design Approval No. PDA–1 incorporates both Preliminary Design Approval No. 1 and the changes resulting from Amendment No. 1. This amendment is effective as of its date of issuance and shall expire on December 22, 1978, unless earlier superseded by issuance of a Final Design Approval for the GESSAR–238 Nuclear Island Standard Design, or unless extended by the Nuclear Regulatory Commission staff. The expiration of Preliminary Design Approval No. PDA–1, Amendment No. 1 on December 22, 1978, should not affect use of Preliminary Design Approval No. PDA–1, Amendment No. 1, for reference in any construction permit application docketed prior to such date.

A copy of (1) Preliminary Design Approval No. PDA–1, Amendment No. 1 dated June 13, 1977; (2) the Nuclear Regulatory Commission's staff's Safety Evaluation Report, NUREG 75/110, dated

December 1975; (3) Supplement Nos. 1, 2 and 3 to the Safety Evaluation Report, NUREG–0124, dated September 1976, February 1977, and June 1977, respectively; and (4) the General Electric Standard Safety Analysis Report and Amendments 1 through 45 thereto, are available for public inspection at the Commission's Public Document Room at 1717 H Street NW.; Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 13th day of June 1977.

For the Nuclear Regulatory Commission.

STEVEN A. VARGA,
Chief, Light Water Reactors Branch No. 4, Division of Project Management.

[FR Doc.77–18059 Filed 6–24–77;8:45 am]

[Docket No. 50–331]

IOWA ELECTRIC LIGHT & POWER CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 36 to Facility Operating License No. DPR–49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revised Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications which will temporarily increase the 31 days surveillance interval for inaccessible hydraulic shocks suppressors (snubbers) to 120 days.

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.

NOTE.—The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 27, 1977, (2) Amendment No. 36 to License No. DPR–49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue SE., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 16th day of June 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3 Division of Operating Reactors.

[FR Doc.77–18057 Filed 6–24–77;8:45 am]

[Docket No. 50–331]

IOWA ELECTRIC LIGHT & POWER CO., ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 37 to Facility Operating License No. DPR–49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revised Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications which will incorporate reduced maximum average planar linear heat generation rate limits for operation at less than full rated flow through the core.

The letter 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.

NOTE: 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 license submittal dated November 4, 1976, (2) Amendment No. 37 to License No. DPR–49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue SE., Cedar Rapids, Iowa 52401. 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 Operating Reactors.

Dated at Bethesda, Maryland, this 20th day of June 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77–18060 Filed 6–24–77;8:45 am]

[Docket No. 50–336]

NORTHEAST NUCLEAR ENERGY CO. ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 27 to Facility Operating License No. DPR–65 issued to Northeast Nuclear Energy Company, The Connecticut Light and Power Company, The Hartford Electric Light Company, and Western Massachusetts Electric Company, which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 2, located in the Town of Waterford, Connecticut. The amendment is effective as of the date of its issuance.

The amendment consists of changes which will modify the Technical Specifications so that satisfaction of the resistance temperature detector (RTD) response time surveillance requirements as they appear in the current Technical Specifications are not required until October 30, 1977.

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.

NOTE: The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 1, 1977, as supplemented by letters dated June 8, 1977 and June 15, 1977, (2) Amendment No. 27 to License No. DPR–65, 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 Waterford Public Library, Rope Ferry Road, Waterford, Connecticut 06385. 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 Operating Reactors.

Dated at Bethesda, Maryland, this 17th day of June 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-18061 Filed 6-24-77;8:45 am]

[Dockets Nos. 50-277 and 50-278]

PHILADELPHIA ELECTRIC CO. ET AL.

Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 29 and 28 to Facility Operating Licenses Nos. DPR-44 and DPR-56, respectively, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3, located in Peach Bottom, York County, Pennsylvania. The amendments are effective as of the date of issuance.

The amendments consist of changes to the Technical Specifications which will permit increased release rate limits for gaseous radioiodine and radioactive particulates with a half-life greater than 8 days.

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.

NOTE: The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded than an environmental impact statemet for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated April 1973.

For further details with respect to this action, see (1) the application for amendment May 27, 1977, (2) Amendments Nos. 29 and 28 to Licenses Nos. DPR-44 and DPR-56, 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, NW., Washington, D.C. and at the Martin Memorial Library, 159 E. Market Street, York, Pennsylvania 17401. 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 Operating Reactors.

Dated at Bethesda, Maryland this 18th day of June 1977.

For the Nuclear Regulatory Commission.

DAVID M. VERRELLI,
Acting Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-18062 Filed 6-24-77;8:45 am]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or posulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 4.14, "Measuring, Evaluating, and Reporting Radioactivity in Releases of Radioactive Materials in Liquids and Airborne Effluents from Uranium Mills," describes programs acceptable to the NRC staff for measuring, evaluating, and reporting releases of radioactive materials in liquid and airborne effluents from typical uranium mills.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 4.14 will, however, be particularly useful in evaluating the need for an early revision if received by August 22, 1977.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland this 15th day of June 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc.77-18056 Filed 6-24-77;8:45 am]

[Docket Nos. 50-582; 50-583]

SAN DIEGO GAS & ELECTRIC CO.; SUNDESERT NUCLEAR PLANT, UNITS 1 AND 2

Special Prehearing Conference

JUNE 20, 1977.

Before the Atomic Safety and Licensing Board.

The Nuclear Regulatory Commission on May 4, 1977 issued a Notice of Hearing on Application for Construction Permits in the above-identified proceeding, which Notice was given general public distribution, including publication in the FEDERAL REGISTER on May 9, 1977 (42 FR 23569-71). The Notice provided for a hearing to be held before an Atomic Safety and Licensing Board, to consider the application filed by San Diego Gas & Electric Company for construction permits for two pressurized water nuclear reactors, designated as the Sundesert Nuclear Plant, Units 1 & 2, proposed for location on a site near Blythe in Riverside County, California.

Please take notice that in accordance with § 2.751a of the Commission's Rules of Practice, 10 CFR Part 2, the Atomic Safety and Licensing Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, for the purpose of dealing with the matters specified in 10 CFR 2.751a. The Board has inquired of the parties and the petitioners respecting their convenience for such a conference and each has agreed that their schedules will have no conflict with a prehearing conference on July 12, 1977 in San Diego, California.

Members of the public are invited to attend this prehearing conference as well as the evidentiary hearing which will be held at a later date to be fixed by the Board. Members of the public wishing to make a limited appearance pursuant to § 2.715(a) of the Commission's Rules of Practice may identify themselves at the Special Prehearing Conference but oral or written statements to be presented by limited appearance will not be received at this conference. The Board will receive such limited appearance statements at the beginning of the evidentiary hearing.

Wherefore, it is ordered, in accordance with the Atomic Energy Act, as amended, and the Rules of Practice of the Commission that a prehearing conference in this proceeding shall convene at 10:00 A.M., local time, on Tuesday, July 12, 1977, in the Sportee Room, Town & Country Hotel, 500 Hotel Circle North, San Diego, California 92138.

Dated at Bethesda, Maryland this 20th day of June 1977.

For the Atomic Safety and Licensing Board.

ROBERT M. LAZO,
Chairman.

[FR Doc.77-18063 Filed 6-24-77;8:45 am]

(Docket No. 50-293)

BOSTON EDISON CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 24 to Facility Operating License No. DPR-35, issued to Boston Edison Company (the licensee), which revised Technical Specifications for operation of Unit No. 1 of the Pilgrim Nuclear Power Station (the facility) located near Plymouth, Massachusetts. The amendment is effective as of its date of issuance.

The amendment modified the existing Pilgrim Technical Specifications to incorporate reduced Maximum Average Planar Linear Heat Generating Rate (MAPLHGR) limits at reduced core flow. These changes were in response to revised General Electric analyses which had been acknowledged by the licensee and acted upon voluntarily.

The filing by the licensee 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 the issuance of this amendment.

For further details with respect to this action, see (1) the filing by the licensee dated November 17, 1976, (2) General Electric Company's letters dated August 24, 1976, and November 4, 1976, (3) Amendment No. 24 to License No. DPR-35, and (4) the Commission's concurrently issued 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 Plymouth Public Library on North Street in Plymouth, Massachusetts 02360. A single copy of items (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24th day of May, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-18193 Filed 6-24-77;8:45 am]

(Dockets Nos. 50-245 and 50-336)

NORTHEAST NUCLEAR ENERGY CO., ET AL.

Issuance of Amendments to Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 38 to Provisional Operating License No. DPR-21 and Amendment No. 28 to Facility Operating License No. DPR-65 to Northeast Nuclear Energy Company, The Connecticut Light and Power Company, the Hartford Electric Light Company, and Western Massachusetts Electric Company, which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Units Nos. 1 and 2, located in the Town of Waterford, Connecticut. The amendments are effective as of their date of issuance.

The amendment consists of changes to the Technical Specifications which will provide for (1) delegation of responsibility to the Unit Superintendents for operation of the Millstone Units Nos. 1 and 2, (2) the addition of a new member to the Millstone Units Nos. 1 and 2 Plant Operation Review Committees (PORCs), (3) a change to the responsibilities of the PORCs and the Site Operations Review Committees (SORC) to accommodate the review of procedures which are common to both Units, and (4) establishment of additional qualifications for the Health Physics Supervisor.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendment does not involve a significant hazards considerations.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 11, 1977, (2) Amendments Nos. 38 and 28 to Licenses Nos. DPR-21 and DPR-65, 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 Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 20th day of June 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-18189 Filed 6-22-77;8:45 am]

[Docket No. 50-263]

NORTHERN STATES POWER CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 27 to Provisional Operating License No. DPR-22, issued to Northern States Power Company (the licensee), which revised Technical Specifications for operation of the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minnesota. The amendment is effective as of its date of issuance.

The amendment modified the existing Monticello Technical Specifications to incorporate reduced Maximum Average Planar Linear Heat Generating Rate (MAPLHGR) limits at reduced core flow. These changes were in response to revised General Electric analyses which had been acknowledged by the licensee and acted upon voluntarily.

The filing by the licensee 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 licensee's filing dated November 15, 1976, (2) General Electric Company's letters dated August 24, 1976, and November 4, 1976, (3) Amendment No. 27 to License No. DPR-22, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at The Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A single copy of items (3) and (4) may be

obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24th day of May, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-18190 Filed 6-24-77;8:45 am]

[Docket No. 50-263]

NORTHERN STATES POWER CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 28 to Provisional Operating License No. DPR-22, issued to Northern States Power Company (the licensee), which revised Technical Specifications for operation of the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minnesota. The amendment is effective as of its date of issuance.

The amendment modified the existing Monticello Technical Specifications to incorporate minimum qualifications for the Radiation Protection supervisor, in response to the NRC letter of March 15, 1977. The minimum qualifications are more stringent than those of the previous specification and are those set forth in Regulatory Guide 1.8, "Personnel Selection and Training".

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 5, 1977, (2) Amendment No. 28 to License No. DPR-22, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at The Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A single 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 Operating Reactors.

Dated at Bethesda, Maryland, this 10th day June, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77-18192 Filed 6-24-77;8:45 am]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 26 to Facility Operating License No. DPR-40 issued to Omaha Public Power District which revised the license for operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska. The amendment is effective as of its date of issuance.

The amendment will delete from the facility operating license the requirement that the license: (1) Have equipment installed to insure that the annual average biological oxygen demand (BOD) of the facility sewage treatment plant effluent does not exceed 5 parts per million (ppm) and (2) confirm by weekly sampling of the outfall that the average BOD of the sewage treatment plant effluent does not exceed 5 ppm.

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 considerations.

The Commission has prepared an environmental impact appraisal for the license amendment 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 other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated August 1972.

For further details with respect to this action, see (1) the application for amendment dated February 3, 1977, (2) Amendment No. 26 to License No. DPR-40, 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, NW., Washington, D.C., and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebraska. 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 Operating Reactors.

Dated at Bethesda, Maryland, this 17th day of June 1977.

FOR THE NUCLEAR REGULATORY COMMISSION.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-18191 Filed 6-24-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS FIRE PROTECTION WORKING GROUP AND REGULATORY ACTIVITIES SUBCOMMITTEE

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Fire Protection Working Group and Regulatory Activities Subcommittee will hold an open meeting on July 13, 1977 in Room 1062, 1717 H St. NW., Washington, D.C. 20555. The purpose of this meeting is to continue their review of Revision 1 to Regulatory Guide 1.120, "Fire Protection Guidelines for Nuclear Power Plants."

The agenda for the subject meeting shall be as follows:

WEDNESDAY, JULY 13, 1977, 1 P.M. UNTIL THE CONCLUSION OF BUSINESS

The Working Group and Subcommittee may meet in Executive Session, with any of their consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Working Group and Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, and their consultants, regarding this review.

At the conclusion of this session, the Working Group and Subcommittee may caucus to determine whether the matters identified in the Executive Session have been adequately covered and whether the project is ready for review by the full Committee.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or writ-

ten statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Working Group and Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than July 6, 1977 to Mr. Robert L. Wright, Jr., ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group and Subcommittee will receive oral statements on topics relevant to their purview at an appropriate time chosen by the Chairman.

(c) 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 on July 12, 1977 to the Office of the Executive Director of the Committee, telephone 202–634–1919, attention, Mr. Robert L. Wright, Jr., between 8:15 a.m. and 5 p.m., e.d.t.

(d) Questions may be propounded only by members of the Working Group, the Subcommittee, and their consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Voice recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the portion(s) of the meeting where factual information is presented will be available for inspection on or after July 20, 1977 at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555.

A copy of the minutes of the meeting will be made available for inspection at the NRC Document Room, 1717 H St. NW., Washington, D.C. 20555 after October 13, 1977.

Copies may be obtained upon payment of appropriate charges.

Dated: June 23, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-18466 Filed 6-24-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS PROCEDURES SUBCOMMITTEE

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards Procedures Subcommittee will hold a meeting at 3:30 p.m. on July 12, 1977 in Room 1062, 1717 H Street NW., Washington, D.C. This meeting will be open to the public except for those portions necessary to protect information which would represent an undue invasion of personal privacy if released.

3:30 P.M.—5 (OPEN)

The Subcommittee will meet in open session to discuss procedures for participation in ACRS activities by Committee and Staff members, and preparation of ACRS reports to the Nuclear Regulatory Commission.

5 P.M.—5:30 P.M. (CLOSED)

The Committee will meet in closed session to discuss conduct of ACRS consultants in accordance with 10 CFR Part 0.

I have determined in accordance with Subsection 10(d) of Public Law 92–463 that it is necessary to hold portions of this meeting in closed session, as noted, to avoid the disclosure of information which if released would represent an undue invasion of privacy (5 U.S.C. 552b.(c)(6)).

Separation of factual information from information considered exempt from disclosure under exemption (6) of 5 U.S.C. 552b.(c) during the closed portions of this meeting is not considered practical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally deal with matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview. Persons desiring to mail written comments may do so by mailing a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than July 1, 1977, to Mr. R. F. Fraley, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relative to the Subcommittee's purview at an appropriate time chosen by the Chairman of the Subcommittee.

(c) Further information regarding topics to be discussed, whether the meeting or portions of the meeting have 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 on July 11, 1977, to the Office of the Executive Director of the Committee, telephone 202–634–1371, attention, Mr. R. F. Fraley, between 8:15 a.m. and 5 p.m., e.s.t.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after October 10, 1977, at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555. Copies may be obtained upon payment of appropriate charges.

Dated: June 23, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-18468 Filed 6-24-77;9:37 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP NO. 1 OF THE REACTOR SAFETY RESEARCH SUBCOMMITTEE

Change in Meeting Location

The July 7–8, 1977 meeting of Working Group No. 1 of the ACRS Subcommittee on Reactor Safety Research will not be held in San Jose, CA as announced in the FEDERAL REGISTER, June 20, 1977, 42 FR 31204. It will be held at the Los Gatos Lodge, 50 Saratoga Avenue, Los Gatos, CA 95030.

All other matters pertaining to this meeting remain the same as stated in above cited issues of the FEDERAL REGISTER.

Dated: June 23, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-18469 Filed 6-24-77;9:37 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE GAS COOLED FAST REACTOR

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on the Gas Cooled Fast Reactor (GCFR) will hold a meeting on July 12, 1977, in Room 1046, 1717 H Street NW., Washington, D.C. 20555. The purpose of this meeting is to review the General Atomic Company's design for a gas-cooled fast breeder reactor.

The agenda for subject meeting shall be as follows:

Tuesday, July 12, 1977, 8:30 a.m. until conclusion of business.

The Subcommittee may meet in open Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will meet in an open session to hear presentations by and hold discussions with representatives of the NRC Staff, the General Atomic Company, and their consultants, pertinent to this review.

At the conclusion of this session, the Subcommittee may caucus in an open session to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

It may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring with the NRC Staff and Applicant matters involving proprietary information.

I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that it is necessary to conduct the above closed sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than July 5, 1977 to Mr. John C. McKinley, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) 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 on July 11, 1977 to the Office of the Executive Director of the Committee, telephone 202-634-1371, attention, Mr. John C. McKinley, between 8:15 a.m. and 5 p.m. e.d.t.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session. Recordings will be permitted only during those sessions of the meeting when a transcript is being made.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of this agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. John C. McKinley, of the ACRS Office, at the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented will be available for inspection on or after July 19, 1977 at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555.

A copy of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555 after October 12, 1977.

Copies may be obtained upon payment of appropriate charges.

Dated: June 23, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-18471 Filed 6-24-77;9:37 am]

POSTAL SERVICE

PRIVACY ACT OF 1974

Routine Use of Systems of Records

Correction

In FR Doc. 77-16699 appearing at page 30259 in the issue for Monday, June 13, 1977 the number "010.040" should be added to the list appearing in the first column on page 30260.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13642; File No. SR-BSE-77-2]

BOSTON STOCK EXCHANGE, INC.

Self-Regulatory Organization; Proposed Constitutional Changes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is

hereby given that on June 9, 1977, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed constitutional changes as follows:

EXCHANGE'S STATEMENT OF TERMS OF SUBSTANCE OF PROPOSED CONSTITUTIONAL CHANGES

1. *Proposed constitutional changes.*

(a) *Article II, Section 1—Composition of Board.*—Amended to read as follows: The government of the Exchange shall be vested in a Board of Governors, composed of the Chairman, Vice Chairman and President, all of whom, except the President, shall be members of the Exchange, and nineteen others, ten of whom shall be members of the Exchange, two of whom shall be members of the public, and one of whom shall be an officer or director of a company which has a class of stock listed on the Exchange. Neither the members of the public or the officer or director of a listed company shall be associated with a member of the Exchange, broker or dealer. All are to be elected in the manner hereinafter provided.

Article IX—Committees.—Section 1—Appointments.—Amended to read as follows: The committees of the Exchange shall be those designated from time to time by the Board of Governors, plus a Nominating Committee, an Arbitration Committee and a Business Conduct Committee. There may also be an Executive Committee, as provided in Section 2 of this Article. Members of all committees, except the Nominating Committee and the Executive Committee, shall be designated by the Chairman from among the members and, except as elsewhere in this Constitution expressly provided, allied members of the Exchange with the approval of the Board of Governors, and the Chairman shall also designate the chairman of each committee, except the Nominating Committee. Except as otherwise provided in this Constitution, all committees of the Exchange may act without a meeting by making a written statement of its action signed by a majority of its members and filed with the Secretary.

Section 2—Executive Committee—No change.

Section 3—Arbitration—No change.

Section 4—Business Conduct Committee—Amended to read as follows: This Committee shall determine infractions by any member, allied member, member-firm or member-corporation, or person associated with a member, of the provisions of this Constitution or of any rules of the Exchange and shall assess penalties therefore, provided that the power herein provided shall be subject to any other provision of this Constitution which may specify that such power shall be lodged in the Board of Governors. This Committee shall act upon complaints brought before it by the President or by any officer or employee of the Exchange so authorized by the President or by any member, allied member, or person associated with a member, and all decisions of the Committee may be appealed to the Board of Governors. Any party under examination by the Committee for having violated any such provision shall be entitled to be heard by the Committee. The proceedings of and appeals from the decisions of the Committee shall be in accordance with the provisions of Chapter XXX of the Rules.

Section 5—Other Committees—No change.

Section 6—Proceedings—Deleted in its entirety.

Article XIII, Section 2—Submission of Name to Committee—Amended to read as follows: Whenever any member wishes to transfer his membership, the name of the party to whom he proposes to transfer shall be submitted to the Exchange and his election shall be as provided in Article XI.

Article XV, Section 2—President's Duty—Amended to read as follows: Whenever the Exchange shall ascertain that a member has failed to meet his engagements, or is insolvent, or that a member-firm or member-corporation has failed to meet its engagements, or is insolvent, and that such member or member-firm or member-corporation has neglected to comply with the requirements of the preceding Section, the President shall notify the SEC and announce to the membership of the Exchange and to the public the insolvency and suspension of such member or such member-firm or member-corporation.

Article XVI, Section 4—Suspension or Expulsion for Dealing on Other Local Exchanges—Deleted in its entirety.

Present Section 5 renumbered Section 4

Present Section 6 renumbered Section 5.

Present Section 7 renumbered Section 6.

Present Section 8 renumbered Section 7.

Present Section 9 renumbered Section 8.

Section 10—Announcement of Suspension and Its Effect—Delete and substitute the following: Section 9. Whenever a member or allied member is suspended by the Board of Governors, announcement thereof shall be made to the SEC, the membership of the Exchange and to the public, and such member shall be deprived during the term of his suspension of all rights and privileges of membership, except those pertaining to the Gratuity Fund.

Article XVII, Section 3—Rules—Amended to read as follows: The Bylaws of Boston Stock Exchange Clearing Corporation and the Rules for Clearing adopted thereunder, and all amendments thereto, shall be binding upon members of the Exchange who are also members of the Clearing Corporation equally with the laws included in the Constitution.

Article XXI—Meetings—Section 1—Nonattendance—Deleted in its entirety.

Present Section 2 renumbered Section 1

Present Section 3 renumbered Section 2

Present Section 4 renumbered Section 3

Present Section 5 renumbered Section 4

Article XXII—Associate Membership—Section 1—Eligibility—Amended to read as follows: Associate membership shall be available (a) to all present or future members of the Philadelphia Stock Exchange, Inc. who qualify, in accordance with written Agreements entered into from time to time by the Board of Governors of the Boston Stock Exchange Inc. and the Board of Governors of the Philadelphia Stock Exchange, Inc.; (b) to all present or future members of the Montreal Stock Exchange who qualify, in accordance with written Agreements entered into from time to time by the Board of Governors of the Boston Stock Exchange, Inc. and the Governing Committee of the Montreal Stock Exchange.

Article XXV—Market-Maker Membership—Amended to read as follows:

(New wording *italicized* and deleted wording [Bracketed].

Section 2. A qualified market-maker shall mean a dealer who holds himself out (by entering indications of interest in purchasing and selling in an inter-dealer quotations system or otherwise) as being willing to buy and sell securities for his own account on a continuous basis otherwise than on a national securities exchange, if filing reports under SEC Rule 17a–9, is registered as an alternate [odd-lot] dealer specialist in a particular security, and is making a market in such security on the floor of the Exchange.

Section 3. (b) To make a market in a particular security on the floor of the Exchange, he must be approved by the Exchange as a qualified market-maker and as a registered alternate [odd-lot] dealer-specialist in the security.

Section 4. [He shall not be required to pay floor brokerage when he buys or sells for his own account, or as agent or as principal in a riskless transaction any security in which he has been approved as a qualified market-maker.]

Present Sections 5, 6 and 7 renumbered as Sections 4, 5 and 6 respectively.

Supplementary Material

The Board of Governors has adopted the following interpretation applicable to the market-maker membership: The appointment and registration of odd-lot dealer-specialists and alternates, their privileges and obligations, and the trading procedures governing their activities as dealers on the floor of the Exchange are set forth in Article XXV of the Constitution and in Chapter XI, Sections 1–3 of the Rules. [Only one odd-lot dealer-specialist (hereafter called regular dealer) is allowed for each security traded on the Exchange.] However, in addition to the foregoing regular dealer(s), Chapter XI provides for the appointment of an alternate [odd-lot] dealer-specialist (hereafter called alternate dealer). All orders must first be shown to the regular dealer(s). Orders not accepted by the latter are then shown

to the alternate dealer whose function is supplementary and designed to add depth to the Exchange markets. There may be more than one alternate dealer registered in a particular security. Except as noted above, alternate dealers operate under the same rules and procedures as do regular dealers. [The alternate dealer, as well as the regular dealer, must be shown an order before a member may be released to effect a transaction outside the Exchange and not on another national securities exchange.] The holder of a market-maker membership, termed a qualified market-maker under Constitution Article XXV, is to function under the provisions of such Article, under the provisions of Chapter XI, Sections 1-3, and within the framework of the alternate dealership above described.

The purpose of the qualified market-maker member is to increase the depth of the Exchange market in the capacity of alternate dealer by supplementing the activity of regular dealer(s).

The obligation of regular dealer(s) is to make a market on the Exchange at competitive prices to the best of his ability commensurate with his position and with prevailing market conditions. Communication with alternate dealers is effected through the regular dealer(s). The floor broker handling an order remains responsible for its execution. When a regular dealer also acts as floor broker, he must bear in mind his dual responsibilities and the obligation to seek the best possible execution for the customer.

[In securities traded on the Exchange in which there is a registered regular dealer, and in which the Exchange is not the primary market, a qualified market-maker may effect a transaction outside the Exchange (and otherwise than on another national securities exchange) only with non-member professional customers. A non-member professional customer shall mean a non-member of the Exchange engaged in business as a broker-dealer in securities or commodities, an insurance company, an investment company, an investment advisor, an investment manager, a bank, a trust company, a foundation, a professional trustee, a pension fund, or an activity closely related to any of the foregoing.]

EXCHANGE'S STATEMENT OF BASIS OF PURPOSE

Purpose of the Proposed Constitutional Changes

To comply with the provisions of the Securities Exchange Act of 1934, as amended by the Securities Acts Amendments of 1975. Constitution and Rules were reviewed to determine compliance with the foregoing.

Bases of the Proposed Constitutional Changes

To bring certain of the Articles of the Constitution of the Exchange into compliance with the following provisions of the Securities Exchange Act of 1934, as amended:

Sections 6(b)1, 6(b)3, 6(b)5, 6(b)7, 6(b)8, 6(d), 6(d)(3), 6(e), 11A(c)(5), 17(a), 17A(a)(2).

Comments Received From Members, Participants or Others on Proposed Constitutional Changes—The changes were submitted to a vote of the membership and no comment or objections were received.

Burden on Competition—No burden on competition is perceived by adoption of the proposed amendments.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date, if it finds such longer period to be appropriate and published its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed constitutional changes, or

(B) Institute proceedings to determine whether the proposed constitutional changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Washington, DC 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW, Washington, DC. 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 referenced in the caption above and should be submitted on or before July 18, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 17, 1977.

[FR Doc.77-18267 Filed 6-24-77;8:45 am]

[Rel. No. 20085; 70-5558]

INDIANA & MICHIGAN ELECTRIC CO.

Notice of Post-Effective Amendment Regarding Proposed Issue and Sale of Notes to Banks

JUNE 21, 1977.

Notice is hereby given that Indiana & Michigan Electric Company ("I&M") 2101 Spy Run Avenue, Fort Wayne, Indiana 46801, an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed with this Commission a fifth post-effective amendment to its application previously filed in this proceeding pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rules 50(a)(2) and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

By orders dated June 30, August 20, September 15, 1976 and February 23, 1977 (HCAR Nos. 19598, 19655, 19680, and 19898), this Commission, among other things, authorized the issuance and sale of short-term notes by I&M to 39 banks with lines of credit in an aggregate amount of $190,345,000. By said orders, I&M was authorized to incur short-term borrowings through June 30, 1977, to mature no later than December 31, 1977, in an aggregate principal amount not to exceed $175,000,000 outstanding at any time. This amount, date, and maturity were to be limited as allowable under I&M's Articles of Acceptance (20% of capitalization as defined therein, December 31, 1976, and June 30, 1977 respectively). I&M was granted an exception from the competitive bidding requirements of Rule 50 in connection with the issuance of this short-term debt. Pursuant to order dated September 29, 1976 in proceeding 70-5887 (HCAR No. 19697), I&M called a special meeting of its cumulative preferred shareholders on October 13, 1976, at which time I&M was permitted, under its Articles of Acceptance, to issue short-term debt up to 20% of capitalization as defined therein, to December 31, 1980, with maturity no later than June 30, 1981.

By its fifth post-effective amendment, I&M requests that the authority granted to it in the above-cited orders, and the exception from the competitive bidding requirements of Rule 50, be extended to allow I&M to issue and sell short-term notes to 37 named banks, to a dealer in commercial paper and to the trust departments of two commercial banks, to June 30, 1978. I&M proposes to incur such short-term debt in an aggregate principal amount not to exceed $125,000,000 outstanding at any one time, with none of the notes to mature later than December 31, 1978. As of May 5, 1977, I&M had $111,893,000 of such short-term debt outstanding.

It is further stated that I&M has lines of credit with 37 named banks which total $189,840,000. Each note payable to a bank to be issued by I&M under these lines will mature not more than 270 days after the date of issuance or renewal thereof, generally will bear interest at an annual rate not greater than the prime commercial rate of the bank in effect at the time of issuance or from time to time while it is outstanding, and will be prepayable by I&M at any time without premium or penalty. I&M's bank lines require I&M to maintain compensating balances, generally equal to 10% of the amount of credit made available, plus 10% of the amount of any borrowings under the lines. If the full amount were borowed from a bank under the above compensating balance requirements, the effective interest cost to I&M would be 125% of the current prime commerical rate, or 8⅛% in the case of a prime rate of 6½%. In the case of 26 of the banks, with lines of credit totalling $22,840,000, I&M maintains deposit balances for its operational and financial needs in amounts sufficient to satisfy any compensating balance required with respect to borrowings from such banks.

It is further proposed that commercial paper will be sold directly by I&M to Lehman Commercial Paper Incorporated (the "Dealer"). The commercial paper will consist of promissory notes in denominations of not less than $50,000 nor more than $5,000,000, of varying maturities, with no maturity more than 270 days after the date of issue; such notes will not be repayable prior to maturity and will be sold at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper will be issued having a maturity of more than 90 days if such commercial paper would have an effective interest cost to I&M which exceeds the effective interest cost at which I&M could borrow from commercial banks. The Dealer will reoffer the commercial paper, at a discount rate ⅛ of 1% per annum less than the discount rate at which such notes were purchased from I&M, to not more than 200 of the dealer's customers designated in a nonpublic list prepared by the dealer in advance. No sales of such commercial paper will be made to any customer unless that customer has received up-to-date reports as to the credit position of I&M. It is expected that the Dealer's customers will hold such commercial paper to maturity; but if any such customer wishes to sell I&M commercial paper prior to maturity, the Dealer, pursuant to a verbal repurchase agreement, will repurchase the commercial paper and reoffer it to other customers on its nonpublic list.

I&M also proposes to issue and sell its demand notes to the trust departments of Fort Wayne National Bank, Fort Wayne, Indiana and Lincoln National Bank, Fort Wayne, Indiana in principal amounts totaling not more than $5,000,000 and $10,000,000, respectively, at any time. It is stated that these banks' trust departments have a flow of funds, as fiduciaries for various accounts, which is available for short-term investment in such demand notes. The notes to be issued and sold to the trust departments will be promissory notes in denominations of not less than $1,000, bearing an interest rate equivalent to the highest rate paid daily by General Motors Acceptance Corporation on its commercial paper with a maturity of (i) less than 90 days, in the case of demand notes issued to the Fort Wayne National Bank, and (ii) less than 180 days in the case of notes issued to Lincoln National Bank. Notes issued from January 1 to June 30 will mature July 1 of the same year and those issued from July 1 to December 31 will mature January 1 of the following year. Each bank trust department will have the right to demand payment of the notes at any time, and I&M will have the right to prepay at any time without premium or penalty, all or any part of the principal amount of such notes outstanding.

On May 13, 1977 the highest rate paid by General Motors Acceptance Corporation on commercial paper with a maturity of less than 180 days was 5¼%. This rate was approximately 1% less than the rate at which I&M was then able to issue commercial paper of comparable maturities and approximately 2½% below the effective rate for bank borrowings based on a prime commercial rate of 6¼% and compensating balances of 20%. It is stated that based on past experience, the interest rate on these demand notes will consistently be lower than the comparable rates for commercial paper and bank borrowings, including the effect of compensating balances.

The proceeds from the issue and sale of the notes will be used by I&M to reimburse its treasury for past expenditures made in connection with its construction program and to pay part of the cost of its future construction program. Such construction expenditures for the year 1977 are estimated at approximately $158,800,000, exclusive of the cost of the construction program of I&M's subsidiary, Indiana & Michigan Power Company. The estimate of this subsidiary's construction expenditures for the year 1977 is approximately $74,300,000.

I&M claims exception from the competitive bidding requirements of Rule 50 for the proposed issuance of notes to banks and demand notes to bank departments pursuant to paragraph (a)(2) thereof. Additionally, I&M requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper pursuant to paragraph (a)(5) thereof on the grounds that it is not practicable to invite competitive bids for commercial paper and that current rates for commercial paper of prime borrowers such as I&M are published daily in financial publications.

The post-effective amendment states that no expenses are to be incurred in connection with the proposed transactions. It is further stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than July 14, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended by said post-effective amendment or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-18265 Filed 6-24-77;8:45 am]

[Release No. 9821; 812-4133]

MASSACHUSETTS MUTUAL LIFE INSURANCE CO. AND MASSMUTUAL CORPORATE INVESTORS INC.

Notice of Filing of Application for Order

JUNE 21, 1977.

Notice is hereby given that Massachusetts Mutual Life Insurance Company ("Insurance Company"), a mutual life insurance company organized under the laws of the Commonwealth of Massachusetts, and MassMutual Corporate Investors, Inc. ("Fund") 1295 State Street, Springfield, Massachusetts 01111 (hereinafter referred to collectively with the Insurance Company as "Applicants"), a non-diversified, closed-end management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on May 9, 1977, and an amendment thereto on June 16, 1977, pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder for an order of the Commission permitting Applicants to engage in the transaction described below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicants state that pursuant to an order of the Commission issued August 19, 1971 (Investment Company Act Release No. 6690), the Insurance Company, which acts as investment adviser to the Fund, is permitted to invest concurrently for its general account in each issue of securities purchased by the Fund at direct placement and to exercise warrants, conversion privileges and other rights at the same time as the Fund.

Applicants state further that this order is subject to several conditions, which require, inter alia, that purchases at direct placement of securities which would be consistent with the investment policies of the Fund be shared equally by the Insurance Company and the Fund and that, once the Insurance Company and the Fund have acquired interests in an issuer, neither the Insurance Company nor the Fund, unless otherwise permitted by order of the Commission, may acquire any further interest in such issuer other than interests in all respects identical.

Applicants state that on September 21, 1972, the Insurance Company and the Fund each purchased the following securities issued by American Gemsmiths,

Inc. ("Gemsmiths"), pursuant to separate but identical purchase agreements ("Old Purchase Agreements"): $964,250 in aggregate principal amount (reduced to $899,750 as a result of scheduled prepayments) of 8½% Senior Subordinated Notes due 1987 ("Old Notes"); 1,250 shares of $4.00 cumulative preferred stock, par value $100 per share ("Preferred Stock"); 1,150 shares of Class A Common Stock; and 12,850 shares of Class B Common Stock (non-voting and convertible share for share into Class A Common Stock). Applicants state that as a result of such ownership, the Applicant and the Fund each own 50% of the Class B Common Stock and approximately 1.56% of the Class A Common Stock of Gemsmiths. According to the application, Gemsmiths, a Delaware corporation, is in the business of purchasing diamonds for resale as rings and other jewelry to retail jewelry stores.

The Insurance Company proposes to purchase at direct placement $3,000,000 in principal amount of a new issue of 9⅝% Senior Notes due 1992 ("New Notes") of Gemsmiths. Applicants request an order, pursuant to the provisions of Section 17(d) of the Act and Rule 17d–1 thereunder: (1) permitting the Insurance Company to acquire the New Notes since both the Insurance Company and the Fund presently own equal amounts of Gemsmiths securities and (2) permitting Applicants to amend the Old Notes and Old Purchase Agreements to: (a) increase the interest rate on the Old Notes from 8½% to 9%; (b) eliminate provisions subordinating the Old Notes to certain other indebtedness of Gemsmiths; and (c) restate the financial covenants included in the Old Purchase Agreements to conform them to the financial covenants to be included in the purchase agreement relating to the purchase of the New Notes. According to the application, Gemsmiths intends to apply the proceeds from the sale of the New Notes to retire short-term bank borrowings of approximately $2,900,000 and to provide additional working capital. The application states that, should the order requested herein be granted, the Insurance Company will be the sole/purchaser of the New Notes.

Applicants state that the issuance by Gemsmiths of the New Notes to the Insurance Company would be prohibited by a financial covenant contained in the Old Purchase Agreements. Applicants state further that in order to secure the permission of the Fund and the Insurance Company for the issuance of the New Notes, Gemsmiths has agreed to increase the interest rate on the Old Notes held by the Insurance Company and the Fund from 8½% to 9% and to eliminate provisions in the Old Purchase Agreements subordinating the Old Notes to certain other indebtedness of Gemsmiths, thereby upgrading the Old Notes to Senior Note obligations co-equal with the New Notes. Applicants also state that Gemsmiths has requested that all the financial covenants included in the Old Purchase Agreements be restated to conform them to the financial covenants to be contained in the purchase agreement relating to the New Notes.

Applicants represent that the Board of Directors of the Fund has unanimously approved the proposed amendments to the Old Notes and Old Purchase Agreements and has determined that such amendments are in the best interests of the Fund. Applicants represent further that any additional material changes to the proposed financial covenants must be approved by the Fund's Board of Directors, including a majority of those directors who are not interested persons of Applicants.

Applicants state that the proposed acquisition is not an appropriate investment for the Fund; the investment policy of the Fund specifies that the investments of the Fund will be long-term obligations and, to a limited extent, preferred stocks, purchased directly from the issuers, if such obligations or preferred stocks have "equity features." Applicants represent that the New Notes lack such equity features and, therefore, would not be a permissible investment for the Fund.

Applicants submit that neither the Insurance Company, any affiliated person of the Insurance Company, (as that term is defined by the Act), the Fund, nor any affiliated person of the Fund, owns any securities of Gemsmiths or Gemsmiths' affiliates, other than the Old Notes and the other securities purchased pursuant to the Old Purchase Agreements as set forth above.

Section 17(d) of the Act and Rule 17d–1 thereunder, taken together, provide, in part, that it is unlawful for an affiliated person of a registered investment company, acting as principal, to effect any transaction in which such registered company is a joint participant, without the permission of the Commission. Rule 17d–1 provides, in part, that in passing upon applications for orders granting such permission, the Commission will consider (1) whether the participation of the investment company in such transaction on the basis proposed is consistent with the provisions, policies and purposes of the Act, and (2) the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Applicants submit that: (1) the Insurance Company did not contemplate any investment in the New Notes at the time of the purchase of the Gemsmiths securities in 1972; (2) such prior purchase was not tied to or induced by any discussions with respect to the purchase and sale of the New Notes or any similar securities; and (3) there is no connection between the purchase of the outstanding Gemsmiths securities and the proposed issuance and sale of the New Notes to the Insurance Company other than the fact that the Insurance Company established a relationship with Gemsmiths in 1972 at the time of the prior acquisition. Although the Fund is prohibited by its investment policy from purchasing the New Notes, Applicants also submit that the issuance of the New Notes will benefit the Fund since such issuance is conditioned upon an increase in the interest rate on the Old Notes held by the Insurance Company and the Fund from 8½% to 9% and upon the upgrading of such subordinated notes to senior note obligations co-equal with the New Notes. Applicants submit further that disadvantage to the Insurance Company would result if it were not permitted to acquire the New Notes. For the foregoing reasons, Applicants submit that the proposed transaction is not less advantageous to the Fund than to the Insurance Company, and that the proposed transaction is consistent with the provisions, policies and purposes of the Act.

Notice is further given that any interested person may, not later than July 14, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-18266 Filed 6-24-77;8:45 am]

[Release No. 34-13640; File No. SR-MCC-7733]

MIDWEST CLEARING CORP.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 10, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change would provide for the automatic allocation of securities held in loan free positions to long value positions.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to reduce the level of open fails to receive ("long value positions") in MCC'c continuous net settlement system and to make more efficient use of securities designated as available for loan by MCC participants ("loan free securities") by automatically allocating loan free securities to long value positions, thus converting the latter into free positions.

Long value positions result from purchase transactions cleared through MCC. Under MCC's existing rules, long value positions may be reduced or eliminated in three ways. First, the participant maintaining the position may sell securities of the same class in a transaction cleared through MCC. Second, the participant may file a withdrawal request, to be filled out of securities delivered to MCC by other participants against short value positions, or, to the extent that such deliveries are insufficient, out of loan free securities on deposit with MCC. Third, the quantity of securities delivered in against short value positions may exceed the quantity called for by pending withdrawal requests, in which event the excess will be allocated by MCC to long value positions (beginning with the oldest), automatically converting them into clearing free positions without action on the part of the participants for which the long value positions were maintained.

The proposed amendment to Section 5 of Rule 5 would permit loan free securities to be allocated to long value positions in the same manner as excess securities delivered in against short value positions. Thus if both long value and loan free positions remained in a particular class of securities on a given day after all withdrawal requests for that class had been satisfied and all excess securities of that class delivered in against short positions had already been allocated, the remaining loan free securities would be allocated to the remaining long value positions until the long value positions or the loan free positions had been eliminated, whichever occurred first.

The proposed amendments to Section 6 of Rule 5 and Section 1 of Rule 17 consist of technical changes conforming those provisions to Section 5, Rule 5, as proposed to be amended herein.

MCC believes that the proposed rule change would increase MCC's ability to effect prompt settlement in respect of securities transactions by making more securities available for allocation to long value positions and thus reducing the level of fails to receive, and would increase the efficiency of MCC's automatic stock loan program through greater utilization of loan free securities. In addition, to the extent that the increased efficiency of the automatic stock loan program may result in the designation of more securities as loan free by participants, more securities would become available to satisfy withdrawal requests, thus reducing delays in the filling of such requests.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

MCC does not believe that the proposed rule change would impose any burden on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned 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 change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will 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 referenced in the caption above and should be submitted on or before July 18, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 17, 1977.

[FR Doc.77-18269 Filed 6-24-77;8:45 am]

[Release No. 34-13643; File No. SR-NSCC-77-4]

NATIONAL SECURITIES CLEARING CORP. (NSCC)

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 7, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

It is proposed to add a new Schedule H to the Schedule Adopted in Accordance with Rule 20 of the Operating Rules of the NCC Division of NSCC to read as follows:

H. Charges to Issuers for Reports of Free Position Balances.

The Clearing Corporation shall charge $25 for each report requested by the issuer of any security eligible for clearance in the NCC Division pursuant to Rule 4 of these Rules setting forth the respective Free Positions of NCC Division Clearing Members in such security at the Clearing Corporation as of a specific date.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the proposed rule change is as follows:

The proposed rule change would establish a fee for a new service proposed to be made available to issuers of securities cleared pursuant to the Operating Rules of the NCC Division of NSCC. This service would enable issuers whose securities are registered in the name of NCC & Co., NSCC's nominee for the NCC Division, to determine the free position holdings of NCC Division Clearing Members. Issuers will then be in a position to correspond directly with Clearing Members or, if directed by such Clearing Members, the beneficial owners represented by such Clearing Members and encourage such Clearing Members to request appropriate corporate materials and direct the registered holder (NCC & Co.) to take appropriate action to which the beneficial owner is entitled.

The proposed rule change fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and the protection of investors and the public interest in that it will enable NSCC to provide economically a service which helps remove a possible impediment to the distribution of proxy material, annual reports, information statements and other corporate material to the beneficial owners of securities.

Comments were not and are not to be solicited prior to the effectiveness of the proposed rule change.

NSCC does not believe that any burden on competition will be imposed by this proposed rule change.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room,

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 referenced in the caption above and should be submitted on or before July 18, 1977.

For the Commission by the Division of Market Regulations, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 17, 1977.

[FR Doc.77-18268 Filed 6-24-77;8:45 am]

[Release No. 34-13650; File Nos. SR-MCC-77-1 and SR-MSTC-77-5]

MIDWEST CLEARING CORP. AND MIDWEST SECURITIES TRUST CO.

Proposed Rule Changes by Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on June 9, 1977, the above-mentioned self-regulatory organizations filed with the Securities and Exchange Commission proposed rule changes as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The porposed rule changes would establish, and set fees for, the Stock Today Program ("STP"), a service that would enable a Midwest Securities Trust Company ("MSTC") and Midwest Clearing Corporation ("MCC") participant to expedite delivery and settlement of securities transactions with out-of-town brokers or institutional customers.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes are as follows:

The MST System (the composite clearing, depository and delivery services of MSTC and MCC), STP enables an MSTC/MCC participant to effect release of securities from the MST System on the day prior to settlement day with redelivery capabilities via MCC's Correspondent Delivery and Collection Service ("CDCS"). Participants using STP in conjunction with the CDCS service will be able to instruct MSTC/MCC to pull physical securities on the day prior to settlement and redeliver through MCC's MCC's CDCS. Participants would be charged a service fee of $3 per item processed via STP.

STP is intended to reduce or eliminate certain finance charges for the participant. Before STP, the selling broker would pay for securities on settlement day and withdraw them from MCC. However, the broker would not receive payment until physical delivery had been made to the out-of-town broker or institution, usually one or two days after settlement day. The broker would therefore incur charges to finance the delivery in those cases where it had to borrow money until receipt of payment. With the Stock Today Program, MSTC/MCC will be able to make the securities available for out-of-town delivery on settlement day. Consequently, the broker will receive credit one day early. Therefore, his finance charges could be substantially reduced.

MSTC believes that the proposed rule changes facilitate the prompt and accurate settlement of securities transactions by effecting settlement and collection of funds on a more timely basis. This is accomplished by reducing the amount of time necessary for collecting funds on an out-of-town draft.

The Midwest Clearing Corporation and the Midwest Securities Trust Company have neither solicited nor received any comments.

The Midwest Clearing Corporation and the Midwest Securities Trust Company believe that no burden will be placed on competition.

On or before August 1, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organizations consent, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filings with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filings will also be available for inspection and copying at the principal offices of the above-mentioned self-regulatory organizations. All submissions should refer to the file numbers referenced in the captions above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 20, 1977.

[FR Doc.77-18259 Filed 6-24-77;8:45 am]

[Release No. 13651; SR-MSE-77-10]

MIDWEST STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

JUNE 20, 1977.

On April 26, 1977, the Midwest Stock Exchange, Inc. ("MSE"), 120 South LaSalle Street, Chicago, Illinois 60603, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The MSE proposal, which adds Article XXXIV to the Exchange's rules, provides for the creation of a registered market-maker function with respect to certain equity securities traded on the Exchange. Members who register in this capacity would be obliged to contribute to the maintenance of a fair and orderly market in their respective assigned issues.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13486 (April 28, 1977)) and by publication in the FEDERAL REGISTER (42 FR 24785 (May 16, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on April 26, 1977, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-18260 Filed 6-24-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1312; Amendment No. 4]

VIRGINIA

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 20695), Amendment No. 1 (see 42 FR 21887), Amendment No. 2 (see 42 FR 23220), and Amendment No. 3 (see 42 FR 30459) are amended to change the closing date for economic injury damage to March 19, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: June 16, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-18194 Filed 6-24-77;8:45 am]

DEPARTMENT OF STATE

[CM-7/82]

STUDY GROUP 7 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

Meeting

The Department of State announces that Study Group 7 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will

meet on July 21–22, 1977, at the NASA/Goddard Space Flight Center, Greenbelt Road, Building 12, Room N13, Greenbelt, Maryland. The meeting will begin at 9 a.m.

Study Group 7 deals with time-signal services by means of radio-communications. The main purpose of the meeting will be a review of work assignments in preparation for the international meeting of Study Group 7 in January, 1978.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Entrance to the Goddard Space Flight Center is controlled and all non-NASA representatives will be required to register at whichever gate is used for entry to the area. Entry for members of the general public may be facilitated if arrangements are made in advance. Therefore, it is suggested that prior to July 21, members of the general public who plan to attend the meeting should inform their name, affiliation and address to Mr. Jacques S. Herman (Secretary, U.S. Study Group 7), National Scientific Laboratories. Mr. Herman can be reached by telephone on area code 703, 698–8500.

Dated: June 17, 1977.

GORDON L. HUFFCUTT,
Chairman, U.S. CCIR National Committee.

[FR Doc.77-18238 Filed 6-24-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

AIR TRAFFIC PROCEDURES ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee to be held July 19 through July 22, 1977, from 9 a.m. E.D.T. to 4 p.m. daily, except for the last day which will terminate at 1 p.m., in conference rooms 6A and B at FAA Headquarters, 800 Independence Ave. SW., Washington, D.C.

The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, Mr. Franklin L. Cunningham, Executive Director, Air Traffic Procedures Advisory Committee, Air Traffic Service, AAT–300, 800 Independence Ave. SW., Washington, D.C. 20591, telephone (202)–426–3725.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on June 15, 1977.

F. L. CUNNINGHAM,
Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc.77-18015 Filed 6-24-77;8:45 am]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA) EXECUTIVE COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the RTCA Executive Committee to be held July 15, 1977, Conference Room, 11th Floor, Aircraft Owners and Pilots Association (AOPA), 7315 Wisconsin Avenue, Bethesda, Maryland commencing at 9:30 a.m. The Agenda for this meeting is as follows: (1) Approval of Minutes of May 13, 1977 Meeting; (2) Special Committee Activities Report for May and June 1977; (3) Chairman's Report of RTCA Administration and Activities; (4) Consideration of Resolution for changes to Constitution and Bylaws; (5) Approval for publication of Draft Final Report of Special Committee 125, MLS Implementation, Volumes I and II, RTCA Paper No. 89–77/SC125–89, and (6) Consideration of Establishing New Special Committees.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006 (202–296–0484). Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on June 14, 1977.

KARL F. BIERACH,
Designated Officer.

[FR Doc.77-18016 Filed 6-24-77;8:45 am]

Office of Hazardous Materials Operations

UNITED NATIONS RECOMMENDATIONS ON THE TRANSPORT OF DANGEROUS GOODS

Public Meeting

In recognition of the importance of the safe transportation of hazardous materials on a world-wide scale, the United Nations Economic and Social Council (ECOSOC), through its Committee of Experts on the Transport of Dangerous Goods, has prepared recommendations to serve as the basis for development of international standards for the safe transport of hazardous materials. Representatives of the Department of Transportation, in association with expert advisors from industry, participated in five international meetings during 1976. Topics addressed during these meetings included the listing and classification of new substances, the packing of dangerous goods, the defining and listing of new explosives, and the establishment of criteria for hazard grouping. A major accomplishment which was finalized during the year was the revision and consolidation of the six volumes of United Nations recommendations into one volume entitled, "Transport of Dangerous Goods—Recommendations Prepared by the Committee of Experts on the Transport of Dangerous Goods—United Nations," Document No. ST/SG/AC.10/1. This document is available in the U.S.A. at a cost of $15.00 from: United Nations, Sales Section, New York, N.Y. 10017. Copies are also available for public examination at the Section of Dockets, Office of Hazardous Materials Operations, Room 6500, 2100 Second Street, S.W., Washington, D.C. 20590.

In the development of its recommendations, the United States Committee of Experts relies on and considers the recommendations made to it by its two subsidiary bodies, the United Nations Group of Experts on Explosives and the United Nations Group of Rapporteurs on Packing of Dangerous Goods. The United Nations Committee of Experts on the Transport of Dangerous Goods was re-established by resolution of the Economic and Social Council of the United Nations during its twenty-third session in 1957. As a result, it was requested by the Council that the Secretary General set up a committee consisting of representatives of nine countries to: (1) revise as may be necessary and keep up-to-date the list of dangerous goods proposed by the Committee of Experts, taking into account existing practices in the field of transportation and the extent of their usage; (2) allow each substance a number for ready identification; (3) study further the problem of packing; (4) report progress; and (5) urge governments, regional economic commissions, and international organizations concerned to take note of the recommendations of the Committee of Experts and of any further recommendations by the Committee, and to keep the Secretary General currently informed of the extent to which they can bring their own practices in general conformity with them. Membership in the Committee of Experts has been expanded to 15 countries, including five considered to be developing nations.

It has been the position of the Department that the United Nations recommendations should be the basis for the development of operative international standards pertaining to listing, classification, serial identification, marking, labeling, grouping and basic packaging performance to assure world-wide harmonization in these areas. The United States representatives to intertional meetings concerned with the transport of dangerous goods, when appropriate, request full consideration of

U.S. practices as reflected in the Department's regulations. Inevitably, compromises between varying positions of participating countries are necessary in the interest of full development of international transport safety requirements and the facilitation of traffic.

In its international standards development efforts, the Department has solicited input from and representation by experts in the private sector. This practice will continue in the future.

In order to make interested persons more familiar with the scope and format of the United Nations recommendations and current issues under consideration, an informal public briefing will be held on July 12, 1977, at 10:00 a.m., in Room 3442 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C. Subjects that will be discussed by representatives of the Office of Hazardous Materials Operations are:

1. Grouping of flammable liquids.
2. Division of Class 8 (Corrosives).
3. Definition of inhalation hazards for grouping purposes in Class 6 (Poisons).
4. A new label for irritating materials.
5. Division of Class 9 (Miscellaneous).
6. Clarification of labeling requirements for Class 2 (Gases).
7. Changes in classification of dangerous goods listed in Chapter 2.

Persons interested in any of these subjects are invited to attend.

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

[FR Doc.77-18382 Filed 6-24-77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

TREASURY BONDS OF 1992

Department Circular Public Debt Series No. 15-77

JUNE 21, 1977.

1. INVITATION FOR TENDERS

1. 1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $1,500,000,000 of United States securities, designated Treasury Bonds of 1992 (CUSIP No. 912810 BY 3). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2. 1. The securities will be dated July 8, 1977, and will bear interest from that date, payable on a semiannual basis on February 15, 1978, and each subsequent 6 months on August 15 and February 15 until the principal becomes payable. They will mature August 15, 1992, and will not be subject to call for redemption prior to maturity.

2. 2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2. 3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2. 4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon registered, and book-entry securities, and the transfer of registered securities will be permitted.

2. 5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3. 1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, June 28, 1977. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, June 27, 1977.

3. 2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3. 3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3. 4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3. 5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the weighted average price (in three decimals) of accepted competitive tenders, and competitive tenders with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 96.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3. 6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4. 1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5. 1. Settlement for allotted securities must be made or completed on or before Friday, July 8, 1977, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Tuesday, July 5, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Friday, July 1, 1977, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individuals' social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5. 2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5. 3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5 Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery on the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

W. MICHAEL BLUMENTHAL,
Secretary of the Treasury.

[FR Doc.77-8200 Filed 6-22-77;8:45 am]

TREASURY NOTES OF SERIES R–1979

Supplement to Department Circular Public Debt Series—No. 14–77

JUNE 22, 1977.

The Secretary of the Treasury announced on June 21, 1977, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 14–77, dated June 15, 1977, will be 6⅛ percent per annum. Accordingly, the notes are hereby redesignated 6⅛ percent Treasury Notes of Series R–1979. Interest on the notes will be payable at the rate of 6⅛ percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.77-18201 Filed 6-22-77;8:45 am]

Office of Foreign Assets Control

IMPORTATION FROM KOREA OF FERRO-CHROMIUM AND CHROMIUM-BEARING STEEL PRODUCTS UNDER THE RHODESIAN SANCTIONS REGULATIONS

Issuance by the Government of the Republic of Korea of Special Certificates Verifying Non-Rhodesian Origin of Chromium Content

Special certificates of origin issued by the Korea Chamber of Commerce and Industry under the authority of the Government of the Republic of Korea are now available for imports of ferrochromium and specialty steel products from Korea. These certificates are issued pursuant to a formal certification agreement between the Government of the Republic of Korea and the Government of the United States. They will serve to establish that Korean materials exported to the United States do not contain any chromium of Rhodesian origin. The agreement replaces the interim arrangements which have been in effect since March 18, 1977, to permit importation of specialty steel products from Korea. After July 18, 1977, only materials certified under this agreement may be imported under § 530.503 of the Rhodesian Sanctions Regulations (31 CFR 530.503). However, until July 18, 1977, importation of materials certified pursuant to the interim arrangements will continue to be authorized.

Dated: June 20, 1977.

STANLEY L. SOMMERFIELD,
Acting Director.

Approved:
BETTE B. ANDERSON,
Under Secretary.

[FR Doc.77-18210 Filed 6-24-77;8:45 am]

Office of the Secretary

DEBT MANAGEMENT ADVISORY COMMITTEES

Meetings

Notice is hereby given, pursuant to Section 10 of Pub. L. 92–463, that meetings will be held in Washington on July 26 and 27, 1977, of the following debt management advisory committees:

American Bankers Association, Government Borrowing Committee, Public Securities Association, U.S. Government and Federal Agencies Securities Committee

The agenda for the meetings provides for working sessions by two committees on July 26, a report to the Secretary of the Treasury and Treasury staff by the American Bankers Association Government Borrowing Committee on July 26 and a report to the Secretary of the Treasury and Treasury staff by the Public Securities Association U.S. Government and Federal Agencies Securities Committee on July 27.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Pub. Law 92–463, and vested in me by Treasury Department Order 190, revised, I hereby determine that these meetings are concerned with information exempt from disclosure under section 552b(c)(4) and (9)(A) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt man-

agement advisory committees established by the several major segments of the financial community, which committees are utilized by this Department at meeting called by representatives of the Office of the Secretary. When so utilized they are recognized to be advisory committees under Pub. L. 92–463. The advice provided consists of commercial and financial information given and received in confidence. As such these debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of Title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential".

Although the Treasury's final announcement of financing plans may or may not reflect the advice provided in reports of these committees, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by 552b(c)(9)(A) of Title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of the meetings of these committees and for providing annual reports setting forth a summary of their activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552b.

Dated: June 21, 1977.

ANTHONY M. SOLOMON,
Under Secretary for Monetary Affairs.

[FR Doc.77-18229 Filed 6-24-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 422]

ASSIGNMENT OF HEARINGS

JUNE 22, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 112617 (Sub-No. 145), Liquid Transporters, Inc., now being assigned August 16, 1977 for continued hearing at Interstate Commerce Commission in Washington, D.C.

MC 52709 (Sub-341), Ringsby Truck Lines, Inc., now assigned July 7, 1977 at Seattle, Washington, hearing canceled and the application is dismissed.

MC 133566 (Sub-No. 59), Gangloff & Downham Trucking Co., Inc., MC 133566 (Sub-No. 58) Gangloff & Downham Trucking Co., Inc., MC 133566 (Sub-No. 71) Gangloff & Downham Trucking Co., Inc., now being assigned September 12, 1977 (2 days) for hearing in Boston, Massachusetts, in a hearing room to be later designated.

MC 141641 (Sub-No. 4), Wilson Certified Express, Inc., now being assigned September 14, 1977 (2 days) for hearing in Boston, Massachusetts, in a hearing room to be later designated.

MC 142603 (Sub-No. 1), Contract Carriers of America, Inc., now being assigned September 16, 1977 (1 day), at Boston, Massachusetts, in a hearing room to be later designated.

MC 114632 (Sub-No. 91), Apple Lines, Inc. and MC 136212 (Sub-No. 21), Jensen Trucking Company, Inc., now being assigned July 13, 1977 (3 days), in Room 616, Union Pacific Plaza, 110 N. 14th Street, Omaha, Nebraska.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-18284 Filed 6-24-77;8:45 am]

[Notice No. 183]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests again approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before July 27, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77144 filed May 24, 1977. Transferee: DAMEO TRUCKING, INC., 75 North Bridge St., Somerville, New Jersey, 08876. Transferor: Dameo, Inc., 568 Central Avenue, Somerville, N.J., 08876. Applicant's representative: William P. Sullivan, 1819 H Street, N.W., Washington, D.C., 20006. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permits No. MC 2359 (Sub-No. 16); MC 2359 (Sub-No. 19); MC 2359 (Sub-No. 20); MC 2359 (Sub-No. 21), and MC 2359 (Sub-No. 22), issued August 28, 1968, August 28, 1968, July 16, 1976, July 16, 1976, and July 16, 1976, and the operating rights in MC 2359 (Sub-No. 1) issued October 25, 1973; as follows: Concrete pipe with asbestos binder, building and roofing materials, asphalt, asbestos, and asphalt and asbestos products, from Manville, N.J., to Baltimore, Md., points in Connecticut and Delaware, and named counties in the States of Maryland, New York, and Pennsylvania; iron and steel articles, wire, tubing, tools, machine parts, and hoisting equipment, between Newark, N.J., on the one hand, and, on the other, New York, N.Y., and named counties in the States of New York, and Pennsylvania; chemicals, and materials, supplies, and equipment used in chemical manufacturing, between Bound Brook and Newark, N.J., on the one hand, and, on the other, New York, N.Y., Easton, Pa., and named counties in the State of New York, and points in New Jersey; composition floor covering, and materials, supplies and equipment used in the manufacture of composition floor covering, between points in Hudson County, N.J., on the one hand, and, on the other, New York, N.Y., Marcus Hook, Pa., and points in Westchester and Nassau Counties, N.Y.; returned shipments of concrete pipe with asbestos binder, from points in Connecticut and Delaware, and points in named counties in the States of Maryland, New York, and Pennsylvania, to the site of the Johns Manville Corporation plant, at Manville, N.J.

Fibrous glass products and materials, insulating products and materials, building, wall and insulating board, asphalt and asbestos, asphalt and asbestos products and materials, and materials, supplies and equipment used in connection with the production and distribution of the foregoing groups of commodities, between the plant site of Johns Manville Corporation, Penbryn, Winslow Township, Camden County, N.J., and the plant site of CSG Group of Certain-teed Products Corporation, Winslow Township, Camden County, N.J., on the one hand, and, on the other, points in New York, Pennsylvania, Maryland, Delaware, Connecticut, Rhode Island, Massachusetts, and the District of Columbia restricted against the transportation of any commodities in bulk; concrete, cement-asbestos and plastic pipe, and materials and supplies used in the installation thereof (except in bulk) from the plant site of Johns-Manville Corporation in Manville, N.J., to points in Maine, New Hampshire, and Vermont; used and returned shipments of the commodities specified next above, from points in Maine, New Hampshire, and Vermont, to the plant site of Johns-Manville Corporation, in Manville, N.J.; fibrous glass products, and fibrous glass materials, insulating products and insulating materials, building wall and insulating board,

asphalt and asbestos, asphalt and asbestos products and asphalt and asbestos materials (except in bulk) between the plant site of Johns-Manville Corporation, located at Penbryn, Winslow Township, Camden County, N.J., and the plant site of CSG Group of Certain-teed Products Corporation, Winslow Township, Camden County, N.J., on the one hand, and, on the other, points in Maine, New Hampshire, and Vermont; talc, in bulk, in tank vehicles from West Windsor, Vt., to North Brunswick, N.J.; Malt beverages, and advertising and display supplies and materials, from Baltimore, Md., Port Newark, N.J., and Albany and New York, N.Y., to points in Bridgewater Township, N.J.; conduit, building and roofing materials, asphalt, asbestos, and asphalt and asbestos products, from Manville, N.J., to Alexandria, Va., points in Fairfax County, Va., and those in Massachusetts, Rhode Island, and the District of Columbia; conduit, between Manville, N.J., on the one hand, and, on the other, points in Virginia, Maryland, Delaware, Pennsylvania, New York, Connecticut, Rhode Island, Massachusetts, and the District of Columbia; and composition building board, from the facilities of Johns-Manville Perlite Corporation, located at or near Woodstock, Va., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77161, filed June 3, 1977. Transferee: KNEPSHIELD TRUCKING, INC., Route 1, Sigel, Pennsylvania 15860. Transferor: H. L. Knepshield, Route 1, Sigel, Pennsylvania 15860. Applicant's representative: Donald W. Knepshield, president, Route 1, Sigel, Pennsylvania 15860. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 127362 and MC 127362 (Sub-No. 2) issued August 26, 1966 and February 9, 1970 respectively, as follows: Logs and lumber from points in Jefferson and Clarion Counties, Penn. to points in Ohio, Michigan, and Virginia and from specified portions of New York to a specified portion of Pennsylvania, from specified portions of Pennsylvania to points in Ohio, Indiana, Michigan, and West Virginia and a specified portion of New York, and from points in Ohio to points in specified portions of Pennsylvania and New York. Transferee presently holds no authority from this Commission; application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77172, filed June 10, 1977. Transferee: Blackhawk Express, Inc., Lake View, Iowa 51450. Transferor: Road Runner Trucking, Inc., P.O. Box 37491, Omaha, Nebr. 68137. Applicant's representative: Kenneth F. Dudley, 611 Church St., P.O. Box 279, Ottumwa, Iowa 52501. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 125996 (Sub-No. 13), issued June 15, 1970, as follows: *Meats, meat products and meat by-products*, and *articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), over irregular routes, from the plantsite and storage facilities of Blue Ribbon Beef Pack, Inc., near Le Mars, Iowa, to points in Colorado (except Denver), Kansas, Nebraska, and Wisconsin, with no transportation for compensation on return except as otherwise authorized. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-18285 Filed 6-24-77;8:45 am]

[Ex Parte No. MC 101]

INITIAL PROCESSING OF MOTOR CARRIER FINANCE PROCEEDINGS

AGENCY: Interstate Commerce Commission.

ACTION: Notice and policy statement.

SUMMARY: The Commission announces that it will, beginning August 23, 1977, closely scrutinize all tendered applications in motor carrier finance proceedings prior to their being docketed and that it will reject applications found to be incomplete.

DATES: Comments must be received on or before July 27, 1977 (30 days). The new practices will be instituted, unless modified by subsequent order, on and after August 23, 1977.

ADDRESS: Comments should refer to docket Ex Parte No. MC 101. An original and 11 copies should be submitted to the Section of Finance, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

G. M. Bober, Section of Finance, Office or Proceedings, Interstate Commerce Commission, Washington, D.C. 20423 (202-275-7564).

SUPPLEMENTARY INFORMATION:

At a general session of the Interstate Commerce Commission, held at its Office in Washington, D.C., on the 13th day of June 1977.

Section 5(2) of the Interstate Commerce Act (the Act), 49 U.S.C. § 5(2), provides, among other things, that, subject to certain exceptions, the prior approval of the Interstate Commerce Commission is required before two or more regulated motor carriers may be operated under common control, merge or consolidate, or purchase, lease, or contract to operate one another's properties. Section 210a(b) of the Act provides for the issuance of temporary authority pending the determination of section 5(2) applications involving motor carriers.

Applications filed by motor carriers seeking Commission approval of transactions subject to section 5(2) and 210a(b) are governed by special rules of practice published at 49 CFR 1100.240. They must be submitted on forms prescribed by the Commission and designated as: Form OP-F-44 (for authority under section 5 to consolidate, merge, purchase, or lease motor-carrier operating rights and properties); Form OP-F-45 (for authority under section 5 to acquire control of a motor carrier through stock ownership or otherwise); and Form OP-F-46 (for temporary authority under section 210a(b) to operate motor carrier properties sought to be acquired under a pending section 5 application). 49 CFR 1003.1(a), 1134.1(a), and 1134.50. Section 5(2) applications involving motor carriers are docketed under the prefix "MC-F" and are commonly referred to as motor carrier finance proceedings.

For several years the Commission has sought to reduce the time expended between the filing and final determination of motor carrier finance cases. Much of the delay in processing these cases, and contributing to what is known as regulatory lag, takes place at the initial stages of the proceeding. Frequently, delay results from the fact that the application filed with the Commission proves upon examination to be incomplete. A review of motor carrier finance applications filed recently reveals that entire exhibits required by Forms OP-F- 44 and 45 are missing. A common omission is exhibit D-4 to Form OP-F-44 consisting of an abstract of shipments handled by the transferor. Applicants also have failed to file the environmental statement required under our regulations published at 49 CFR 1108.12(d); certification that service has been made on transportation regulatory agencies of the States in which the applicant operate; and other required exhibits. Another common defect is the failure of the applicants to file concurrently all directly related applications, such as those seeking to convert registered intrastate authority to certificated authority or to eliminate "gateway" points.

Persons contemplating the filing of applications leading to the institution of motor carrier finance proceedings are put on notice that:

(1) It will be the practice of the Commission in the future to examine each such application carefully, prior to its being docketed. If the tendered application is found to be incomplete, it will not be docketed, and the applicant's representative will be requested to furnish the omitted information prior to a specified date, normally 30 days from the date of notification. If the applicant fails to complete the application within the specified time, the application will be rejected and the filing fee returned.

(2) Except for applications for temporary authority, all applications directly related to a section 5 application must be tendered simultaneously with that application.

(3) An Application for temporary authority under section 210a(b) will not be accepted for filing until all directly

related and corresponding applications for permanent authority under section 5, or other provisions of the Act, are completed and tendered for filing.

(4) Strict compliance with the provisions of this notice will be waived only if the party requesting waiver presents convincing evidence that extraordinary circumstances exist.

The Commission intends to enforce strict compliance with the provisions of this notice beginning August 23, 1977. Persons wishing to express their views on this matter are invited to do so. An original and 11 copies of comments should be sent to the Section of Finance, Interstate Commerce Commission, Washington, D.C. 20423, on or before July 27, 1977. All comments received will be considered, and may result in modification of the contents of this notice.

H. G. HOMME JR.,
Acting Secretary.

[FR Doc.77-18281 Filed 6-24-77;8:45 am]

[Notice No. 184]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 27, 1977.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC 77179. By application filed June 16, 1977, MOODY TRANS., INC., Route No. 1, Sugar City, ID 83448, seeks temporary authority to transfer the operating rights of Robert G. Wright, an individual, d.b.a. Star Valley-Jackson Stages and Teton Stage Lines, 1945 Eagle Drive, Idaho Falls, ID 83401, under section 210a(b). The transfer to Moody Trans., Inc., of the operating rights of Robert G. Wright, an individual, d.b.a. Star Valley-Jackson Stages and Teton Stage Lines, is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-18286 Filed 6-24-77;8:45 am]

[Ex Parte No. MC 103]

PROCEDURES IN MOTOR CARRIER APPLICATION PROCEEDINGS WHERE FOR-HIRE CARRIAGE IS SUBSTITUTED FOR PROPRIETARY OPERATIONS

Oral Argument; Correction

On June 20, 1977, notice of oral argument in the above-entitled proceeding was published in the FEDERAL REGISTER (42 FR 31214). The names and addresses of a number of the parties of record were inadvertently omitted from the service list which was attached as an appendix to that notice. The purpose of this supplementary publication is to correct that oversight. A complete service list for the above-entitled proceeding is attached as an appendix to this corrected notice.

The rest of the notice of June 20, 1977, remains as previously published. In order to insure that all concerned parties are apprised of the information contained in that previous publication, its substance will be repeated below.

The Interstate Commerce Commission will hold oral argument in the above-entitled proceeding in order to afford the parties a further opportunity to make their views known to the Commission. Oral argument is scheduled to commence at the office of the Commission in Washington, D.C., at 9:30 a.m. on August 3, 1977.

The August 3rd date has been selected to afford the parties an advance opportunity to consider the views expressed by other parties to this proceeding, and, on the basis of said consideration, to determine whether there is a possibility of consolidating their presentations at oral argument with other parties expressing the same or similar views. Our review of the representations filed in this proceeding reveals that there is substantial repetition of arguments by both the parties supporting and opposing the involved proposal. In these premises, we would strongly advise, in the interest of expediency and to avoid unnecessary repetition, that the related parties in interest explore the possibility of consolidating their presentations.

In response to the notice of filing of petition seeking institution of rulemaking in this proceeding, published in the FEDERAL REGISTER on July 22, 1976, 138 total parties submitted 73 individual or joint written statements of verified facts, views, and arguments regarding the proposed procedures. Attached as an appendix to this corrected notice is a service list of the parties or their representatives who have submitted statements. Within 25 days after the June 20, 1977, publication of the original notice the persons desiring to participate in the oral argument shall by letter to Assistant Deputy Director, Office of Proceedings, Section of Operating Rights, Room 5316, Interstate Commerce Commission, Washington, D.C. 20423, advise the Commission (1) that they have served the other persons on the corrected list with copies of their statements previously filed with the Commission in this proceeding or a summary thereof, (2) of the name of the representative who will appear at oral argument on their behalf or on behalf of the party in interest represented, (3) of the names of other parties having similar positions who will have the same representative and (4) of the approximate amount of time needed to present their position at oral argument. If, after examining the statements of other parties planning to present oral argument, parties decide to consolidate their arguments, the Commission should be informed of such decision by letter to the above-noted address no later than 15 days before the date of the argument. Prior to the concerned oral argument a schedule will appear, in the form of a notice in the Federal Register, listing those parties who will participate.

Although the Commission has made no determination on the merits of petitioner's proposal, or whether or not to adopt the proposal with or without modification, it would be helpful to the Commission if the parties at oral argument would address the following issues, which are not to be construed as all inclusive, but rather as focal points for informed discussion:

1. Would adoption of the proposed regulations be consistent with the statutorily imposed requirements of public convenience and necessity set forth in section 207 of the Interstate Commerce Act, as interpreted by "Pan American Bus Lines Operation," 1 M.C.C. 190 (1936)?

(a) Would implementation of the involved procedures, and the institution of motor carrier services thereunder, serve a useful purpose, responsive to a public demand or need?

(b) Could this purpose be served as well by existing authorized carriers?

(c) Could the proposal be instituted without endangering or impairing the operations of existing motor carriers contrary to the public interest?

2. Would promulgation of the proposed regulations be consistent with the public interest and the national transportion policy? More specifically, can petitioners proposal concerning issuance of contract carrier authority be reconciled with the definition of contract carriage contained in section 203(a)(15) of the act, and with the criteria to be considered in applications for permits set forth in section 209(b) of the act?

3. Does the Commission hold appropriate authority under its general rulemaking powers to grant relief of the nature sought in the instant proceeding?

4. Are existing procedures, including those contained in section 210 of the act providing for issuance of temporary authority, sufficiently flexible and adequate to effectuate substitution of for-hire for private carriage? If not, how are they deficient?

5. Would implementation of the instant proposal have the beneficial effect of reducing the Commission's workload?

6. Should the proposed regulations, if promulgated, be limited to the transportation of bulk commodities?

7. Is private carriage inherently less efficient and economical than regulated for-hire carriage? If so, is such inefficiency attributable to existing regulatory policies and practices?

8. Why should existing carriers be prohibited from opposing the issuance of authority under the proposed regulations, where such opposition is predicated solely upon their conflicting authorities? Should they be permitted to oppose an application for such authority if they have solicited the involved traffic, in addition to holding the requisite authority? What weight should such opposition have if, at some time, existing carriers had participated in the involved traffic?

9. What, if any, would be the potential abuses which might arise as a result of the Commission's adoption of the proposed regulations? Is it possible to modify the involved proposal to lessen the potential for abuse? Would it be possible to effectively police any regulations

promulgated pursuant to petitioner's proposal to eliminate any potential for abuse of the new procedures?

10. To what extent, if any, would existing carriers be adversely affected by adoption of the proposed regulations? How might the proposal be modified to eliminate any potential for the injury of existing certificated carriers?

11. If operating authority under the proposed regulations is issued, how could the Commission effectively insure that the newly authorized carrier does not acquire a portion of the shipper's traffic in excess of that share previously transported in private carriage?

Notice of oral argument shall be given to the general public by depositing a copy of both the original notice and this corrected notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy of both notices to the Director, Office of the Federal Register for publication therein as notice to interested persons.[1]

H. G. HOMME, Jr.,
Acting Secretary.

APPENDIX

EX PARTE NO. MC 103

Duane W. Acklie, P.O. Box 81228, Lincoln, Nebr. 68501.
Harry C. Ames, Jr., 805 McLachlen Bank Bldg., 666 11th Street NW., Washington, D.C. 20001.
Lewis P. Ames,[1] 10th Floor, 111 West Monroe, Phoenix, Ariz. 85003.
Eugene D. Anderson, 910 17th Street NW., Suite 428, Washington, D.C. 20036.
J. Maurice Andren,[1] 1734 Sheridan Lake Rd., Rapid City, S. Dak. 57701.
T. J. Ashe,[1] Quaker Oats Co., Merchandise Mart Plaza, Chicago, Ill. 60654.
G. L. Barth, UARCO, Inc., 14659 Alondra Boulevard, La Mirada, Calif. 90638.
Pansy Beroth, P.O. Box 615, Winston Salem, N.C. 27102.
Jerome Biniasz,[1] 101 Continental Blvd., El Segundo, Calif. 90245.
James R. Boyd, P.O. Box 488, Austin, Tex. 78767.
Mark K. Boyle, 345 South Saint Street, Salt Lake City, Utah 84111.
Robert R. Brinker, 1660 L Street NW., Suite 1100, Washington, D.C. 20036.
Deloris M. Brittain, Business Center Building, P.O. Box 1518, Bellevue, Wash. 98009.
W. H. Broderick, 150 East 42 Street, New York, N.Y. 10017.
Ben D. Browning, 1020 Kearns Building, Salt Lake City, Utah 84101.
Tom E. Bryant,[1] 920 Long Boulevard, Suite 17, Lansing, Mich. 48910.
Herbert M. Canter,[1] 305 Montgomery St., Syracuse, N.Y. 13202.
Barry Chasnoff, 400 7th Street SW., Washington, D.C. 20590.
Earl Check, 3200 Ruan Center, Des Moines, Iowa 50304.
J. Raymond Chesney, P.O. Box 10125, Dallas, Tex. 75207.
Chas. R. Christensen,[1] P.O. Box 854, Downtown Station, Omaha, Nebr. 68101.
Wesley S. Chused,[1] 15 Court Square, Boston, Mass. 02108.
David P. Christianson,[1] 606 South Olive (St. 825), Los Angeles, Calif. 90014.
Lee Cisneros, Firestone Tire & Rubber Co., 1200 Firestone Parkway, Akron, Ohio 44317.
W. H. Cole, P.O. Box 270, Fort Worth, Tex. 76101.
Arthur L. Comeau,[1] 200 East Randolph Drive, Chicago, Ill. 60601.
Ned E. Cook, 260 Sheridan Avenue, Palo Alto, Calif. 94303.
R. N. Cooledge, P.O. Box 638, Oakland, Calif. 94604.
Nelson J. Cooney, 1616 P Street NW., Washington, D.C. 20036.
Samuel J. Cornelius, Minority Business Enterprise, 14th Street and E Street, Constitution Avenue NW., Washington, D.C. 20423.
Harold F. Culy, Bayview Trucking, Inc., P.O. Box 28639, Sacramento, Calif. 95828.
F. P. Daleiden,[1] 1955 West North Avenue, Melrose Park, Ill. 60160.
Barry D. Davidson,[1] P.O. Box 388, Yazoo City, Miss. 39194.
Bill R. Davis, Suite 101, 2814 New Spring Road, Atlanta, Ga. 30339.
Ben F. Day,[1] 1015 18th Street NW., Washington, D.C. 20036.
G. J. Decker, P.O. Box 2003, New Brunswick, N.J. 08903.
J. P. Deehan, 1600 Valley Road, Wayne, N.J. 07470.
R. A. Dombrowski,* P.O. Box 1059, St. Joseph, Mo. 64502.
John F. Donelan, 914 Washington Building, Washington, D.C. 20005.
Thomas D. Donis, 1600 Oregon, Muscatine, Iowa 52761.
Rex Eames, 900 Guardian Building, Detroit, Mich. 48226.
James J. Emigh,* 185 West McLemore Avenue, Memphis, Tenn. 38101.
R. J. Fisher, P.O. Box 391, Ashland, Ky. 41101.
James V. Fleming, 819 Union Ave., Pennsauken, N.J. 08110.
J. F. Fricks, Jr.,* P.O. Box 691, Burlington, N.C. 27215.
G. G. Gale,* P.O. Box 24305, Oakland, Calif. 94623.
Bill D. Gardner, P.O. Box 1228, Spencer, IA 51301.
Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703.
Richard W. Gillis, 20 North Wacker Dr., Chicago, Ill. 60606.
Warren N. Grossman,* 825 City National Bank Bldg., 606 South Olive St., Los Angeles, Calif. 90014.
Rebecca W. Hanmer, United States Environmental Protection Agency, Washington, D.C. 20460.
James J. Hardcastle, The Gillette Co., Prudential Tower Bldg., Boston, Mass. 02199.
William C. Harris, 2109 Olmstead Rd., Kalamazoo, Mich. 49003.
Austin L. Hatchell, Suite 1102, Perry-Brooks Bldg., Austin, Tex. 78701.
R. L. Herman, Herman Brothers, Inc., P.O. Box 189, Omaha, Nebr. 68101.
John D. Hood, Hyster Company, Danville, Ill. 61832.
Carroll B. Jackson,* 1810 Vincennes Road, Richmond, Va. 23229.
A. N. Jacobs, P.O. Box 113, Joplin, Mo. 64801.
Robert L. James, 1616 P St., NW., Washington, D.C. 20006.
Leonard A. Jaskiewicz, 1730 M St., NW., Washington, D.C. 20036.
Marion F. Jones, 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80203.
Terrence D. Jones,* Ste. 300, 2033 K St. NW., Washington, D.C. 20006.
Milton Kafaglis, Council on Wage and Price Stability, 726 Jackson Place NW., Washington, D.C. 20506.
Fritz R. Kahn, Suite 110, 1660 "L" Street NW., Washington, D.C. 20036.
John P. Kane,* 1830 South Platte St., Kokomo, Ind. 46901.
Edward J. Kiley, 1730 M St. NW., Washington, D.C. 20036.
Robert H. Kinker, P.O. Box 464, Frankfort, Ky. 40601.
Allen H. Knouft, 10 West Baltimore Ave., Lansdowne, Pa. 19050.
F. P. Knutson, 8800 F Street, Omaha, Nebr. 68127.
Marshall Kragen, 666 11th St. NW., Washington, D.C. 20001.
Eugene T. Llipfert, 1660 L St. NW., Suite 1100, Washington, D.C. 20036.
C. R. Looney, One Gateway Center, Pittsburgh, Pa. 15222.
Peter H. Lowrey, Council on Wage and Price Stability, 726 Jackson Place NW., Washington, D.C. 20506.
J. A. Lynch, Missouri Portland Cement Co., 7711 Carondelet Avenue, St. Louis, Mo. 63105.
Gordon P. MacDougall, 1100 17th St. NW., Washingtin, D.C. 20036.
Bayard Marin, 10th and Market, Wilmington, Del. 19898.
John K. Maser, III, 914 Washington Building, Washington, D.C. 20005.
M. Craig Massey, P.O. Drawer J, Lakeland, Fla. 33802.
Ralph B. Matthews,* 248 Chester Ave. SE., Atlanta, Ga. 30316.
Robert N. Maxwell, 500 West 16th Street, Austin, Tex. 78767.
J. S. McCallie, Carolina Freight Carriers Corp., Cherryville, N.C. 28021.
Thomas F. McGrath, P.O. Box 860 Valley Forge, Pa. 19482.
A. L. Moon, Sonoco Products Company, Hartsville, S.C. 29550.
George A. Olsen,* 69 Tonnele Ave., Jersey City, N.J. 07306.
Stanley C. Olsen, Jr.,* 7325 Mitchell Rd., Eden Prairie, N. Mex. 55343.
Donald J. Osbjornson,* 1111 Touhy Avenue, Des Plaines, Ill. 60018.
William M. Pappas, McCormick and Company, Inc., 11100 McCormick Rd., Hunt Valley, Md. 21031.
John R. Patterson, P.O. Box 2298, Green Bay, Wis. 54306.
Timothy Person, 5736 Martin Luther King Dr., St. Louis, Mo., 63112.
William A. Quinlan,* 3045 Riva Road, Annapolis, Md. 21401.
J. L. Quinn, 718 Hamilton Mall, Allentown, Pa. 18105.
Harodl J. Reitz, International Paper Co., 220 East 42nd Street, New York, N.Y. 10017.
Roland Rice, 618 Perpetual Bldg., Washington, D.C. 20004.
Phillip Robinson, P.O. Box 2207, Austin, Tex. 78768.
Roland Ronshausen, 300 Sea-Horse Drive, Waukegan, Ill. 60085.
F. J. Rogers, 1603 Orrington Avenue, Evanston, Ill. 60201.
James A. Shearer, 1014 Vine Street, Cincinnati, Ohio 45201.
Ed Shineberger,* 920 First St. SW., Cedar Rapids, Iowa 52406.
Richard R. Sigmon, Ste. 501 Perpetual Bldg., 1111 E St. NW., Washington, D.C. 20004.
Sheldon Silverman, Ste-550 Federal Bar Bldg. West, 1819 H St. NW., Washington, D.C. 20006.
Lawrence V. Smart, Jr.,* 419 NW. 23rd Ave., Portland, Oregon 97210.
John E. Smith II, 2565 St. Mary's Avenue, Omaha, Nebr. 68101.
M. B. Smith,* 685 Third Avenue, New York, N.Y. 10017.
Carl Steiner, 39 South La Salle Street, Chicago, Ill. 60603.
Donald L. Stern, Suite 530, Univac Bldg., 7100 West Center Rd., Omaha, Nebr. 68106.
James R. Stiverson, 1396 West 5th Avenue, Columbus, Ohio 43212.

[1] Not a party of record.
[1] Vice Chairman Clapp and Commissioners Hardin and Christian not participating.

Truman A. Stockton, Jr.,* 1650 Grant St. Bldg., Denver, Colo. 80203.
Albert W. Stout, 4600 NW. 82 Ave., Miami, Fla. 33152.
William P. Sullivan, Ste. 1030 Fed Bar Bldg. West, 1819 H St. NW., Washington, D.C. 20006.
John R. Van Antwerp, 4420 Sherwin Road, Willoughby, Ohio 44094.
Charles A. Washer, American Retail Federation, 1616 H Street NW., Washington, D.C. 20006.
Harvey E. Webb,* 600 South Cherry Street, Denver, Colo. 80222.
Frank J. Weiner,* 15 Court Square, Boston, Mass. 02108.
David C. White, Farley Building, 2400 SW. 4th Avenue, Portland, Oreg. 97201.
Charles J. Williams,* 1815 Front St., Scotch Plains, N.J. 07076.
J. R. Woolery,* 4550 W. 109th St., Ste. 100, Shawnee Mission, Kans. 66207.
A. A. Wright,* P.O. Box 3495, San Francisco, Calif. 94119.
Edward R. Zebrowski, Rohm & Haas Company, Philadelphia, Pa. 19105.

[FR Doc.77-18520 Filed 6-24-77;8:45 am]

sunshine act meetings

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

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:00 AM, June 28, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE DISCUSSED: Portions open to the public: Rosenthal & Co. request for exemption from provisions of Sec. 32.6. Portions closed to the public: Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254–6126.

[S–750–77 Filed 6–23–77;10:30 am]

2

AGENCY HOLDING THE MEETING: Federal Communication Commission.

TIME AND DATE: 9:30 a.m., Tuesday, June 28, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Special—1—Notice of Proposed Rule Making relating to Part 13 of the Rules to re-structure the radio operator examination and licensing program and to delineate operator responsibility (Docket No. 20817).

Special—2—Reconsideration of Third Report and Order in Docket No. 19995 relating to cable television network nonduplication protection against television stations available off the air in the cable community.

Special—3—Petition for Waiver, filed by Quinebaug Valley Cablevision, Inc., operator of a cable television system at Southbridge, Massachusetts; and Opposition to Petition for Waiver, filed by Springfield Television Broadcasting Corporation, (WWLP, NBC, Channel 22) Springfield, Massachusetts.

Special—4—Petition for Waiver of Nonduplication Exclusivity Requirements as Demanded, filed on behalf of Community Service, Inc., operator of a cable television system at Frankfort, Kentucky; and Request for Order to Show Cause, filed on behalf of Starr WTVQ–TV, Inc.

Special—5—Request for Declaratory Ruling and Petition for Waiver, filed by Capitol Cablevision Corp., operator of cable television systems at Charleston, South Charleston, and Dunbar, West Virginia; and Request for Special Relief, filed by Gateway Communications, Inc., (WOWK–TV, ABC, Channel 13) Huntington, West Virginia.

Special—6—Petition(s) for Special Relief, filed by Hornell Television Service, Inc., operator of a cable television system at Hornell, New York; and Opposition to Petition for Special Relief, filed by WENY, Inc., (WENY–TV, ABC, Channel 36) Elmira, New York.

Special—7—Petition for Special Relief, filed by Avenue TV Cable Service Inc., operator of a cable television system at Ventura, California; and Opposition to Petition for Special Relief, filed by Key Television, Inc., (KEYT, ABC, Channel 3) Santa Barbara, California.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone 202–632–7260.

Issued: June 21, 1977.

[S–774–77 Filed 6–22–77;3:11 pm]

3

AGENCY HOLDING THE MEETING: Federal Communications Commission.

TIME AND DATE: 9:30 a.m., Wednesday, June 29, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTER TO BE CONSIDERED:

Agenda, Item No., and Subject

Special—1—Discussion of rule making in Docket No. 21002 concerning possible amendment of Section 76.13 relating to the certification process, and Section 76.31 relating to the Commission's franchise standards.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone 202–632–7260.

Issued: June 22, 1977.

[S–745–77 Filed 6–22–77;3:11 pm]

4

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, No. 116, Page 30742, Thursday, June 16, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., June 22, 1977.

PLACE: 320 First Street, N.W., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202–376–3012.

CHANGES IN THE MEETING: The following items have been added to the agenda for the open portion of the meeting: Consideration of a Post-Approval Amendment to the Application for Permission to Convert from Mutual to Stock Form—Homestead Savings and Loan Association, Salina, Kansas. Consideration of Association Requests for Permission to Issue $1,150,000 of Subordinated Debt Securities—Richardson Savings and Loan Association, Richardson, Texas.

No. 39, June 22, 1977.

[S–739–77 Filed 6–22–77;2:11 p.m.]

5

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, No. 116, Page 30742, Thursday, June 16, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., June 22, 1977.

PLACE: 320 First Street, N.W., Room 630, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202–376–3012.

CHANGES IN THE MEETING: The following item will be discussed at a closed meeting to be held immediately following the open meeting previously announced: Consideration of Amendments

to the 1977 Budget of the Office of Neighborhood Reinvestment.

No. 37, June 21, 1977.

[S-740-77 Filed 6-22-77;8:45 am]

6

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

TIME AND DATE: 1:00 p.m., June 29, 1977.

PLACE: 320 First Street, NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-376-3012.

MATTERS TO BE CONSIDERED: Concurrent Consideration of Two Branch Office Applications: (1) Los Angeles Federal Savings and Loan Association, Los Angeles, California. (2) Western Federal Savings and Loan Association, Los Angeles, California.

Consideration of Assessments of Federal Home Loan Banks, July 1, 1977 through December 31, 1977.

Application for Permission to Organize a New Federal Association Theodore M. Haik, et al., New Iberia, Louisiana.

Capital Budget Amendment for Lease hold Improvements—Federal Home Loan Bank of Cincinnati.

EFTS-RSU Application—Hawaii Joint EFTS Project, Honolulu, Hawaii.

Consideration of Association Request for Reconsideration of Commitment to Insure Accounts (Proposed) Grady County Savings and Loan Association, Chickasha, Oklahoma.

No. 38, June 22, 1977.

[S-741-77 Filed 6-22-77;3:12 pm]

7

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

TIME AND DATE: At the conclusion of the open meeting to be held at 1:00 P.M., June 29, 1977.

PLACE: 320 First Street, N.W., Room 630, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-376-3012.

MATTERS TO BE CONSIDERED: Consideration of Proposed Settlement and Order of Prohibition.

No. 40, June 22, 1977.

[S-742-77 Filed 6-22-77;2:11 pm]

8

Notice of Meeting

JUNE 22, 1977.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. § 552B:

AGENCY HOLDING MEETING: Federal Power Commission.

TIME AND DATE: June 29, 1977, 10:00 a.m.

PLACE: 825 North Capitol Street.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda) *Note.—Item listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, Telephone 202-275-4166.

This is a list of the matters to be considered by the Commission. It does not include a listing of all persons relevant to the items on the agenda, however, all public documents may be examined in the Office of Public Information, Room 1000.

POWER AGENDA, 7641ST MEETING—JUNE 29, 1977, REGULAR MEETING—PART I

P-1. (A) Docket No. ER77-325, Appalachian Power Company; (B) Docket No. ER77-426, Appalachian Power Company.
P-2. Docket No. ER77-427, Minnesota Power & Light Company.
P-3. Docket No. ER77-429, Potomac Electric Power Company.
P-4. Docket No. ER77-347, Wisconsin Power and Light Company.
P-5. Docket No. ER77-264, Detroit Edison Company.
P-6. Docket No. E-7743, Connecticut Light & Power Company.
P-7. Docket No. ER76-40, Nevada Power Company.
P-8. Docket No. ER76-87, Sierra Pacific Power Company.
P-9. Docket No. ER76-715, Indiana & Michigan Electric Company.
P-10. Docket Nos. ER76-319 and ER76-811, Pacific Gas and Electric Company.
P-11. Docket Nos. E-7777 (Phase I) and E-8928, Pacific Gas & Electric Company.
P-12. Docket No. ER77-326, New England Power Pool Agreement (Nepool).
P-13. Docket No. E-9147 (Phase II), Virginia Electric and Power Company.
P-14. Docket No. ER76-739, Kentucky-Indiana Power Pool Agreement.
P-15. Docket No. E-7638, Public Service Commission of Indiana, Inc. and Southern Indiana Gas and Electric Company; Docket No. E-7647, Public Service Company of Indiana, Inc.
P-16. Docket No. E-9593, Central Power & Light Company, Public Service Company of Oklahoma, Southwestern Electric Power Company, and West Texas Utilities Company.
P-17. Docket No. E-9572, *Papago Tribal Utility Authority and Arizona Electric Power Cooperative, Inc.* v. *Arizona Public Service Company.*
P-18. Docket No. E-9590, Georgia Power Company.
P-19. Docket No. E-7671, Blandin Paper Company, et al.
P-20. Project No. 82, Alabama Power Company.
P-21. Project No. 199, South Carolina Public Service Authority.

MISCELLANEOUS AGENDA, 7641ST MEETING—JUNE 29, 1977, REGULAR MEETING—PART I

M-1. Docket No. RM75-29, Fuel adjustment provisions in FPC rate schedules.
M-2. Electric utilities captive coal operations.
M-3. [Reserved]
M-4. [Reserved]
M-5. (A) Docket No. RM76-15, Regulation of small producer; (B) Phillips Petroleum Company, FPC gas rate schedules Nos. 533, 555, 557, 559, and 560; Sun Oil Company, FPC gas rate schedule Nos. 538, 539, 561, 562, 567, 569, 572, 576, and 577.
M-6. Docket No. RM75-25, Policy with respect to certification of pipeline transportation agreements.
M-7. Docket No. RM76-10, Rate schedule analysis on a continuing current basis: FPC Form 108.
M-8. Docket No. RM77-____, Revision in Section 157 of Title 18 of the Code of Federal Regulations to provide the exemption from certificate regulation of certain sales of natural gas flared prior to coal mining operations.

GAS AGENDA, 7641ST MEETING—JUNE 29, 1977, REGULAR MEETING—PART I

G-1. Docket No. RP76-159, Columbia Gas Transmission Corporation.
G-2. Kansas Nebraska Natural Gas Company, Inc.
G-3. Docket No. RP75-57, Pacific Gas Transmission Corporation.
G-4. (A) Docket Nos. RP73-107, RP74-90 and RP75-91, Consolidated Gas Supply Corporation.
(B) Docket No. RP77-7, Consolidated Gas Supply Corporation.
G-5. Docket Nos. RP73-107 and RP74-90, Consolidated Gas Supply Corporation.
G-6. Docket No. RP76-115, Docket Nos. RP73-109 and RP74-95, Northwest Pipeline Corporation.
G-7. Docket No. RP71-119, Panhandle Eastern Pipe Line Company.
G-8. Docket No. RP73-106, Cities Service Gas Company.
G-9. Docket No. RP76-103, Public Service Company of North Carolina, Inc.
G-10. Docket Nos. RP71-29 and RP71-120 (Phase II), United Gas Pipe Line Company.
G-11. Docket No. RP77-8-1, United Gas Pipe Line Company (Southland Oil Company).
G-12. Docket No. RP77-41, Southern Natural Gas Company.
G-13. Exxon Corporation, FPC Gas Rate Schedule Nos. 477 and 504 the Louisiana Land and Exploration Company, FPC Gas Rate Schedule Nos. 7 and 10.
G-14. Docket No. AR64-1, et al., Hugoton-Anadarko Area, Docket No. AR61-2 and AR69-1, et al., Southern Louisiana Area, Docket No. AR67-1, et al., Other Southwest Area, Docket No. AR64-2, et al., Texas Gulf Coast Area.

G-15. Docket No. RI77-66, Gillring Oil Company.
G-16. Docket No. RI77-52, The Stone Oil Corporation.
G-17. Docket No. RI77-31, Thomas A. Bartoe.
G-18. Docket No. RI77-44, Nadel and Gussman.
G-19 Docket No. CI66-176, Skelly Oil Company.
G-20 Docket No. CI76-14, San Salvador Development Company, Inc., Et Al.
G-21 Docket Nos. CI75-541, Paul R. Davis, Lester B. Wood, Dorchester Gas Processing Company, East Texas Industrial Gas Company, and Texas Eastern Gas Transmission Corporation.
G-22 Docket No. CS71-631, Eason Oil Company, Docket No. CS76-842, Devon Corporation.
G-23 Docket Nos. CP75-131 and CP76-129, Mountain Fuel Supply Company, Docket No. CP76-94, Phillips Petroleum Company.
G-24 Docket No. CP74-299, Kansas-Nebraska Natural Gas Company, Inc.
G-25 Docket Nos. CP74-138, CP74-139, Trunkline LNG Company, Docket No. CP74-140, Trunkline Gas Company.
G-26 Docket Nos. CP74-316, Et Al., Michigan Wisconsin Pipe Line Company, Et Al.
G-27 Docket No. CP73-329, Chattanooga Gas Company, a division of Jupiter Industries, Inc., Docket No. CP73-336, East Tennessee Natural Gas Company, Docket No. CP76-99, East Tennessee Natural Gas Company, Docket No. CP76-109, Tennessee Gas Pipeline Company, a division of Tenneco, Inc., and Columbia Gas Transmission Corporation.
G-28 Docket No. CP76-220, Arkansas Louisiana Gas Company v. Amarex, Inc., Docket No. CI76-346, Amarex, Inc.
G-29 Docket No. CP71-50, Natural Gas Pipeline Company of America, Docket No. CP71-54, Michigan Wisconsin Pipe Line Company, Docket No. CI71-187, Phillips Petroleum Company.
G-30 Docket No. CP65-393, Florida Gas Transmission Company, Docket Nos. CI65-584, CI77-80, and CI77-81, Amoco Production Company, a subsidiary of Standard Oil Company of Indiana, Docket Nos. CI73-70 and CP77-31, Columbia Gulf Transmission Company, Docket No. CP73-157, Natural Gas Pipeline Company of America, Docket No. CP77-31, Tennessee Gas Pipeline Company, a division of Tenneco Inc., Docket No. CP77-37, Sea Robin Pipeline Company.
G-31 Docket No. CP77-329, Delmarva Power & Light Company.
G-32 Docket No. CP77-363, Columbia Gas Transmission Corporation National Fuel Gas Supply Corporation.
G-33 Docket No. CP77-242, Natural Gas Pipeline Company of America, Docket No. CP77-244, El Paso Natural Gas Company, Docket No. CP77-245 and CP77-266, Northern Natural Gas Company, Columbia Gas Transmission Corporation, Docket No. CP77-246, Columbia Gulf Transmission Company, Panhandle Eastern Pipe Line Company, Docket No. CP77-262, Trunkline Gas Company.
G-34 Docket No. CP77-140, Delhi Gas Pipeline Corporation, Docket No. CP77-307, Northern Natural Gas Company, Docket No. CP77-328, Natural Gas Pipeline Company of America.
G-35 Docket No. CP77-308, Western Transmission Corporation, Docket No. CP77-338, Panhandle Eastern Pipe Line Company, Docket No. CP77-405, Colorado Interstate Gas Company.
G-36 Docket No. CP77-113, Panhandle Eastern Pipe Line Company, Docket No. CP77-290, Cities Service Gas Company.
G-37 Docket No. CP77-320, Natural Gas Pipeline Company of America, Michigan Wisconsin Pipe Line Company, Transcontinental Gas Pipe Line Corporation, and United Gas Pipe Line Company.
G-38 Docket No. CP63-177, Texas Eastern Transmission Corporation, Tennessee Gas Pipeline Company.
G-39 Docket No. CP77-289, El Paso Natural Gas Company, Docket No. CP76-285, Mountain Fuel Resources, Inc.
G-40 Docket No. CP77-367, Florida Gas Transmission Company, and Transcontinental Gas Pipe Line Corporation.
G-41 Docket No. CP66-237, Natural Gas Pipeline Company of America.
G-42 Docket No. CP77-298, National Fuel Gas Supply Corporation, Docket No. CP77-340, Transcontinental Gas Pipe Line Corporation, Docket No. CP77-394, Tennessee Gas Pipe Line Company, (a division of Tenneco Inc).
G-43 Docket No. CP76-314, Southern Transmission Corporation.
G-44 Town of Bude, Mississippi and Town of Flora, Mississippi.
G-45 Oxford Natural Gas Company, Indiana Natural Gas Corporation.
G-46 Docket No. CP77-294, Texas Gas Transmission Corporation.

POWER AGENDA 7641st MEETING—JUNE 29, 1977 REGULAR MEETING—PART II

CP-1. Docket No. ER77-420, Iowa-Illinois Gas & Electric Company.
CP-2. Docket No. ER77-369, Missouri Edison Company.
CP-3. Docket No. ER77-390, Dayton Power and Light Company and Ohio Power Company.
CP-4. Docket No. ER77-324, Kentucky Indiana Pool Planning and Operating Agreement.
CP-5. Docket No. ER77-359, Louisville Gas and Electric Company.
CP-6. Docket No. ER77-307, Public Service Company of Indiana, Louisville Gas & Electric Company.
CP-7. Docket Nos. ER77-349, ER77-351 and ER77-352, Public Service of Indiana.
CP-8. Docket No. ER77-290, Indianapolis Power & Light Company.
CP-9. Docket No. ER77-341, Public Service Company of Oklahoma.
CP-10. Docket No. ER77-301, Pennsylvania-New Jersey-Maryland Interconnection Agreement.
CP-11. Docket No. ER77-432, Puget Sound Power and Light Company.
CP-12. Docket No. E-8242 and ER77-236, Public Service Company of Oklahoma.
CP-13. Docket No. E-9141 (Phase II), Virginia Electric and Power Company.
CP-14. Docket No. ES77-38, Union Electric Company.
CP-15. Docket No. ID-1808, Robert H. Pearson.
CP-16. Project No. 2770, Brown Company.
CP-17. Project No. 2772, Brown Company.
CP-18. Project No. 2771, Brown Company.
CP-19. Project No. 2766, Brown Company.
CP-20. Project No. 2768, Brown Company.
CP-21. Project No. 309—Pennsylvania.
CP-22. Bureau of Land Management, City of Seward, Alaska (AA-12408).
CP-23. Project No. 382, Southern California Edison Company.
CP-24. (A) City of Westerville, Ohio v. F.P.C., D.C. Cir. No. 77-1454.
(B) Borough of Ellwood City v. F.P.C., 3rd Cir. No. 77-1690.

MISCELLANEOUS AGENDA 7641ST MEETING —JUNE 29, 1977 REGULAR MEETING— PART II

CM-1. Gulf Power Company.
CM-2. Eastern Shore Natural Gas Company.
CM-3. Southwest Gas Corporation.

GAS AGENDA

7641ST MEETING—JUNE 29, 1977

REGULAR MEETING—PART II

CG-1. Docket No. RP77-63, Montana-Dakota Utilities Co.
CG-2. Docket No. RP75-102, Panhandle Eastern Pipe Line Company.
CG-3. Docket No. RP73-64, Southern Natural Gas Company.
CG-4. Docket Nos. RP73-114 (PGA No. 77-3), RP74-24 (DCA No. 77-2), and RP74-73 (R&D No. 77-2), Tennessee Gas Pipeline Company.
CG-5. Docket No. RP72-133 (PGA No. 77-2), United Gas Pipe Line Company.
CG-6. Docket No. RP76-136, Transcontinental Gas Pipe Line Corporation.
CG-7. Docket No. RP72-157 (PGA No. 77-8), Consolidated Gas Supply Corporation.
CG-8. Docket No. RP71-11 (PGA Nos. 77-4 and 77-4a), Tennessee Natural Gas Lines, Inc.
CG-9. Docket Nos. RP71-15 and RP75-28 (PGA77-4) (DCA77-2), East Tennessee Natural Gas Company.
CG-10. Docket No. RP73-8 (PGA No. 77-10), North-Penn Gas Company.
CG-11. Docket No. RP73-89 (PGA No. 77-2), Sea Robin Pipeline Company.
CG-12. Docket No. RP77-17, Eastern Shore Natural Gas Company.
CG-13. Docket No. RP77-19, Transwestern Pipeline Company.

CG-14. PWC Partnership, FPC Gas Rate Schedule No. 1; Pan Eastern Exploration Company, FPC Gas Rate Schedule No. 6; Union Oil Company of California, FPC Gas Rate Schedule No. 118; Texaco Inc., FPC Gas Rate Schedule No. 324; Champlin Petroleum Company, FPC Gate Rate Schedule No. 114.
CG-15. Docket No. CI76-767, Getty Oil Company; Docket No. CI77-402, Cities Service Company.
CG-16. Docket No. CI74-688, Columbia Gas Development Corporation; Docket No. CI75-49, CNG Producing Company.
CG-17. Docket No. CP76-412, Northern Natural Gas Company; Docket No. CP76-425, El Paso Natural Gas Company.
CG-18. Docket No. CP77-282, Columbia Gas Transmission Corporation.
CG-19. Docket No. CP77-303, Southwest Gas Corporation.
CG-20. Docket Nos. CP77-355 and CP77-372, Consolidated Gas Supply Corporation.
CG-21. Docket No. CP77-371, Mountain Fuel Supply Company.
CG-22. Docket No. G-5715, Cabot Corporation; Docket No. CP77-192, Northern Natural Gas Company.
CG-23. Docket No. CP74-126, El Paso Natural Gas Company.
CG-24. Docket No. CP73-69, Great Lakes Gas Transmission Company.
CG-25. A, Southern Natural Gas Company v. F.P.C., D.C. Cir. No. 77-1468; B, Tennessee Gas Pipeline Company v. F.P.C., D.C. Cir. No. 77-1496; C, Tennessee Gas Pipeline Company v. F.P.C., D.C. Cir. No. 77-1511.
CG-26. West Virginia Public Service Commission v. F.P.C., 4th Cir. No. 77-1649.

KENNETH F. PLUMB,
Secretary.

[S-743-77 Filed 6-22-77;3:11 pm]

9

AGENCY HOLDING THE MEETING: Interstate Commerce Commission.

TIME AND DATE: 9:30 a.m., Tuesday, June 28, 1977.

PLACE: Commission's Offices, 12th and Constitution Avenue, NW., Washington, D.C.

STATUS: *Closed Special Conference.* Voting to close as to the following item on the agenda were Chairman O'Neal, Commissioners Clapp, Murphy, Stafford, Gresham, MacFarland and Christian (Commissioners Brown and Hardin did not participate) on the grounds that such meeting is likely to specifically concern the initiation and conduct by the Commission of a particular case of formal adjudication involving a determination on the record after opportunity for a hearing, within the meaning of 5 U.S.C. 552b(c)(10) and 49 C.F.R. 1012.7(d)(12). The General Counsel has issued his certificate accordingly.

No. 36611, TRANS ALASKA PIPELINE SYSTEM—TARIFF CONSIDERATION

In addition to the Commission, the following will be in attendance: Mark L. Evans, General Counsel; Janice M. Rosenak, Deputy Director, Section of Rates, Office of Proceedings; John A. Grady, Director, Bureau of Accounts; and William Bono, Thomas Carpenter, Joseph Morgan, David Drucker and Edward Johnson, all of the Bureau of Accounts.

CONTACT PERSON FOR MORE INFORMATION:

Public Information Officer, Douglas Baldwin, Telephone 202-275-7252.

[S-746-77 Filed 6-22-77;8:45 am]

10

AGENCY HOLDING THE MEETING: Interstate Commerce Commission.

TIME AND DATE: 9:30 a.m., Wednesday, June 29, 1977.

PLACE: Commission's Offices, 12th and Constitution Avenue, NW., Washington, D.C.

STATUS: Special Open Conference.

MATTERS TO BE CONSIDERED:

1. Briefing on and discussion of Special Task Force Report on Ex Parte No. MC-43 (Sub-No. 3).

2. Briefing on Rail System Diagram Maps submitted pursuant to Ex Parte No. 274 (Sub-No. 2).

3. I&SM—28881, Multiple Tender Allowances, Transamerican Freight Lines.

CONTACT PERSON FOR MORE INFORMATION:

Public Information Officer, Douglas Baldwin, Telephone 202-275-7252.

[S-747-77 Filed 6-22-77;4:20 pm]

11

AGENCY HOLDING THE MEETING: National Labor Relations Board.

TIME AND DATE: 10:00 a.m., Thursday, June 30, 1977.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570.

STATUS: Closed to public observation

MATTERS TO BE CONSIDERED: Personnel matters.

CONTACT PERSON FOR MORE INFORMATION:

John C. Truesdale, Esq., Executive Secretary, Washington, D.C. 20570, Telephone Number: 202-254-9430.

[S-751-77 Filed 6-23-77;11:13 am]

12

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

TIME AND DATE: Week of June 27, 1977.

PLACE: Commissioner's Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Some of these meetings will be open to the public; others will be closed to the public.

OPEN MATTERS TO BE CONSIDERED:

MONDAY, JUNE 27

11:15 a.m. (Approx.)—Briefing on D.C. Power Supplies at Nuclear Power Plants (Approx. 1 hour).

WEDNESDAY, JUNE 29

3:00 p.m.—1. Briefing on Containment Safety (Approx. 1½ hrs.).

2. Affirmation of: Publication in Effective Form of 10 CFR Part 1: Statement of Organization and General Information.

Statement of Organization and Functions for the Office of Nuclear Regulatory Research.

Freedom of Information Act (FOIA) Disclosure Policy—Exemption Five.

Burden of Proof in Enforcement Proceedings.

Petition for Rule Making Filed by Business and Professional People for the Public Interest: Proposed Amendments to 10 CFR Part 50, Licensing of Production and Utilization Facilities.

Public interest Research Group et al. Petition for Rulemaking to Require Applicants and Licensees for Nuclear Power Plants to Instruct Citizens in Public Evacuation Procedures and to Conduct Actual Public Evacuation Drills.

Policy Statement on Standardization of Nuclear Power Plants.

NRC and International Physical Protection Standards.

FOIA Appeal (Kranish).

Outside Employment by NRC Employees.

Delegation of Authority in Absence of a Quorum.

Establishment of Review Group for WASH-1400.

Effective Amendments to 10 CFR Part 35, "Human Uses of By-Product Material": Specific Licenses to Individual Physicians and Institutions.

Director's Denials of Enforcement Requests.

Proposed Cost-Sharing Contract with the Electric Power Research Institute (EPRI) and the Westinghouse Electric Corporation (Rescheduled from 6/22/77).

CLOSED MATTERS TO BE CONSIDERED:

MONDAY, JUNE 27

10:00 a.m.—1. Discussion of Tarapur Export License (Exemptions 1 and 10).

2. Vote to Extend Review of ALAB-410 Diablo Canyon (Exemption 10).

WEDNESDAY, JUNE 29

5:00 p.m. (Approx.)—Affirmation of Petition to Institute Proceedings to Suspend or Revoke a Construction Permit (Bailly) (Exemption 10).

NOTE.—The Affirmations will consist of votes on matters previously reviewed individually by the Commissioners and are expected to take no more than 30 minutes.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Chief, Operations Branch.

JUNE 22, 1977.

[S-755-77 Filed 6-23-77;4:50 pm]

13

AGENCY HOLDING THE MEETING: Occupational Safety and Health Review Commission.

TIME AND DATE: 2:30 p.m., June 27, 1977.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudication process.

CONTACT PERSONS FOR MORE INFORMATION:

Mrs. Nori Heuberger or Ms. Lottie Richardson (202) 634-7970.

Date: June 22, 1977.

[S-748-77 Filed 6-22-77;4:24 p.m.]

federal register

MONDAY, JUNE 27, 1977

PART II



DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

■

POLICIES AND PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 15978; Amdt. No. 152-5 and 154-1]

PART 152—AIRPORT AID PROGRAM CONTENTS

PART 154—ACQUISITION OF U.S. LAND FOR PUBLIC AIRPORTS

Policies and Procedures for Considering Environmental Impacts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment includes, within FAA regulations dealing with airport development and the acquisition of land, references to FAA and DOT environmental orders that contain policies and procedures for considering environmental impacts. The amendment also deletes certain obsolete terminology.

EFFECTIVE DATE: June 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Lynne Sparks, Airports Planning Division (AAP-400), Office of Airports Programs, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-3263.

SUPPLEMENTARY INFORMATION: Subpart B of Part 152 of the Federal Aviation Regulations (Airport Aid Program Contents) contains rules and procedures for airport development projects funded under that part. Under § 152.23 (a)(6), an eligible sponsor desiring to obtain Federal aid for eligible airport development must submit to the appropriate FAA office for its environmental impact assessment report. That section provides that the report must be prepared in accordance with Department of Transportation (DOT) Order 5610.1B, "Procedures for Considering Environmental Impacts," and FAA Order 5050.2B, "Instructions for Processing Airport Development Actions Affecting the Environment."

Part 154 sets forth rules applicable to the acquisition of U.S. land for public airports under the Airport and Airway Development Act of 1970, as amended. Under § 154.7(b)(14), a public agency applying for a conveyance must send with its request the sponsor's proposed draft environmental impact statement. However, the reference to "proposed draft environmental impact statement" is incorrect since the terminology now used is "environmental impact assessment report." Accordingly, this amendment deletes the obsolete terminology now used.

In addition, § 154.7(b)(14) currently provides that the impact statement (assessment report) must be prepared in conformance with DOT Order 5610.1A and FAA Order 5050.2, both of which are obsolete. The applicable DOT Order is 5610.1B. Therefore, this amendment deletes the reference to DOT Order 5610.1A and inserts in place thereof a reference to DOT Order 5610.1B.

The FAA has recently issued new environmental Order 1050.1B and has cancelled Order 5050.2B. However, all of the provisions of Order 5050.2B have been included in Appendix 6 of the new order. Accordingly, this amendment deletes the references to FAA Order 5050.2B (§ 152.23(a)(6)) and FAA Order 5050.2 (§ 154.7(b)(14)) and substitutes therefor references to Appendix 6 of new FAA Order 1050.1B.

Copies of FAA Order 1050.1B and DOT Order 5610.B, which are incorporated by reference into Parts 152 and 154 under this amendment, may be examined in the Rules Docket, Office of the Chief Counsel, FAA, Washington, D.C., and may be obtained on request at any FAA Regional Office headquarters or any Airports District Office.

The principal authors of this document are Lynne Sparks, Office of Airports Programs, and Danvers E. Long, Office of the Chief Counsel.

Accordingly, Parts 152 and 154 of the Federal Aviation Regulations (14 CFR Parts 152 and 154) are amended, effective June 27, 1977, as follows:

1. By amending § 152.23 by revising paragraph (a)(6) to read as follows:

§ 152.23 Procedures: preapplication for aid: accompanying information.

(a) * * *

(6) The sponsor's environmental impact assessment report prepared in conformance with Department of Transportation "Procedures for Considering Environmental Impacts" (DOT Order 5610.1B, 39 FR 35234; September 30, 1974), and Appendix 6 of Federal Aviation Administration "Policies and Procedures for Considering Environmental Impacts" (FAA Order 1050.1B, Appendix 6, 42 FR 32647; June 27, 1977). DOT Order 5610.1B and Appendix 6 of FAA Order 1050.1B are incorporated into this Part and made a part hereof as provided in 5 U.S.C. 552(a) and pursuant to 1 CFR Part 51. Copies of those orders may be examined in the Rules Docket, Office of the Chief Counsel, FAA, Washington, D.C., and may be obtained on request at any FAA Regional Office headquarters or any Airports District Office.

* * * * *

2. By amending § 154.7 by revising paragraph (b)(14) to read as follows:

§ 154.7 Form and content of application for conveyance.

* * * * *

(b) * * *

(14) The sponsor's environmental impact assessment report prepared in conformance with Department of Transportation "Procedures for Considering Environmental Impacts" (DOT Order 5610.1B, 39 FR 35234; September 30, 1974), and Appendix 6 of Federal Aviation Administration "Policies and Procedures for Considering Environmental Impacts" (FAA Order 1050.1B, Appendix 6, 42 FR 32647; June 27, 1977). DOT Order 5610.1B and Appendix 6 of FAA Order 1050.1B are incorporated into this Part and made a part hereof as provided in 5 U.S.C. 552(a) and pursuant to 1 CFR Part 51. Copies of those orders may be examined in the Rules Docket, Office of the Chief Counsel, FAA, Washington, D.C., and may be obtained on request at any FAA Regional Office headquarters or any Airports District Office.

(Secs. 16 and 23, Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1716 and 1723); Sec. 552(a), Administrative Procedure Act (5 U.S.C. 552(a)); Sec. 1.47 (f)(1), Regulations of the Office of the Secretary of Transportation, (49 CFR 1.47(f)(1).))

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on June 16, 1977.

QUENTIN S. TAYLOR,
Acting Administrator.

(NOTE.—Incorporation by reference provisions approved by the Director of the Federal Register on September 27, 1976, and on June 20, 1977. Referenced materials are on file at the Federal Register's library.)

[FR Doc.77-17995 Filed 7-24-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 15978; FAA Order 1050.1B]

CONSIDERING ENVIRONMENTAL IMPACTS

Policies and Procedures

The purpose of this notice is to publish the revised Federal Aviation Administration (FAA) polices and procedures for considering environmental impacts of agency programs under the National Environmental Policy Act of 1969 (NEPA) (Pub. L. 91-190, 42 U.S.C. 4321 et seq.) and related environmental legislation and administrative directives and guidelines. This notice publishes FAA Order 1050.1B, entitled "Policies and Procedures for Considering Environmental Impacts."

By notice in the FEDERAL REGISTER of August 12, 1976 (41 FR 34222), the FAA published for public comment proposed procedures for consideration of environmental impacts required by Section 102 (2)(C) of NEPA and related environmental legislation, guidelines, and administrative directives.

The proposed procedures were in the form of a draft internal directive, FAA Order 1050.1B, "Policies and Procedures for Considering Environmental Impacts." The proposed order included appendices relating to certain agency program areas for which special provisions were considered necessary. Fourteen comments on the proposed procedures were received. Due consideration was given to all matters presented. In light of those comments and further consideration by the FAA, the order has been modified in several respects; otherwise, the order is adopted as proposed. The following discussion highlights the comments received and the FAA's response to those comments.

AIRCRAFT AND AIRPORT RELATED NOISE

Several commenters recommended changes to the noise section of the order (paragraph 324). The United States Environmental Protection Agency (EPA) and a state environmental agency recommended that more emphasis be placed on the use of the Day/Night Noise Level (Ldn) cumulative noise methodology for the description and evaluation of aircraft and airport related noise. That recommendation has not been adopted; the appropriate quantitative measure or descriptor of noise exposure may vary, depending on the type of human activity under discussion and the characteristics and location of the noise source. FAA Order 1050.1B offers a selection among several sound level and noise descriptors, including Ldn, to provide greater flexibility in describing the wide variety of noise sensitive situations found in the vicinity of public airports. The Ldn noise descriptor is most useful in evaluating the noise generated by all aircraft over a cumulative twenty-four hour period.

EPA recommended that the Ldn 60 dB and Ldn 75 dB contours be required in all noise analyses. The order provides for continuous contours showing the boundaries of all areas exposed to noise levels equal to or greater than 65 dB Ldn. Contours of lesser noise exposure may be shown if it makes an analysis more complete. However, more definitive evidence is needed before requiring Ldn 60 dB contours for all noise analyses.

Several commenters offered suggestions concerning the noise analysis exception criteria in paragraph 324c. EPA recommended that the 2 dB and 1 NEF unit criteria for exceptions be deleted because such exceptions would permit a gradual cumulative degradation of the airport noise environment. EPA recommended a noise analysis for all relevant actions. A comment from one city governmental body recommended that the exception criteria be deleted since it appears to be arbitrary and restrictive. An airport operators association suggested that paragraph 324c is confusing and would require needless additional noise analyses with each phase of a specific airport project. Paragraph 324c has been modified to provide a more complete explanation of the exceptions criteria and the evaluation of "accumulated, incremental changes." The EPA recommendation has not been adopted because requiring a noise analysis for all actions is not needed and would not help in decisionmaking in all cases. Paragraph 324c requires a noise analysis if "accumulated, incremental changes" exceed the exception criteria. The city's recommendation has not been adopted because NEPA requires the assessment of the complete Federal action. The exception paragraph will not require additional noise analyses for each phase of an airport project but requires that the noise impact for all phases of an action be assessed against the criteria and a noise analysis for the total project be conducted if the criteria would be exceeded. The noise analysis, if required, is expected to suffice for all of the phases of the proposed action.

One commenter suggested that the FAA information requirement, which can be satisfied by using the Integrated Noise Model, is too complex and does not provide a clear and consistent statement of the impact of noise on areas adjacent to airports. The commenter also recommended that the FAA develop a single, simple system for the evaluation of aircraft and airport related noise. Another commenter suggested that the noise section contains too many variations and exceptions. These comments have not been adopted. The FAA believes a single system that attempts to quantify the impact of noise under the variety of situations found in the vicinity of public airports would not necessarily be a simple system. The FAA Integrated Noise Model offers greater flexibility by providing for a variety of sound level and noise descriptors to match the variety of situations found in the vicinity of public airports.

Several commenters discussed the level of detail provided in the noise section and other sections of the order. These commenters desired more extensive descriptions of the various sound level and noise descriptors and greater detail for the project sponsor/EIS preparer. These comments have not been adopted because the order provides policy and procedures guidance and is not intended to be a detailed technical manual for writing an EIS or conducting a noise analysis. Descriptions of the various sound level and noise descriptors are available in other guidance materials. The FAA will continue to add to this technical information as it becomes necessary.

One commenter recommended corrections in the use of terminology in the noise section. Accordingly, corrections in the use of the terms "noise level" and "sound level" and additional clarifications have been made. Another commenter recommended that an averaging period of two weeks or a month be specified for the cumulative noise descriptors. This recommendation has not been adopted because, in most cases, an annual average is sufficient for specifying a noise impact boundary. Special consideration may be required for extreme seasonal changes in air traffic operations. Weekly or monthly averages would be of little practical value since their use would imply a reliability in noise modeling that may not exist.

A citizen recommended that the Ln system be included in the order. This comment has not been adopted. The Ln methodology is better adapted to relatively steady-state noise situations like freeways rather than to cases like airports which are characterized by individual peak noise events. An aviation trade association recommended that NEF, Composite Noise Rating (CNR), and Ldn methodologies not be used to describe aircraft noise because the descriptors exaggerate the size of impacted areas. This comment has not been adopted. These cumulative descriptors are best used to compare relative changes in noise exposure for different alternatives to a proposed action. Use of the descriptors in this manner is superior to permitting no noise analysis for FAA actions.

The Department of the Interior recommended the definition of "noise sensitive areas" include noise sensitive wildlife areas. Some wildlife areas may be considered "noise sensitive" and should be considered in regard to noise. The FAA does not believe this is always the case. Accordingly, wildlife areas must be assessed on a case-by-case basis. The assistance of the Department of the Interior will be helpful in identifying noise sensitive wildlife areas.

AIR QUALITY

The EPA recommended an expansion of the description of air quality and emissions regulations in paragraph 301a(8) of the order. An environmental consulting firm recommended that both the air quality impact of the construction and operation of a project be included in paragraph 325. Paragraph 325 has been modified to appropriately respond to both recommendations.

Another commenter recommended more detail and guidance in the discussion on air quality (paragraph 325). The

FAA intends to conduct additional research in this area and to provide additional guidance as may be found appropriate.

SOLID WASTE

The EPA recommended that a discussion on solid waste be included in the order. Paragraph 340 has been added in response to that recommendation.

WATER QUALITY

A comment from one city government recommended that reference to areawide waste treatment management and planning be included in paragraph 326. Another commenter recommended the addition of provisions to ensure compliance with State and local standards for water quality during construction and operation of a project. Paragraph 326 has been modified in response to those recommendations.

ORDER 5050.2B

Several commenters objected to the inclusion of FAA Order 5050.2B as Appendix 6 to FAA 1050.1B, due to the airport layout plan approval procedure. These comments have not been adopted because this issue was addressed prior to the promulgation of FAA Order 5050.2B. FAA has determined that a single order should cover all actions initated by the agency. Accordingly, the material contained in FAA Order 5050.2B has been included as an appendix to this directive.

Another commenter also recommended that any overlapping or inconsistency between FAA Order 1050.1B and FAA Order 5050.2B be eliminated. This recommendation has been implemented. The order has been carefully reviewed and any inconsistency or unnecessary duplication between the provisions of the two directives has been eliminated. FAA Order 5050.2B, as a separate directive, is revoked concurrently with the adoption of Order 1050.1B.

CONSTRUCTION IMPACTS

One commenter recommended consideration of critical periods for wildlife and fish propagation in scheduling of construction activities. Paragraph 335 has been modified in response to this recommendation.

INCREASED REGULATION

Two commenters suggested that the order is not consistent with the goal of less government regulation. One suggested that the order would increase the burden on the entire aviation industry, as well as the FAA. It recommended that the order be subject to a cost/benefit review. Those suggestions have been considered. The FAA has reviewed Order 1050.1B and concluded that it will not unduly burden the FAA or the aviation industry and that a detailed cost/benefit analysis is not needed. The order defines policy and procedure and provides guidance in complying with existing Federal law. The revised order is expected to contribute to reductions in the cost and delay in implementing airport development caused by inadequate environmental impact statements or non-compliance with environmental laws. In that regard, FAA actions have been carefully considered. Those which do not significantly affect the quality of the human environment have been excepted and require no further action under the order.

One commenter recommended that safety activities and actions to facilitate air traffic movement be exempted from environmental consideration. It also recommended specific textual changes and modifications to Appendices 1, 2, 3, and 4. The recommended changes and modifications call for the transfer of certain actions subject to environmental consideration to actions that are excepted. Some of the suggested changes and modifications have been adopted; the remaining suggestions have not been adopted because there is no basis for excepting those actions and categories of actions that could have an environmental impact requiring either an environmental impact statement or a negative declaration.

A commenter suggested that the listing of system improvements in several appendices would require separate and duplicate environmental documents from each FAA organizational element for one system improvement. The FAA does not agree since the order does not require duplicate environmental documents. The FAA element initiating an action, under the revised order, is responsible for the environmental document. In addition, any foreseeable related development by another FAA element would be included in the lead element's environmental document. This process should eleminate any redundancy in administering the FAA environmental program.

PART 77—AIRSPACE ADVISORY ACTION

An international aviation organization recommended that determinations under FAR Part 77 be subject to environmental requirements. This recommendation has not been adopted. Part 77 only requires notice to the Administrator of proposed construction or alteration of certain surface structures. These notices are the basis for determining the effect that construction would have on the safe and efficient use of the navigable airspace. The Administrator, under Part 77, has no authority to control, limit, or otherwise dictate the pattern of private construction or alteration of structures. Determinations issued by the FAA under Part 77 neither authorizes nor prohibit actions by construction proponents, but indicate whether there is an incompatibility between the construction proposal and some existing aeronautical interest or activity. Since Part 77 determinations are advisory as to the airspace impacts of non-Federal actions, they are not, by themselves, Federal actions for which environmental assessments are appropriate.

HISTORICAL AND ARCHAEOLOGICAL RESOURCES

The Department of the Interior recommended numerous changes to specific sections and paragraphs of the order for the purpose of clarifying or adding information. Many of the recommendations have been accepted. Some recommendations have not been accepted since the information already appears in the order or would not make a relevant addition to the order. The commenter also recommended revisions to reflect proposed 36 CFR Part 63 procedures. 36 CFR Part 63 is concerned with procedures for making determinations of eligibility to the National Register of Historic Places. That recommendation will be given full consideration when 36 CFR Part 63 is issued in final form.

The Department of the Interior also recommended that the matter of bird-aircraft strikes be addressed in the order both from the standpoint of aircraft safety and the conservation of bird populations. This recommendation has not been adopted since it is appropriately addressed in FAA Advisory Circular 5200.3A: "Bird Hazards for Aircraft." In addition, no evidence has been presented which suggests that significant losses of birds occur because of bird-aircraft strikes. The commenter recommended an addition to the order for the consideration of geologic hazards and related impacts. However, FAA's experience has not revealed environmental impacts. FAA statements must describe and assess relevant environmental impacts. However, FAA's experience has not revealed any cases in which FAA actions have created geologic hazards. FAA will consider this issue on a case-by-case basis, if it should arise.

One commenter recommended a clarification of the provisions in paragraph 301a(3) and paragraph 306h(2). Paragraph 301a(3) requires the preparation of an EIS for actions having a significant impact on cultural resources. Paragraph 306h(2) provides that a negative declaration may be prepared in certain cases, where otherwise warranted, where impacts on historic sites would be adverse and where a Memorandum of Agreement has been completed acknowledging avoidance of effects or satisfactory mitigation of adverse effects. In addition, compliance with the other criteria in the order concerning preparation of an ND, or an EIS where appropriate, is required.

Accordingly, the Federal Aviation Administration publishes FAA Order 1050.1B, "Policies and Procedures for Considering Environmental Impacts," dated June 16, 1977, which reads as stated below.

Issued in Washington, D.C., on June 16, 1977.

QUENTIN S. TAYLOR,
Acting Administrator.

[Order 1050.1B]

POLICIES AND PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

FOREWORD

1. *Purpose.* This order establishes policies and procedures for the preparation of environmental impact statements and negative declarations and requires consideration of environmental impacts in decisionmaking.

2. *Distribution.* This order is distributed to the division level in Washington with a branch level distribution in the Office of Airports Programs, and the Air Traffic, Airway Facilities, Flight Standards, Logistics, and Systems Research and Development Services; to the division level in the regions with a branch level distribution in the Airports, Air Traffic, Airway Facilities, Flight Standards, and Logistics Divisions; to the division level at NAFEC and the Aeronautical Center; to the overseas area offices; a minimum distribution to each Airports Field Office; and one copy to all other field offices and facilities.

3. *Cancellations.* The following orders are cancelled:

a. 1050.1A, Procedures for Considering Environmental Impacts of Proposed FAA Actions,

b. 1050.2, Environmental Assessments of ILS Facilities Systems,

c. 1050.3, Environmental Assessments of ARSR Facilities Systems,

d. 1050.4, Environmental Assessments for Remote Communications, Air/Ground,

e. 1050.5, Environmental Assessment for Radar Microwave Link Systems,

f. 1050.6, Environmental Assessment of an Air Traffic Control Tower,

g. 1050.7, Environmental Assessment for Airport Surveillance Radar,

h. 1050.8, Environmental Assessment for VHF Omnidirectional Range/Tactical Air Navigational (VORTAC),

i. 1050.9, Conservation of Energy, and

j. 5050.2B, Instructions for Processing Airport Development Actions Affecting the Environment.

4. *Explanation of Changes.*

a. This order consolidates FAA directives regarding policies and procedures for considering environmental impacts. It includes guidance on content and preparation, processing and filing of environmental impact statements and negative declarations, and guidance on citizen involvement.

b. Each service or office is responsible for the appendix covering its program, which assigns responsibility for environmental procedures, determines timing for preparation and filing of environmental documentation, and establishes measures to mitigate adverse environmental impacts and to consider alternatives.

c. Appendix 6, Airport Development, contains the instructions for preparing environmental assessments of airport development proposals. These instructions were previously contained in Order 5050.2B.

5. *Effective date.* Paragraph 324b(1)(b) outlines the effective dates for this paragraph. All other paragraphs are effective as of the date of this order.

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CHAPTER 1. GENERAL

1. *Policy.* FAA will comply with both the procedures and the policies of the National Environmental Policy Act of 1969 (hereafter NEPA) and related orders and statutes. (a) FAA policy is to integrate national environmental objectives into existing agency policies and missions and to:

(1) Avoid or minimize adverse environmental effects wherever possible by by considering project alternatives or measures to mitigate adverse impacts;

(2) Restore or enhance environmental quality to the fullest extent practicable;

(3) Make a special effort to preserve the natural beauty of the contryside, public park and recreation lands, wildlife and waterfowl refuges, and historic sites;

(4) Preserve, restore, and enhance wetlands;

(5) Preserve, protect, develop, and, where posisble, to restore or enhance the resources of the Nation's coastal zone;

(6) Promote an environment free from noise that jeopardizes health and welfare;

(7) Consult with and inform individuals and groups who are affected by or known to have an interest in an action, or who can speak knowledgeably on the impacts of proposed actions;

(8) Develop programs and activities in cooperation with State and local governments and Indian Tribal Governing bodies when appropriate.

b. FAA's environmental assessment and consultation process: (1) Provides officials and other decision makers, as well as the public, with an understanding of the potential environmental effects of proposed actions; and

(2) Assures that decision making must include environmental assessments along with economic, technical and other factors.

c. Environmental impact statements (hereafter EIS) and negative declarations (hereafter ND) serve to: (1) Document and record compliance with these policies and procedures; and

(2) Reflect a thorough review of all relevant environmental factors, utilizing a systematic, interdisciplinary approach.

d. These policies are supplementary to other agency policies established under other statutes and directives.

2. *Definitions applicable to this order.* a. Major Federal Action Significantly Affecting the Quality of the Human Environment includes any Federal action falling within the scope of paragraph 301 of this order. These actions require the preparation of an EIS.

b. Environmental Impact Assessment Report refers to a report prepared outside FAA, which analyzes the environmental impact of a proposed action. The report may serve as the basis, in whole or in part, for the FAA's draft environmental impact statement (hereafter DEIS) or ND.

c. Preliminary environmental review is a pre-EIS or pre-ND look at environmental impacts of proposed actions and serves to alert program officers of the action's possible significant impacts on the quality of the human environment or of impacts which may be highly controversial on environmental grounds.

d. Draft Environmental Impact Statement is the document that reflects FAA's initial evaluation of the environmental impact of a proposed action. The agency makes its own evaluation and assumes responsibility for the DEIS. It is distributed by FAA to the Council on Environmental Quality (hereafter CEQ) and other appropriate Federal, State and local agencies for comment and is made available to the public.

e. Final Environmental Impact Statement (hereafter FEIS) is the document that reflects FAA's final evaluation of the environmental impact of a proposed action. The EIS is the vehicle for considering the environmental impacts of a proposed Federal action. The EIS shall accompany the proposed action through the Federal decisionmaking process.

f. Negative Declaration represents a determination by the responsible official that a particular action is not one significantly affecting the quality of the human environment and that coordination and review pursuant to Section 102(2)(C) of NEPA is not required. Except for differences in complexity and scope, the documentation supporting a ND is similar to that supporting an EIS.

g. Prior Action Affirmation is a finding that a proposed action is within the scope of a previously approved EIS or ND, that preparation of a new EIS or ND is not necessary, and, therefore, that the prior Federal action may be affirmed.

h. Human Environment includes the aggregate of all external conditions and influences (ecological, biological, economic, social, cultural, historical, aesthetic, etc.) that affect the life of a human being.

i. Responsible Official is the official who makes the final determination as to whether the environmental requirements for a proposed agency action have been satisfied and who approves the EIS or ND.

j. Program Officer(s) are the agency officers assigned by the responsible official, to undertake preliminary environmental reviews and to prepare environmental assessments, EISs, or NDs.

k. Noise Sensitive Areas may include residential neighborhoods, educational health, and religious structures and sites, and outdoor recreational, cultural, and historic sites. A noise sensitive area is one where noise may interfere with the usual activities associated with use of the land. Whether sound interferes with a particular use depends upon the level of noise exposure received and the type of activities involved. A site which is unacceptable for a particular use outside of a structure may be acceptable for the same activity when it is located inside a structure which has adequate noise attenuation features.

3. *Scope.* This order implements agency actions required by the statutes and directives cited in subparagraphs a. through q.

a. **The National Environmental Policy Act** of 1969 (Pub. L. 91-190), 42 U.S.C. 4321, establishes a broad national policy to promote efforts to improve the relationship between humans and their environment, and provides for the creation of a Council on Environmental Quality (hereafter CEQ). NEPA sets out certain policies and goals concerning the environment, and requires that, to the fullest extent possible, the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with those policies and goals.

(1) Section 102 of NEPA is designed to insure that environmental considerations are given careful attention and appropriate weight in all decisions of the Federal Government.

(2) Section 102(2)(C) of NEPA requires that all agencies of the Federal Government shall: "Include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) The environmental impact of the proposed action;

(ii) Any adverse environmental effects which cannot be avoided should the proposal be implemented;

(iii) Alternatives to the proposed action;

(iv) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

(v) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statements and the comments and views of the Federal, State, and local agencies which are authorized to develop and enforce environmental standards shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of Title 5, United States Code, and shall accompany the proposal through the existing agency review processes."

(3) Section 102(2)(A) of NEPA requires all agencies of the Federal Government to "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and decision

making which may have an impact on man's environment * * *"

(4) Section 102(2)(D)(iv) of NEPA (Pub. L. 94-83) provides that if a State agency with statewide jurisdiction prepares an EIS for a major Federal action funded under a program of grants to states, and the proposed action may have significant impacts upon another State or any Federal land management entity, the responsible Federal official shall provide early notification to, and solicit views from, such Federal entity or other State regarding the impacts of the proposed action, and if there is any disagreement, shall prepare a written assessment of these impacts and views for incorporation into the statement.

b. Executive Order 11514, Protection and Enhancement of Environmental Quality, dated March 4, 1970, orders all Federal agencies to "initiate measures needed to direct their policies, plans, and programs so as to meet national environmental goals."

c. Guidelines from the President's Council on Environmental Quality (38 FR 20549, 40 CFR 1500 et seq., August 1, 1973) provides guidance to agencies for the preparation of environmental impact statements.

d. Order DOT 5610.1B, Procedures for Considering Environmental Impacts, September 30, 1974, provides guidelines for considering environmental impacts of transportation actions.

e. Section 4(f) of the Department of Transportation Act of 1966 (Pub. L. 89-670 as amended by Pub. L. 90-495 hereafter, Section 4(f)) 49 U.S.C. 1653 states: "It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public parks and recreational lands, wildlife and waterfowl refuges, and historic sites. The Secretary * * * shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use."

f. The Airport and Airway Development Act of 1970 (Pub. L. 91-258), as amended (Pub. L. 94-353, hereafter the Airport Act) 49 U.S.C. 1701 establishes an airport development grant program.

(1) Section 16(c)(1)(A) of the Airport Act provides that an airport development project may be approved only if the Secretary is satisfied that the project is reasonably consistent with plans (existing at the time of approval of the project) of planning agencies for development of the area in which the airport is located.

(2) Section 16(c)(3) of the Airport Act requires consideration of the interest of communities in or near which airport development projects are proposed.

(3) Section 16(c)(4) of the Airport Act directs that each airport development project "provide for the protection and enhancement of the natural resources and the quality of environment of the Nation"; and provides that the Secretary may not authorize a project found to have an adverse effect unless he finds, in writing, after full and complete review, that "no feasible and prudent alternative exists and that all possible steps have been taken to minimize such adverse effect."

(4) Section 16 (d) and (e) of the Airport Act require, as a condition to approval of certain airport projects, that:

(a) An opportunity be afforded for a public hearing for consideration of economic, social, and environmental effects; and

(b) Assurances be obtained that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards.

(5) Section 18a. (4) of the Airport Act requires that assurances be obtained that "appropriate action, including the adoption of zoning laws, has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft."

g. The Noise Control Act of 1972 (Pub. L. 92-574), 42 U.S.C. 4901, states the policy to "promote an environment for all Americans that is free from noise that jeopardizes their health and welfare."

h. Section 106 of the National Historic Preservation Act of 1966 (Pub. L. 89-665 hereafter, the Historic Preservation Act), 16 U.S.C. 470f, requires the head of any Federal agency having jurisdiction over a Federal or federally/assisted undertaking to take into account, prior to approving the undertaking, its effect on any district, site, building, structure, or object that is included in the National Register of Historic Places, and to give the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking.

i. Executive Order 11593, Protection and Enhancement of the Cultural Environment, requires that Federal plans and programs contribute to the preservation and enhancement of sites, structures, and objects of historical, architectural, or archaeological significance.

j. 36 CFR Part 800 (39 FR 3365, January 25, 1974) Procedures for the Protection of Historic and Cultural Properties, establishes procedures to ensure that historic and cultural resources are given proper consideration in the preparation of environmental impact statements.

k. The Archaeological and Historic Preservation Act of 1974 (Pub. L. 93-291), 16 U.S.C. 469, is directed to the preservation of historic and archaeological data that would otherwise be lost as a result of Federal construction or other Federally licensed or funded activities. Agencies may request the Secretary of the Interior to undertake the recovery, protection and preservation of such data, including preliminary survey or other investigation as needed, analysis, and publication; or the agency may undertake the activity itself. Up to one percent of funds authorized to be appropriated for a project may be expended on the recovery, protection, and preservation of such data.

l. The Coastal Zone Management Act of 1972 (Pub. L. 90-583), 43 U.S.C. 1241, states that "it is national policy (a) to preserve, protect, develop and where possible, to restore or enhance, the resources of the Nation's coastal zone * * *" (Section 303); and requires all Federal or Federally supported activities affecting the zone to be carried out in a manner consistent with State coastal zone management programs (Section 307).

m. Section 2 of the Water Bank Act (Pub. L. 91-559), 16 U.S.C. 1301, declares that "* * * it is in the public interest to preserve, restore, and improve the wetlands of the Nation * * *"

n. Section 2 of the Fish and Wildlife Coordination Act (Pub. L. 85-624), 16 U.S.C. 661, requires, with certain limited exceptions, that "whenever the waters of any stream or other body of water are proposed or authorized to be * * * impounded, diverted, the channel deepened, or the stream or other body of water otherwise controlled or modified for any purpose whatever * * * by any department or agency of the United States, or by any public or private agency under Federal permit or license, such department or agency shall first consult with the United States Fish and Wildlife Service, Department of the Interior, and with the head of the agency exercising administration over the wildlife resources of the particular State wherein the * * * control facility is to be constructed * * *" (Subsection (a)). Reports and recommendations of the Secretary of the Interior and any other applicable officials must be included in the report prepared or submitted by the agency responsible for constructing the project to the Congress or other agency having authority to approve the project (Subsection (b)).

o. Preservation of the Nation's Wetlands, Order DOT 5660.1, of June 21, 1975, provides information on the definition and significance of wetlands, and declares the policy to assure the protection, preservation, and enhancement of the nation's wetlands to the fullest extent practicable during the planning, construction, and operation of transportation facilities and projects.

p. The Endangered Species Act of 1973 (Pub. L. 93-205), 16 U.S.C. 1531, requires that all Federal agencies shall, in consultation with the Secretaries of Interior and Commerce, carry out programs for the conservation of endangered or threatened species listed by the Department of the Interior and insure that action authorized, funded, or carried out by them do not jeopardize the continued existence of the endangered species or result in the destruction or modification of the habitat of such species to an extent which is determined by the Secretary (of the Interior or Commerce) to be critical.

q. Executive Order 11296, Flood Hazard Evaluation Guidelines requires Federal agencies to evaluate flood hazards in planning facilities, constructing buildings and facilities, disposing of lands and properties, and land use planning.

4. *Requirements.* The requirements in this order apply to, but are not limited to, the following: all grants, loans, contracts, leases, construction, research activities, rulemaking and regulatory actions, certifications, licensing, permits, plans submitted to the agency by State or local agencies which require FAA approval, and legislation proposed by FAA. Exceptions to these requirements are listed in 4b.

a. *Class action or program statement.* A general class of actions or a program may be covered by a single EIS or ND when the environmental impacts of all actions in the class or program, alternatives thereto, and measures to mitigate adverse environmental impacts are substantially similar.

b. *Exceptions to the Requirement for an EIS or ND.* (1) Assistance in the form of general revenue sharing with no FAA control over the subsequent use of the funds;

(2) Administrative and operating procurements (e.g., general supplies and replacement parts and equipment including contracts for professional services);

(3) Personnel actions (e.g., promotions, hirings);

(4) Planning grants which do not imply a project commitment;

(5) Project amendments (e.g., increases in costs) which do not alter the environmental impact of the action;

(6) Legislative proposals not originating in FAA;

(7) Policy and planning documents not intended for or which do not cause direct implementation of project or system actions;

(8) Agreements with foreign governments, international organizations, or U.S. Government departments calling for the provision of technical assistance, advice or services in foreign countries;

(9) Organizational changes within the FAA;

(10) Emergency measures regarding the air or ground safety;

(11) The development and implementation of job related training programs;

(12) The planning and development of projects and programs leading to Aeromedical Applications and Standards; personnel efficiency and performance;

(13) The approval or issuance of certificates covering medicals, airmen, delegated authority, ground schools; out-of-agency training; and aircraft repair-maintenance not affecting noise emissions or wastes;

(14) In addition to the exceptions noted above, each of the Service Appendices may provide for exceptions of specific types of projects or categories of actions carried out by that service, providing that these excepted actions are not major Federal actions significantly affecting the quality of the human environment;

c. Actions excepted from this order or for which class EISs or NDs have been filed do not require further documentation.

d. An action which has been excepted in this order or for which a class EIS or ND has been filed, but which in a particular case significantly affects the quality of the human environment requires the preparation of an EIS.

5. *Responsibilities.* Agency officials are responsible for implementing this order as follows:

a. Compliance with the policies and procedures of this order is the responsibility of the:

(1) Regional directors for all actions originating in the regions.

(2) Heads of offices and services for all actions originating at headquarters.

(3) Center directors for all actions originating at centers.

b. Heads of Offices and Services are responsible, in addition, for:

(1) Revising their appendixes of this order, as appropriate;

(2) Providing supplemental guidelines for implementing this order in their program areas, as appropriate; and

(3) Consulting with and advising responsible officials on matters within their operational areas.

c. Regional Directors are responsbile, in addition, for developing programs for:

(1) Assigning personnel and other resources necessary to assess and document all relevant environmental factors;

(2) Preparing and filing EISs and NDs as appropriate; and

(3) Assuring appropriate internal coordination of actions that cross program lines.

d. Office of Environmental Quality (hereafter AEQ) is responsible for:

(1) Overseeing FAA's environmental policies and procedures;

(2) Developing and coordinating policies and procedures under this order;

(3) Assisting services in developing guidance for their program areas;

(4) Consulting with and advising responsible officials in their implementation of this order; and

(5) Developing training programs in cooperation with the Office of Personnel and Training and the services.

e. The Chief Counsel and regional and center counsels provide legal counsel to all elements of FAA regarding the legal sufficiency of environmental documents.

f. Other responsibilities regarding specific program areas are set forth in Appendices 1-6 of this order.

6. Affirming prior actions. The preparation of a new EIS or ND is not necessary when it can be documented that: the proposed action conforms to plans or projects for which a prior EIS or ND has been filed; the data and analyses contained in the previous EIS or ND are still substantially valid; and that all pertinent conditions and requirements of the prior approval have or will be met in the current action. In this case, no additional assessment or coordination is required by this order, and the responsible official may affirm the prior action subject to review for legal sufficiency.

7. *Changes to this directive.* The Director of Environmental Quality (AEQ) may issue changes to chapters 1 through 4 of this order after coordinating the change with the concerned organizational elements, and each office and service may issue changes to the appropriate appendix (i.e., Air Traffic Service for Appendix 3) after coordinating the change with the concerned organizational elements, including AEQ and AGC, provided:

(a) The change does not affect policy, delegations of authority, or assignment of responsibilities outside the office or service's authority;

b. The Administrator has not specifically reserved authority to make the change;

c. Substantial changes obtain the concurrence of the Office of the Assistant Secretary for Environment, Safety and Consumer Affairs (hereafter TES) and the Office of the General Counsel (hereafter TGC) and are published for comment in the FEDERAL REGISTER.

8.-199. *Reserved.*

CHAPTER 2. PRELIMINARY CONSIDERATIONS AND PROCEDURES

SECTION 1. PRELIMINARY ENVIRONMENTAL REVIEW

200. *Planning and development stage.* The environmental impacts of proposed actions shall be assessed and considered concurrently with initial planning, development, or site considerations.

201. *Initial review.* Preliminary environmental review shall indicate whether the proposed project could significantly affect the environment with respect to noise, land, air and water quality; and is located in wetlands, coastal zones, or historic or archaeological sites; or areas inhabited by endangered species; or areas protected under DOT Section 4(f); and whether the action would be highly controversial on environmental grounds. Documentation is not required except as necessary to alert program officers to foreseeable environmental impacts and controversies at the earliest stages of consideration.

a. Preliminary review should include a visit to the site. This visit should be made concurrently with any other preliminary on-site visit(s).

b. Secondary sources should also be used, including:

(1) Maps and aerial photos, such as those available from U.S. Geological Survey, U.S. Coast and Geodetic Survey, local land use planners and transportation and engineering agenices;

(2) Interviews with land use planners, engineers and local experts in forestry, fish and wildlife, agriculture, endangered species, historic preservation and archaeology;

(3) Reference sources, such as the National Register of Historic Places, and similar State or local listings.

202. *Budget stage.* The Office of Budget is responsible for assuring appropriate environmental consideration and documentation at the budget stage. Criteria for environmental consideration in the Airway Facilities budget process are in Appendix 2, paragraph 7.

203. *Research.* Criteria for environmental consideration of research activities are in Appendix 1.

204.-205. *Reserved.*

SECTION 2. PRELIMINARY CONSULTATION PROCEDURES

206. *Consultation.* Affected local units of government, and pertinent Federal and State agencies (see Appendix 7) should be consulted early in the process of preparing a DEIS, ND, or environmental impact assessment report. Advice received early in project development could be helpful in preparing EISs or NDs. Input on the environmental impacts of the proposed action shall be considered, as appropriate, in determining whether the proposed action requires an EIS or ND and in preparing the DEIS or ND. This consultation with State and local agencies may be done through A-95 procedures.

207. *Citizen involvement.* Citizen involvement should be initiated at the earliest practical time and continued throughout the development of the proposed project in order to obtain meaningful input. Examples of citizen groups are: environmental, conservation, public service, education, labor, business or aviation and airspace user organizations and citizen advisory committees.

a. Methods of communication to be used include: (1) Individual contacts, citizen advisory committees, telephone and mail;

(2) Public hearings or meetings;

(3) Information for the public or through the media;

(4) Bulk mailings, advertisements or notices in local newspapers or public places; and

(5) Up-to-date mailing lists of special interest groups and other interested parties at the National, regional, and local levels.

b. Comments from these individuals and groups shall be considered in preparing an EIS or ND. A summary of citizen involvement and the environmental issues raised shall be documented in the EIS or ND.

c. Citizen involvement may be appropriate in defining the scope of work of an environmental impact assessment report developed by an applicant for aid or a consultant, or of a DEIS being developed by FAA.

208. *A-95 Review.* State and areawide clearinghouses shall be notified of proposed Federal actions as set forth in the Office of Management and Budget (OMB) Circular No. A-95 (Revised). The purpose of the A-95 clearinghouse process is to assure that proposed Federal projects and assisted programs are reviewed and evaluated in advance in terms of their potential impact on or conflict with statewide or areawide comprehensive planning or upon the plans and programs of local governments. The clearinghouse routinely notifies the appropriate State and local agencies, including those agencies with expertise or jurisdiction with respect to environmental impacts. The FAA should notify State and local agencies not notified by the clearinghouse, if necessary. The A-95 procedure should be helpful in alerting program officers and responsible officials to possible environmental controversies. Comments on the environmental effects of proposed actions are inputs to an EIS or ND, and shall be attached to the DEIS when it is circulated for review.

209. *Public hearing.*

a. If the Federal action involves the location of a new airport, a new runway, or an extension of an existing runway, the airport sponsor must afford the opportunity for public hearings as required by Section 16(d)(1) of the Airport Act.

b. The following elements are to be considered in deciding whether a public hearing is appropriate in other cases:

(1) The magnitude of the proposal in terms of environmental impact or controvery, economic costs, the size and location of the geographic area involved, and the uniqueness or amount of the resources to be committed;

(2) The degree of interest in the proposal, as evidenced by requests from the public or Federal, State, and local authorities that a hearing be held;

(3) The complexity of the issue and the likelihood that information presented at the hearing will be of assistance to the agency in fulfilling its responsibilities;

(4) The extent to which public involvement already has been achieved through other means, such as earlier public hearings, meetings with citizen representatives, or written comments on the proposed action.

c. The following shall be included in the notice for a public hearing:

(1) A description of the proposed action;

(2) The scheduling of the public hearing (time, date and place).

(3) The availability and location of a DEIS, ND or environmental impact assessment report.

d. Notice of the hearing shall be in an area-wide or local newspaper of general circulation. Interested parties and clearinghouses may be notified directly.

e. A DEIS, ND, or environmental impact assessment report shall be available to the public 30 days prior to the public hearing.

f. For FAA hearings, the responsible official may assign program officers the responsibility for convening a hearing and serving as hearing officer.

210. *Notification of preparation of EIS.* Interested parties, including pertinent Federal, State, and local agencies shall receive early notification of an agency decision to prepare an EIS. This may be done by including the decision to prepare an EIS with A-95 project notification and separate notification to appropriate Federal agencies. This notification shall describe the proposed action and solicit views on its impact from any affected Federal land management entity or State clearinghouse (or other agency designated by the Governor).

211.-299. *Reserved.*

CHAPTER 3. ENVIRONMENTAL IMPACT STATEMENTS AND NEGATIVE DECLARATIONS

SECTION 1. DETERMINATION WHETHER AN ACTION IS A MAJOR FEDERAL ACTION SIGNIFICANTLY AFFECTING THE QUALITY OF THE HUMAN ENVIRONMENT

300. *Environmental assessment.* Prior to undertaking an action which has not been excepted by this order, all relevant environmental factors shall be assessed (see paragraphs 324-343). If it is concluded that the proposed action is a major Federal action significantly affecting the quality of the human environment, the responsible official shall prepare and file an EIS. If it is concluded that the action is not a major Federal action significantly affecting the quality of the human environment, the responsible official shall prepare and file an ND.

301. *Actions requiring environmental impact statements.*

a. An EIS shall be prepared where an agency action: (1) Has an effect that is not minimal on properties protected under Section 4(f) of the DOT Act or Section 106 of the Historic Preservation Act;

(2) Is likely to be highly controversial on environmental grounds;

(3) Is likely to have a significant impact on natural, ecological, cultural, or scenic resources of National, State, or local significance, including endangered species or wetlands;

(4) Is likely to be highly controversial with respect to the availability of adequate relocation housing;

(5) Causes substantial division or disruption of an established community, or disrupts orderly, planned development, or is determined not to be reasonably consistent with plans or goals that have been adopted by the community in which the project is located;

(6) Causes a significant increase in surface traffic congestion;

(7) Has a significant impact on noise levels of noise sensitive areas;

(8) Has a significant impact on air quality or violates the standards for air quality of the Environmental Protection Agency or an affected locality or state;

(9) Has a significant impact on water quality or may contaminate a public water supply system;

(10) Is inconsistent with any Federal, State or local law or administrative determination relating to the environment;

(11) Directly or indirectly affects human beings by creating a significant impact on the environment.

b. In determining whether a proposed Federal action requires an EIS, not only the overall, cumulative impact of the proposed action, but also the consequences of subsequent related actions must be considered. This is important because a series of related actions may individually have a limited environmental impact; however, when considered together, the actions may have a significant cumulative impact.

(1) If the action would permit further contemplated actions, the impacts of both those actions and the proposed action must be considered in determining whether to prepare an EIS.

(2) If an EIS is required, it must be processed before making a commitment which would enable the future action to foreclose or narrow the consideration of alternatives or mitigating measures.

c. A proposed action is considered highly controversial when the action is opposed on environmental grounds by a Federal, State, or local government or by a substantial number of persons affected by such action. A controversy over the amount of acquisition or relocation payments is not a controversy with respect to the availability of relocation housing.

d. In case of doubt as to whether an EIS is necessary for a particular action, the responsible official or program officer should consult with AEQ and AGC.

302.-304. *Reserved.*

SECTION 2. NEGATIVE DECLARATIONS

305. *Format.* a. The ND may be a separate document, in which case it shall include a heading or statement identifying it as such, e.g.:

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

(Originating Region, Office, Service or Center)

Negative Environmental Declaration
(Subject of Declaration)

(Date)

b. Or, the ND may be incorporated in other program documents.

c. The ND shall conclude that the action is not a major Federal action significantly affecting the quality of the human environment, and consequently, no environmental impact statement is required. Suggested language is:

"The opinion of the undersigned, upon careful review of this proposed action, is that pertinent environmental factors have been assessed and adequately documented, and the action is not a major Federal action significantly affecting the quality of the human environment."

d. All NDs shall be dated and signed by the responsible official.

306. *Scope of documentation.* a. Depending on the complexity and degree of impact of a proposed action, a ND may range in content from a simple statement, supported with pertinent facts, that the action is not a major Federal action significantly affecting the quality of the human environment to an analysis involving the format and content necessary for environmental statements.

b. The ND shall include a brief description of the proposed action and its purpose.

c. The ND shall assess and document all relevant matters set forth in paragraphs 324 and 343 as necessary to support the conclusion that the action is not a major Federal action significantly affecting the quality of the human environment. The attention given to different environmental factors will vary according to the nature, scale and location of the proposed action. The ND shall include any measures to minimize adverse impacts on the environment.

d. The ND shall identify and discuss the alternatives considered, particularly those which mitigate environmental impacts, including the alternative of no action.

e. The ND shall determine the proposed action's consistency or inconsistency with community planning, and shall document the basis for the determination.

f. If a ND includes a Section 4(f) determination, include the material called for in paragraph 329. AGC, or his designee, shall review the Section 4(f) determination for legal sufficiency. The document must reflect consultation with the Department of the Interior and, where appropriate, the Department of Agriculture or the Department of Housing and Urban Development.

g. Where wetlands are involved, the ND shall document the outcome of consultations with the U.S. Fish and Wildlife Service and the pertinent state resources agency.

h. Where affected properties are included in or eligible for inclusion in the National Register of Historic Places, the ND shall include: (1) if the effect is not adverse, documentation and outcome of consultations with the State Historic Preservation Office (hereafter SHPO) and evidence that the Advisory Council on Historic Preservation (hereafter ACHP) reviewed the determination of no adverse affect; and (2) if the effect is adverse, documentation and outcome of consultations with the SHPO and the ACHP, including a Memorandum of Agreement with the ACHP.

307. *Responsible officials.* a. At the field level, NDs shall be reviewed by pertinent staff and program offices and may be approved by the Regional or Center Director.

b. Responsible officials shall send NDs originating in FAA Headquarters to AEQ and to AGC for review. After review for legal sufficiency by AGC, the Service or Office Director may sign the ND.

308. *Coordination.* NDs are required to be coordinated outside of the FAA only where coordination is required by law or administrative directive (e.g., for Section 4(f) of the DOT Act, Section 106 of the Historic Preservation Act, Section 16(c)(4) of the Airport

Act, Section 7 of the Endangered Species Act, or wetlands impact.)

309. *Distribution.* A copy of the ND is filed in the office of the responsible official and a copy forwarded to the appropriate Service Director for review for consistency with the policy and procedures of this order. Service Directors may waive this requirement, subject to AEQ concurrence.

310. *Availability for public information.* NDs are public information, and as such shall be made available upon request pursuant to FAA procedures.

311.–315. *Reserved.*

SECTION 3. FORMAT OF ENVIRONMENTAL IMPACT STATEMENTS

316. *Format.* a. *Heading of environmental impact statements.* Each EIS shall be headed as indicated below and shall state which public laws are applicable to the proposed action. For example:

DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration

(Originating Region, Office, Service or Center) Final (or Draft) Environmental Impact Statement.

(Subject)

(Date)

This statement is submitted for review pursuant to the following public law requirements: Section 102(2)(C) of Pub. L. 91-910, 42 U.S.C. 4321; Section 4(f) of Pub L. 89-670, Section 106 of the National Historic Preservation Act; etc., as applicable.

b. *Summary.* The format for the summary which shall accompany draft and final EISs is as follows:

SUMMARY

( ) Draft ( ) Final (Check one)

Department of Transportation, Federal Aviation Administration. Name, address, and telephone number of individual who can be contacted for additional information about the proposed action or the statement.

(1) Name of Action. (Check one)

( ) Legislative ( ) Administrative

(2) Brief description, purpose and location of action indicating which State(s) and counties are particularly affected.

(3) Summary of environmental impact and adverse environmental effects.

(4) List alternatives considered.

(5) For draft statements, list all Federal, State and local agencies and any other sources from which comments have been requested.

(6) For final statements, list all Federal, State and local agencies and other sources from which written comments have been solicited and received.

(7) Date(s) the draft statement and the final statement, if issued, were made available to the CEQ and to the public.

(8) Date of the public hearing, if one was held.

c. *Signature.* Each DEIS and FEIS shall be dated and signed by the responsible official.

317.–319. Reserved.

SECTION 4. CONTENT OF ENVIRONMENTAL IMPACT STATEMENTS

320. *General.* EISs document the consideration and evaluation of environmental impacts in FAA decision making. a. The required information should be presented in easily understood language.

(1) Documents should be detailed, yet succinct, including analysis of all relevant environmental impacts of a proposed action and its reasonable alternatives.

(2) Analysis of facts, references to literature, special studies or textual material within the statement shall support conclusions.

(3) Do not include unnecessary information, and summarize, consolidate or reference less important material.

b. *Although adherence* to a rigid format is not required, preparation and review is facilitated by adhering to typical presentation styles.

(1) The document should refer at appropriate points to any underlying studies, data sources, or other information considered in its preparation.

(2) Reference data need not be attached but shall be listed and made available to the responsible official or any member of the public upon request.

321. *Description.* a. Each EIS shall begin with a concise description of the proposed Federal action, a statement of its purpose, a brief summary of the need for the action, an indication of any related contemplated actions, and a description of the stages of implementation and time frames. The description also shall contain or refer to figures, charts, photographs, or tables in the document as necessary to illustrate the action to be taken, and any significant airport or facility community environmental interfaces. All illustrations and reproductions should be legible, free of clutter, and in a form which is understandable. Airport development actions shall include foreseeable related facility installations and flight procedural actions. Facility actions not involving airport development shall include foreseeable related flight procedural actions.

b. The document shall identify any other Federal activity in the affected area which is related to the proposed action (e.g., highways, housing relocation). It shall include a description of the interrelationships and cumulative environmental impacts of all related Federal projects in planning and development.

c. The document shall indicate how the proposed action conforms to or conflicts with the specific terms of adopted Federal, State, regional, or local land use plans, policies, and controls, including state coastal zone management programs, if any, for the area affected. Actions should be consistent with these plans, policies, and controls to the maximum extent possible. Other Federal, State, or local agency requirements for permits, licenses, etc., which would be necessary in order to implement the action shall be identified. Efforts to reconcile any conflicts or inconsistencies also shall be described, along with the results achieved.

322. *Background information.* A section describing or discussing background information may be appropriate. This section should highlight related developments to date and present a general overview of significant aspects of the situation under review. It may include such items as bond actions, action pertinent to the proposal by the community or citizen groups and any other unique and significant factors associated with the project.

323. *Probable impacts.* The document shall describe and assess relevant probable impacts, both beneficial and adverse, of the proposed actions on the human and natural environment and shall:

a. Include those adverse effects which cannot be avoided should the proposal be implemented;

b. Describe the actions to be taken to enhance beneficial impacts; and

c. Document the assessment of all relevant environmental factors in paragraphs 324 to 343 to the extent necessary to consider the environmental impacts of a proposed action and its alternatives. The attention given to different environmental factors will vary according to the nature, scale, and location of the proposed action.

324. *Noise.*—a. *Background.* (1) The purpose of noise analyses is to present information about the effects of noise on noise sensitive areas;

(2) Because noise effects vary with different human activities, the appropriate quantitative measure or descriptor of noise exposure may vary, depending on the activity under discussion and the availability of substantive scientific data relating noise level to impact on humans.

(3) This section refers to three measures of noise exposure any one or more of which may be required, depending on the circumstances:

(a) Maximum sound level in dB(A) (single event measure);

(b) Duration above a reference sound level in minutes or other time measure; and

(c) A cumulative noise measure, such as Composite Noise Rating (hereafter CNR), Noise Exposure Forecast (hereafter NEF), Day/Night Level (hereafter Ldn), or Equivalent Noise Level (hereafter Leq).

b. *Requirements.* The analyses shall include information for three conditions: the present condition; the condition forecast without the proposed change; and, the condition forecast with the proposed change. All interrelated actions (e.g., installation of navigation aids and air traffic control procedures) shall be considered.

(1) For actions involving airport location, runway location, major runway extension, or runway strengthening which would permit operation by larger or noisier aircraft, the following noise information shall be presented:

(a) Continuous contours for each of the required conditions, showing the boundaries of all areas exposed to noise levels equal to or greater than NEF 30; or Ldn 65; or CNR 100.

(b) For noise sensitive areas identified within the contours presented in (a), an additional analysis is required if the proposed action is highly controversial because of noise impacts or if the areas identified will be exposed to jet operations for the first time or if the noise at any point within the identified noise sensitive areas increases more than three units (NEF, CNR, Ldn) over that which would be created without the project. This additional analysis shall provide information on average duration above 65, 75, 85, 95, 105, and 115 dB(A) for a complete day's operation, for the evening period (7 p.m. to 10 p.m.), and for the night period (10 p.m. to 7 a.m.), present the information for the forecast condition with the project and the forecast condition without the proposed project. This information may be provided for selected points in intervals of not greater than 3,000 feet within the identified noise sensitive areas. For these same points provide the cumulative NFE, Ldn or CNR measure. The FAA Integrated Noise Model can provide these sound level and noise measures for discrete points.

Effective date: The additional analysis required by (b) shall be included in all DEISs and NDs filed 12 months after the effective date of this order, and all FEISs filed 24 months after the effective date of this order.

(2) For new jet arrival or jet departure tracks (arrival or departure tracks are flight segments within 3,000 feet above the surface) the following noise information shall be presented for noise sensitive areas:

(a) The information described in b(1)(a) and (b); or

(b) Maximum sound level in dB(A) for each aircraft type (single-event measure) and the total number of operations for daily, evening and night periods for selected points in intervals of not more than 3,000 feet within identified noise sensitive areas.

(3) For actions other than b (1) and (2), for example, intermittent stationary sources (e.g., cooling towers) or mobile sources (non-jet aircraft in flight, aircraft taxiing or surface vehicles) provide maximum sound levels and frequency of occurrence at noise sensitive areas.

(4) For stationary sources which produce relatively steady levels of noise, provide maximum sound level and duration at noise sensitive areas.

(5) Policy, administrative, and regulatory actions, particularly those which are environmentally protective with effects dispersed across the air transportation system may not reasonably be assessed using traditional noise analyses methods. In such cases, the analyses may use innovating method. This, however, does not diminish the prepare's principal responsibility for assuring and defending the adequacy of the analyses.

c. *Exceptions.* (1) Unless required by section b(1), a noise analysis is not required for those actions which cause increases of less than 2dB for a single event measure or 1 unit NEF, Ldn, or CNR for a cumulative noise measure and is not controversial. These are respectively:

(a) Actions which result in reductions in distance between the noise source and noise sensitive areas of less than 20 percent (without change in the noise characteristics of the source) and which do not expose new land areas to noise.

(b) Any action that does not increase total daily operations by more than 25 percent along any arrival or departure flight track (runaway utilization rates, ratio of day-to-night operations and the relative proportions of different aircraft types remaining unchanged).

(2) However, if a series of independent or related actions, which when combined, may cause the limits of c(1) to be exceeded, then a noise analysis is required to determine the total increase in noise exposure for an affected area. The purposes of this requirement is to avoid the segmenting of actions that individually may not exceed the limits of c(1) but collectively will result in c(1) limits being exceeded. Close coordination among FAA services and offices and the airport operator may be required to fully assess the total noise impact of a series proposed actions. The noise analysis shall be performed at the earliest practicable time when alternatives to a proposed action or series of actions are open for consideration. Consideration of proposed action in regard to the exception criteria may start with the approval date of this order or the date of the last prior analysis under 324b, whichever is later.

d. *Format.* (1) The presentation of the noise analysis shall be intelligible to lay and technical readers.

(a) The text shall present principal findings.

(b) Detail required to derive the findings shall be included in appendices, but shall also be referenced in the text.

(2) The following graphics are required where an action falls under 324 b.(1):

(a) Layout plan of the present and, where relevant, proposed airport; and

(b) A map of the airport vicinity including the following for each condition analyzed:

1 Runaway location and orientation;
2 Flight tracks used in the analysis;
3 Land use, present and planned;
4 Noise sensitive areas, by type;
5 Zoning, proposed property acquisition, or other land use controls; and
6 Prominent legible noise exposure data.

(3) Analyses under 324 b.(a) and b.(3) and b.(4) require all relevant items under d.(2) (b) above but in no case less than items d. (2) (b)3, (b)4, and a convenient display or cross reference of the noise information to the locations to which it applies.

e. *Analysis.* The general literature on the effects of noise on man and on recommended land use or exposure criteria varies in depth, breath, accuracy and reliability. The use of such information is an effort by the FAA to make the state-of-the-art visible to the public. The information, therefore, should permit lay and technical readers to relate noise exposure data to an understanding of its potential effects. Accordingly, the noise analysis shall include:

(1) A description, in terms suitable for lay and technical readers, of the sound level measures and noise descriptors used in the analysis, both for single event measures (for example dBA, EPNdB, PNdB) and cumulative measures (for example NEF, CNR, Ldn). The explanation of the descriptors shall convey the technical as well as the conceptual significance of the noise measures.

(2) A discussion of: (a) Any non-standard data or calculation procedures used or derived for the purpose of dealing with any unique aspect of the analysis;

(b) Clear and concise references to source data or procedures; and

(c) Noise from other than aircraft operations if the additive effect is significant.

(3) An analysis describing the expected noise exposure on each noise sensitive activity in the area with the following considerations:

(a) A discussion of noise impact for each noise sensitive area, including such information as the number of people and schools and the size of residential land area exposed to specified noise levels, and any other information as may be necessary to describe the degree of incompatibility between the noise and existing and planned land uses (e.g., residential, cultural, religious, education, industrial, agricultural, or recreational).

(b) The analysis shall, to the extent reasonable, discuss potential effects of noise on hearing, communications interference (with consideration to educational, occupational, recreational, and religious activities), sleep interference, and annoyance, both within the context of outdoor activities as well as indoor activities.

(c) Consideration shall be given to the amount of acoustical protection provided by construction and architectural characteristics as well as climatological situations which might affect life styles and therefore alter the "average" interpretations placed on the effects of noise.

f. *Records.* The responsible office shall assure that sufficient information is retained to permit an independent review to recreate the complete noise exposure analysis.

325. *Air quality.* Air quality should be examined by estimating the pollutant impact of the proposed action in terms of existing and forecast operations. Air pollutant concentrations as well as total amounts of pollutants should be estimated and evaluated, as necessary, for consistency with State implementation plans for air quality under the Clean Air Act and other State or local standards, EPA indirect source regulation (40 CFR 51.18), if applicable, and other applicable standards. Air pollution effects of increased surface traffic resulting from increased air traffic should be estimated and considered. Methods should be proposed or referenced for controlling and minimizing air pollution resulting from construction and operation of the project. As necessary, airport layout and design alternatives for major airport expansion or alternative sites for new large airports should be evaluated in terms of air quality impact, particularly in designated air quality maintenance areas.

326. *Water quality.* Water quality requirements, available water resources, and impacts on existing water tables should be considered. Facilities for treatment and disposal of wastes also should be considered and evaluated for consistency with applicable standards. Consult with the representative organization responsible for areawide waste treatment management and planning under the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500), when necessary. Identify Federal, State and local standards for water quality and measures to be taken to ensure compliance with such standards both during construction and operation of the proposed project, if applicable. Measures to be taken to minimize pollution due to surface runoff, which may include pollution infiltration from areas of extensive grading and parement or placement of piles, should be discussed. Short-term and long-term effects of construction and operation of the proposed project upon area drainage and aquifers should also be discussed.

327. *Social impacts.* A proposed action may have social and community impacts. Where displacement of people or businesses or disruption of established communities occurs, the following information from secondary sources and community sources, when available, should be included in order to determine the manageability of relocation: a. An estimate of the numbers and the characteristics of households to be displaced (e.g., minorities, income levels, renter or owner, elderly, large families);

b. Impact on the neighborhood and housing where relocation is likely to take place;

c. Disruption or impact on the stability and cohesion of any established community;

d. A description of businesses to be displaced and general effects of business dislocation on the economy of the community;

e. Ability to provide adequate relocation housing for the types of families to be displaced and a description of actions proposed to remedy any insufficiency, including, if necessary, housing of last resort, as authorized by Section 206(a) of the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970.

f. Effects of surface traffic disruption, including effects on access to community facilities, recreation areas, and places of residence and business.

g. Results of consultation regarding the impacts with local officials, relocation or other social agencies, and community groups.

h. A description of any special location advisory services to be provided for the elderly, handicapped, or illiterate regarding interpretation of benefits and other assistance available.

328. *Induced socioeconomic impacts.* These impacts may include shifts in the patterns of population movement and growth, public service demands, and changes in business and economic activity. The effects of these impacts should be estimated and discussed in consultation with pertinent local officials.

329. *DOT section 4(f).* This section requires identification of and special effort to preserve public parks, recreation areas, wildlife and waterfowl refuges, and historic sites, and areas of natural scenic beauty of local, state, or national significance affected by the proposed action. The description should include size, activities, and relationship to other similarly used lands in the vicinity. a. The use of pubic parks, recreation areas, wildlife and waterfowl refuges, and historic sites, must be avoided if there is a feasible and prudent alternative.

b. A publicly owned park, recreation area, refuge, or historic site is presumed to be significant unless there is a statement of insignificance by the Federal, State, or local official having jurisdiction thereof. Any such statement of insignificance is subject to review.

c. Where lands are administered for multiple uses, the official having jurisdiction over the lands shall determine whether the subject lands are in fact being used for park, recreation, wildlife, waterfowl, or historic purposes.

d. The discussion of the alternative of taking no action and of alternative designs and locations shall include cost estimates with figures showing percentage differences in total project costs and technical feasibility assessments.

e. Analysis of the environmental impact of alternatives shall include evidence that unusual factors or unique problems are present and that the cost or community disruption resulting from alternatives reach extraordinary magnitudes.

f. If there is no feasible and prudent alternative to the use of such land, include a statement of actions taken or to be taken to minimize harm to the protected area. This may include using project funds to replace or improve land and facilities and designing measures such as planting or screening to mitigate any adverse effects. Also include evidence of other measures to enhance and maintain natural beauty.

g. If land is involved which was acquired or developed with Federal grant money (i.e., open space under Department of Housing and Urban Development; the land and water conservation fund, fish and wildlife restoration under the Pittman-Robertson and Dingell-Johnson Acts, and certain transfers to Federal surplus property to the States, for park, refuge, and historic purposes), the final documentation shall include an appropriate communication or finding from the grantor agency.

h. The documentation shall reflect consultation with the Department of the Interior and, as pertinent, the Department of Housing and Urban Development or the Department of Agriculture.

i. The document shall include a statement that there is no feasible and prudent alternative to the use of the land and that the action includes all possible planning to minimize harm.

j. Questions regarding the application of Section 4(f) should be referred to AEQ.

330. *Historical and archaeological sites.* The document should specify actions to be taken to preserve and enhance districts, sites, buildings, structures, and objects of historical, architectural, archaeological, or cultural significance affected by the project.

a. The statement should identify, through consulting the National Register of Historic Places and National Register Criteria (36 CFR Part 800), whether proposed actions will affect properties included in or eligible for inclusion in the National Register.

(1) The National Register of Historic Places is published each February in the FEDERAL REGISTER.

(2) New entries to the National Register and listings of eligible properties are published regularly, usually on the first Tuesday of each month, in the FEDERAL REGISTER.

(3) The Secretary of the Interior will advise, upon request, whether properties are eligible for the National Register.

b. If application of the ACHP's Criteria of Effect indicates that the project will affect a property included in or eligible for inclusion in the Naitonal Register of Historic Places, the document should state the effect.

(1) Evaluation of the effect should be made in consutlation with the SHPO and in accordance with the ACHP's Criteria of Adverse Effect (36 CFR Part 800).

(2) Determinations of no adverse effect should be documented with evidence of the application of ACHP's Criteria of Adverse Effect, the views of the SHPO and review by the ACHP.

c. If the project will have an adverse effect upon property included in or eligible for inclusion in the National Register of Historic Places, the FEIS must include either an executed Memorandum of Agreement or comments from the ACHP with an account of actions to be taken in response to these comments. Procedures for obtaining a Memorandum of Agreement or the comments of the Council are found in 36 CFR Part 800.

d. To determine whether the project will affect properties of state or local historical, architectural, archaeological, or cultural significance that are not included in or eligible for inclusion in the National Register, the responsible official should consult with the SHPO, with the local official having jurisdiction of the property, and where appropriate, with historical societies, museums, or academic institutions having expertise with regard to the property.

e. Use of land from historic properties of Federal, State, and local significance, as determined by the official having jurisdiction thereof, involves Section 4(f) of the DOT Act. The document should include evidence necessary to support a Section 4(f) determination. If there is reason to believe that historic or archaeological resources exist, a survey will normally be required.

f. Any foreseeable irreplaceable loss or destruction of significant scientific, prehistorical, historical, or archaeological data shall be identified in the document, with evidence of notice provided to the Secretary of the Interior and measures described to undertake the recovery, protection, and preservation of such data, including preliminary survey, salvage, or other investigations as needed. The PAA has an agreement with the Department of the Interior for assuring compliance with the Archaeological and Historic Preservation Act of 1974, providing for oversight relative to mitigation of damage to archaeological and historic data incident to construction activities of PAA or FAA assisted projects.

331. *Flood hazard evaluation.* To comply with Executive Order 11296 and Flood Hazard Guidelines for Federal Executive Agencies, promulgated by the Water Resources Council, describe measures to handle flood hazard problems and how they can be implemented during project development. When a project under consideration encroaches on a flood plain, the EIS should include evidence that studies have been made and agencies have been consulted.

332. *Considerations relating to wetlands.* Where impacts on wetlands, including control, modification, impoundment, diversion, and channel deepening of streams or other bodies of water are involved, the document should include: a. Information on location, types, and extent of wetlands areas that might be affected by the proposed action;

b. An assessment of the impacts on the wetlands and associated wildlife from both construction and operation of the project;

c. A statement of the measures to be taken to preserve, protect and enhance wetlands and to avoid, to the fullest extent practical, drainage, filling, or interference with wetlands or the water resources supplying them;

d. Results of coordination with the local representative of the Department of the Interior, the Department of Commerce, and any other officials such as the Corps of Engineers with special expertise concerning the impacts of the project on the wetlands and the worth to the community and to the nation of the particular wetlands area involved; and

e. A statement as to whether the proposed action should proceed and upon what conditions.

333. *Coastal zone management programs.* Where the proposed action is within or may affect the land or water uses in the area covered, by a state coastal zone management program, the document shall include evidence of consultation with the state coastal zone management agency. If a state coastal zone management program has been approved by the U.S. Department of Commerce, the statement shall include the following: a. For FAA assisted actions, include a determination as to consistency with the approved state coastal zone management program. Also include a record of coordination as specified in the Coastal Zone Management Act, and evidence that necessary permits, if required, will be or have been secured.

b. If the proposed action is issuance of an FAA license or permit, the applicant shall provide a certification that the proposed action complies with the State's approved program and that such activity will be conducted in a manner consistent with the program. The document shall include a record of coordination with the state coastal zone management agency.

c. If it is determined that the proposed project is inconsistent with the state's approved program, the responsible official shall not approve the action except upon a finding by the Secretary of Commerce that the proposed action is consistent with the purposes or objectives of the Coastal Zone Management Act or necessary in the interest of national security. The EIS shall document this finding.

334. *Energy supply and natural resources development.* Where applicable, the report should reflect consideration of whether the project will have any effect on either the production or consumption of energy and other natural resources, and include the analysis of any such effects if they are significant.

335. *Construction impacts.* In general, adverse impacts during construction will be of less concern than long-term impacts of a proposal. Nonetheless, the report should appropriately address such matters as the following, identifying any special problem area: a. Noise impacts from construction or delivery of materials through residential areas and any specifications providing maximum sound levels;

b. Effect of spoil disposal on borrow areas and disposal sites (including reference to pertinent specifications);

c. Controls on air pollution from dust, burning, etc. (with reference to pertinent specifications or advisory circulars);

d. Impacts on water quality from run-off and associated sedimentation and control measures (reference specifications or advisory circulars); and

e. Mitigating measures employed, including the scheduling of construction activities to avoid critical periods for wildlife and fish propagation, if applicable.

336. *Wildlife and Waterfowl.* Long-term loss may accrue by virtue of reduction of the overall wildlife carrying capacity of a given land area. Where part of a wildlife habitat is removed it should be determined whether the remaining habitat is sufficient to maintain affected wildlife populations at viable levels. These long-term losses may be described in general terms unless a threatened or endangered species is involved.

337. *Impacts relating to endangered and threatened species of fauna and flora.* The document should include evidence that the proposed action will not jeopardize the continued existence of endangered or threatened species or result in the destruction or

modification of critical habitat of these species. a. If any species listed by the Department of Interior as endangered or threatened exist in the area of the proposed action's potential impact, the document should provide evidence of consultation with the Regional Director of the Fish and Wildlife Service (hereafter FWS) or the National Marine Fisheries Service (hereafter NMFS), as appropriate, regarding the impacts of the action on the species. The FWS, Department of the Interior, is responsible for protection of terrestrial and freshwater species; the NMFS, Department of Commerce, is responsible for protection of marine species.

b. The document should describe the anticipated effects of the proposed action and alternatives to the action on listed species, the nature of the listed species' habitat, and whether the FWS or NMFS has determined that habitat to be critical.

c. The final statement should summarize the results of consultation with FWS or NMFS and indicate any specific measures which will be taken to conserve listed species and to avoid destruction or modification of critical habitat.

338. *Light emissions.* Aviation lighting required for the purposes of security, obstruction clearance, and navigational guidance, may create an annoyance among people in the vicinity of the installation. In this instance, documentation shall include: a. Site location with a diagram of lights or light system.

b. Description of lights, as to their purpose, installation, beam angle and measurements, intensity, color, flashing-sequence, and other pertinent characteristics of the particular system and its use.

c. Measures to lessen any annoyance, such as shielding or angular adjustments.

339. *Visual impacts.* Any special significant visual impacts shall be described, particularly in areas of natural beauty or historic or architectural significance.

340. *Solid waste impacts.* The amount of solid waste in volume or weight should be estimated and the procedure for its disposal described for those actions resulting in a significant increase or change in waste disposal. Any State or local regulations for disposal of solid waste should be described.

341.-343. [*Reserved*]

344. *Actions to minimize unavoidable adverse effects.* Actions to be taken to minimize unavoidable adverse effects should be described.

345. *Alternatives.* An EIS or, as appropriate, an ND thoroughly and objectively evaluates the environmental impact of all reasonable alternatives, particularly those which mitigate environmental impacts, and sets forth the reasons why the alternatives are rejected. a. Sufficient analysis of the environmental impact of the alternatives should accompany the proposed action through the review process in order not to foreclose prematurely options which might enhance environmental quality or have a less detrimental effect.

b. Alternatives include taking no action or postponing action pending further study; rejection of these alternatives requires an examination of the need for the project and the consequences of taking no action.

c. Where appropriate, satisfying the increased transportation needs by using alternative transportation modes should be considered.

346. *Relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity.* The document must examine the extent to which the proposed action involves tradeoffs between short-term environmental gains at the expense of long-term losses and long-term gains at the expense of short-term losses and the extent to which the proposed action forecloses future options.

347. *Irreversible and irretrievable commitments of resources.* The document must examine the extent to which the proposed action would irreversibly and irretrievably curtail the range of beneficial uses of the environment including cultural as well as natural resources. If a project involves new, unusual or limited sources or types of materials, include a quantitative estimate and description. Normally, labor and materials required to accomplish a project do not significantly curtail the range of beneficial uses of the environment.

348. Citizen involvement. Document a summary of citizen involvement, including meetings and public hearings, and any environmental issues raised.

349. Summary of impacts. A summary of the conclusions and significant points developed is desirable.

SECTION 5. PREPARATION OF DRAFT ENVIRONMENTAL IMPACT STATEMENTS OR NEGATIVE DECLARATIONS

350. Timing of draft statement preparation. Prepare DEISs and NDs at the earliest practical time prior to the first significant decision point in the program or project development process. In this way, the analysis of environmental effects and the exploration of alternatives with respect thereto are significant inputs to the decision making process.

351. Applications. The program officer may request each applicant for a grant, loan, permit, or other approval to which this order applies, to submit, with the original application, an environmental impact assessment report. a. Regardless of the nature of the applicant's participation, the responsible official or the program officer must furnish guidance, actively participate in preparing the DEIS, FEIS, and ND, and make his own evaluation prior to approval. The responsible official shall take responsibility for the scope and content of an EIS or ND by signing it.

b. The responsible official shall appropriately limit the actions an applicant may take prior to completion and approval of FEISs and subsequent approval of the application.

352. Use of consultants. Consultants may prepare background or preliminary material and assist in preparing a DEIS, FEIS, or ND for which FAA takes responsibility. a. Exercise care in selecting consultants and in reviewing their work to insure complete, objective consideration of all relevant project impacts and alternatives, particularly if the consultant may expect further contracts based on the outcome of the environmental decision.

b. Citizen participation may be appropriate in selecting a consultant and defining the scope of his services.

353. *Scope of statement.* The action which the statement covers must have significance and utility independent of subsequent related actions. The action shall be broad enough in scope to avoid segmentation of projects and irreversible commitments of resources in subsequent actions, and to insure meaningful consideration of alternatives. An airport development EIS or ND should include foreseeable related supporting facilities including navigational aids and flight procedural actions. A facilities EIS or ND not involving airport development should include foreseeable related flight procedural actions.

354. *Inclusion of environmental determinations.* An EIS or ND shall include relevant environmental determinations under Section 4(f) of the DOT Act and the documentation for other environmental findings and determinations as required.

355. *Interdisciplinary approach.* Section 102(2)(A) of NEPA requires each Federal agency to apply a systematic, interdisciplinary approach in planning and decision making which may impact the environment. To assure that all environmental impacts are identified and assessed, all relevant disciplines should be represented. If the applicant's staff does not contain the necessary disciplines, use of professional services available in other Federal, State, or local agencies, universities, or consulting firms is appropriate.

356. *Internal review process.* a. Before an office or service files or submits an EIS or ND for public review, it shall submit it to other pertinent program divisions and staff officers.

b. The purposes of this review process are:

(1) to assure that the document covers all related foreseeable agency actions by agency elements;

(2) that it consolidates environmental assessments of all pertinent divisions; and

(3) that commitments that are the responsibility of other divisions or offices will be carried out.

c. Regional Directors are responsible for designating a lead division or office to carry out this internal review.

357. *Regulations.* For regulations or rulemaking, the DEIS or ND should be available to reviewing agencies and the public prior to or concurrently with the notice of proposed rulemaking.

358. *Legislative proposals.* a. Before the FAA submits to the Congress a legislative proposal, the office which originates the legislation shall, in accordance with OMB Bulletin 72-6, "Proposed Federal Actions Affecting the Environment," prepare, circulate, and file with CEQ an environmental statement or prepare and file a ND.

b. The Office of the Secretary shall clear the draft of the environmental statement for proposed legislation and submit it to the Office of Management and Budget (hereafter OMB) for circulation in the normal legislative clearance process.

(1) If the scheduling of congressional hearings on legislation does not allow adequate time for the completion of a FEIS, furnish Congress and make available to the public a DEIS, pending transmittal of the comments as received, and the final text.

(2) Forward NDs to the Congress, if requested.

359. *Lead agency.* a. As specified in CEQ guidelines, one statement should be prepared for all Federal actions involved if more than one agency: (1) Directly sponsors an action, (2) Is directly involved in an action through funding or issuing of permits or licenses, or (3) Is involved in a group of actions directly related to each other because of functional interdependence and geographic proximity.

b. In such cases, CEQ requirements may be satisfied if: (1) The agencies jointly prepare a statement, or

(2) The agencies designate a lead agency to assume supervisory responsibility for the preparation of the statement. The other agencies would then provide assistance regarding their areas of jurisdiction and expertise:

c. Refer questions concerning "lead agency" designation to headquarters (AEQ-1) for resolution with CEQ through TES.

SECTION 6. PROCESSING OF DRAFT ENVIRONMENTAL IMPACT STATEMENTS

360. *Public notice.* Each responsible official shall assure that press releases, official notices, or other appropriate media announce to the public that a DEIS has been prepared and is being circulated and that comments on the environmental impact of the proposed

action are being solicited. a. Where appropriate, make the notification in cooperation with the project's sponsor.

b. The announcement shall contain information on the availability of the DEIS.

361. *Copies.* The responsible official shall have printed sufficient copies of DEISs and FEISs to meet anticipated demand. A fee not to exceed reproduction costs may be charged for copies requested by the public if the original set of copies is exhausted.

362. *Circulation and availability of DEIS.* a. Circulate the DEIS to agencies which have "jurisdiction by law or special expertise with respect to any environmental impact involved" or "which are authorized to develop and enforce environmental standards." These agencies are set forth in Appendix 7.

(1) CEQ (5 copies), TES (2 copies), AEQ-1 (1 copy), AGC or designee (1 copy), the Service Director, other elements of DOT, and other FAA services as appropriate;

(2) to State and local agencies, including agencies that commented substantively on the A-95 notification, affected cities and counties, and other known to have an interest in the action.

(3) A-95 agencies may be used, by mutual agreement, for securing review of DEISs by State and local agencies.

b. In addition, make the EIS available at a sponsor's office, local public libraries, and at other appropriate locations of general public access.

363. *Time for comment.* a. A time period for comment may not be less than 45 days from the Friday of the week following receipt of the DEIS by CEQ, other agencies, and the public. Requests for reasonable extensions of time, when warranted by the magnitude and complexity of the statement or the extent of citizen interest, shall be granted.

b. If no comments or requests for extension are received within 45 days, it may be presumed that the agency consulted has no comments to make.

364.-369. *Reserved.*

SECTION 7. CHANGE OF DRAFT ENVIRONMENTAL IMPACT STATEMENT TO NEGATIVE DECLARATION

370. *General.* After circulation of a DEIS the responsible official may determine that the proposed action is not a major Federal action significantly affecting the quality of the human environment and prepare a ND. The document shall include any substantive comments received on the DEIS, and resolution of any controversies or conflicts.

371. *Approval authority.* The official with authority to approve a FEIS has authority to approve the change to a ND. Approval is subject to review for legal sufficiency by AGC for headquarters action and by Regional or Center Counsel for field action. The documentation should include language such as the following:

"A draft environmental impact statement for the proposed action has been prepared and federally coordinated in the manner contemplated by Section 102(2)(C) of the National Environmental Policy Act of 1969. A careful and thorough evaluation of the facts and issues contained in the draft statement and comments received from the public and other Federal agencies having jurisdiction by law and special expertise in environmental matters, support a determination that the proposed action is not a major Federal action significantly affecting the quality of the human environment and is not highly controversial on environmental grounds."

372. *Public notification.* a. If a DEIS is changed to a ND as a result of the public review process, send a copy to all agencies and individuals who commented substantively on the DEIS or requested copies of the FEIS, and make copies available to the public.

b. The decision to change a DEIS to a ND should be published in the appropriate local media in the same manner as was the DEIS.

c. Include the change in the quarterly lists of EISs anticipated or in preparation that AEQ sends to CEQ.

d. After transmittal or notification of the change, the 30 day waiting period is not applicable and the action can proceed.

373.-374. *Reserved.*

SECTION 8. PREPARATION, APPROVAL AND DISTRIBUTION OF FINAL ENVIRONMENTAL IMPACT STATEMENT

375. *Utilization of comments.* a. Comments received on the DEIS and inputs (in summary form, if appropriate) from citizen participation, and public hearings shall accompany the FEIS through the normal internal project or program review process.

b. In preparing a FEIS, revise the DEIS, as appropriate, to reflect comments received, issues raised through the community involvement and public hearing process, or other consideration. Include an appropriate response, or reference to subject's discussion in the statement. Include copies of all substantive commenting letters. If the number of comments is too voluminous to include, consult AEQ.

c. Identify and discuss any unresolved environmental issues and efforts to resolve them through further consultation. For instance, where an agency comments that the statement contains inadequate analysis or that the impacts are too adverse for approval, either resolve the issue or document in the FEIS efforts to resolve the issue, and set forth any action that will result.

376. *Approval of final environmental impact statements.* a. For FEISs which originate at headquarters, the Office or Service Director shall send 1 copy each to AEQ and AGC for review. After AGC review for legal sufficiency, the Director or designee should transmit two copies to appropriate elements of OST for concurrence, if required, with a request for concurrence within 15 to 30 days, depending upon the complexity of the statement. Following concurrence, if required, the Office or Service Director may approve the FEIS and file it with CEQ.

b. For FEISs originating in the field, not subject to headquarter's concurrence, the Regional Director or Center Director shall approve and file the FEIS with CEQ, following review for legal sufficiency by the Regional Counsel.

c. For FEISs originating in regions or centers, but subject to headquarters concurrence, the Regional Director or Center Director approves the FEIS and submits it to the appropriate Service or Office Director. The Service or Office shall send copies to AEQ and to AGC for review. After AGC review for legal sufficiency, the Service or Office Director shall transmit two copies to any appropriate elements of OST for concurrence, if required, with a request for concurrence within 15 to 30 days, depending on the statements complexity. Following concurrence, the Service Director may file the FEIS with CEQ.

d. For FEISs originating in regions or centers, but where authority to approve FEIS is retained in headquarters, the region or center shall send the proposed FEIS to the appropriate Service or Office Director. The service or office shall send copies to AEQ and to AGC for review. After AGC review for legal sufficiency, the Service or Office Director shall transmit two copies to any appropriate element of OST for concurrence, if required, with a request for concurrence within 15 to 30 days, depending on the statement's complexity. Following concurrence, the Office or Service Director or other responsible official may approve the FEIS and file it with CEQ.

e. All statements involving Section 4(f) of the DOT Act are subject to AGC review for legal sufficiency in headquarters.

377. *OST concurrence.*

a. TES must concur on FEISs for projects in the following categories: (1) All actions not involving airport development;

(2) Any new airport serving a metropolitan area, construed as a Standard Metropolitan Statistical Area (SMSA);

(3) Any new runway or runway extension for an airport, any part of which is located in an SMSA and is either certificated under Section 612 of the Federal Aviation Act of 1958, as amended, or used by large aircraft (except helicopters) of commercial operators;

(4) Any project to which a Federal, State, or local governmental agency has expressed opposition on environmental grounds; and

(5) Any project for which TES requests an opportunity to review and concur in the final statement or for which FAA requests such review and concurrence by TES.

b. Any projects in the above categories which also fall under Section 4(f) of the DOT Act will require concurrence by the DOT Office of the General Counsel (TGC) as well as TES.

378. *Decisions reserved to the Secretary.* If an action requires the personal approval of the Secretary or Deputy Secretary pursuant to a request by them or by TES or TGC, a brief memorandum requesting the Secretary's or Deputy Secretary's approval of the action shall accompany the FEIS. The memorandum shall have signature lines for the concurrence of the Assistant Secretary for Environment, Safety, and Consumer Affairs, the General Counsel, and the Deputy Secretary (when the Secretary approves), and for the approval of the Secretary or Deputy Secretary, as appropriate.

379. *Availability pending approval.* Proposed final statements may be made available to the public and Federal, State, or local agencies pending final approval and filing with CEQ, with the concurrence of the responsible official, if they carry notation that the statement is not approved and filed.

380. *Distribution of approved environmental impact statements.* The originating FAA region, center, or service shall simultaneously distribute the EIS as follows: a. Five copies to: General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006;

b. One copy to AEQ and to the Service Director;

c. One copy to EPA, if the DEIS was rated LO-1 by EPA; five copies otherwise (See Appendix 8). In the event EPA has comments on a FEIS, the responsible official shall make every reasonable effort to resolve conflicts;

d. A copy of the FEIS shall also be sent to each Federal, State and local agency, to private organizations which made substantial comments on the draft statement and to individuals who requested a copy of the final statement or who made substantive comment on the draft.

e. One copy to any sponsor, applicant, or grantee;

f. One copy to appropriate state and area-wide clearinghouses unless otherwise designated by the governor;

g. Additional copies shall be sent to accessible locations to be made available to the general public, including headquarters and regional offices; state, metropolitan, and regional clearinghouses (unless the governor designates some other distribution point); and local public libraries;

h. Environmental statements, comments received, and underlying documents will be made available to the public without charge to the fullest extent practical or at a reduced charge which is not more than the actual cost of reproducing copies; and

i. After filing the EIS with CEQ and after the expiration of the 30 day waiting period, AEQ shall send a copy of the EIS to the DOT Library (Attn: TAD 491.1).

381. *Implementing actions.* The implementing administrative action for the project can occur no sooner than 90 days after the DEIS has been circulated for comment and filed with CEQ and no sooner than 30 days after the date the FEIS has been filed with CEQ and made available to the commenting agencies and to the public.

382.–389. *Reserved.*

SECTION 9. SUPPLEMENTAL ACTIONS

390. *Supplemental or amended statements.* The responsible official may supplement or amend a DEIS or FEIS when substantial changes are made in a proposed action or where significant new information regarding its environmental impact comes to light. A supplemental or amended FEIS requires TES concurrence if the FEIS required TES concurrence. Consult CEQ, through AEQ and TES, with respect to the need for, or desirability of, recirculating the statement—whether DEIS or FEIS—for the appropriate period.

391. *Implementation of commitments in environmental statements.* The responsible official shall assure, through funding agreements, contract specifications, preferential arrival and departure procedures, directives, other project review or implementation procedures, and other appropriate follow-up actions that the agency and applicants carry out any actions to minimize adverse environmental effects set forth in the approved statement. Submit any proposed deviation from prescribed action that may reduce protection to the environment to AEQ. Submit deviations to TES for concurrence, if TES concurred in the approved statement.

392.–399. *Reserved.*

CHAPTER 4. ADDITIONAL PROVISIONS

400. *Review of environmental statements prepared by other agencies.* Other Federal, State or local agencies may consult FAA for assistance in analyzing environmental impacts which fall within the agency's functional area of responsibility. FAA generally should limit itself to providing a competent and cooperative advisory and consultative service on proposals affecting aviation and FAA responsibilities.

a. Comments should be organized in a manner consistent with the structure of the draft statement and should identify alternatives or modifications that may enhance environmental quality or avoid or minimize adverse environmental impacts and inaccuracies or omissions.

b. FAA projects that are environmentally related to the proposed action should be identified so that interrelationships may be discussed in the final statement.

c. Environmental monitoring for which FAA has special expertise may be suggested and encouraged during construction, startup, or operation phases.

d. Other agencies consulting with FAA and requesting review of their DEIS should be advised to transmit their EISs to FAA regional offices. The following types of matters, however, should be referred to FAA headquarters for comment:

(1) Actions with national policy implications;

(2) Projects that involve natural, ecological, cultural, scenic, historic, or park or recreation resources of national significance;

(3) Legislation or regulations having national impacts or national program proposals;

(4) Projects affecting the transportation of hazardous materials; and

(5) Water resource projects. Refer these projects to the Water Resources Coordinator, U.S. Coast Guard (hereafter G–WS). Refer items (1)–(4) to TES. In referring these matters to headquarters, the Regional Office is encouraged to prepare a proposed Departmental response.

(e) Regional Offices should review DEISs that do not have national implication. Comments should be forwarded directly to the office which the originating agency designates for receipt of commnets. If the receiving office believes that another DOT office also has an interest or is a better position to respond, it should transmit the statement to the other office. If FAA and other DOT administrations comment at the regional level, the Secretarial Representative or his designee shall coordinate the comments.

f. When appropriate, the FAA should coordinate a response with Departmental offices having special expertise in the subject matter.

g. Comments shall be submitted within the time limits set forth in the request, unless the office responsible for substituting comments seeks and receives an extension of time. Comments should be concise, and should specify any changes desired either in the action proposed or in the environmental statement or both. Any lengthy analysis should be preceded by a summary of the principal areas of comment, the conclusions, and the recommendations, if any.

h. Comments shall be distribtuted as follows: The original and one copy to the requesting agency, one copy to AEQ, one copy to TES–70, one copy to CEQ, and one copy to the Secretarial Representative if a regional office prepared the comment. Requests by the public for copies should be referred to the agency originating the statement.

401. *Lists of environmental impact statements anticipated or under preparation.* a. By the tenth day following the end of a calendar quarter, each region shall forward to AEQ a list of environmental impact statements anticipated or under preparation.

b. Drop from the list EISs already circulated.

c. Include in the list NDs which: (1) Were listed previously in reports to AEQ as anticipated EISs;

(2) Involve impacts similar to those of other actions for which a statement was prepared; and

(3) Are prepared in response to CEQ requests.

d. AEQ shall compile these lists, transmit them to CEQ and TES, and make them available to the public.

402. *Emergency action procedures.* The CEQ guidelines allow modification of requirements in case of a national emergency, a disaster or similar great urgency. The processing times may be reduced or, if the emergency situation warrants, preparation and processing of a DEIS, FEIS, or negative declaration may be abbreviated. Such reduction in processing time should be requested from CEQ only for those projects where the need for immediate action requires processing in other than the normal manner.

403. *Application of section 102(2)(C) procedure to existing projects and programs.* The Section 102(2)(C) procedure applies to major Federal actions having a significant effect on the environment even though they arise from projects or programs initiated prior to enactment of NEPA on January 1, 1970. In assessing the environmental effect of proceeding with such a project and in evaluating alternatives, consideration shall be given to the status of work and degree of completion. If the project or program is continued, it must, to the extent feasible, be shaped so as to enhance and restore environmental quality, avoid or minimize adverse environmental consequences, and consider environmental consequences not fully evaluated at the outset of the project or program.

404. *Land acquisition and construction of facilities.* Public sponsors, other aviation agencies or private parties have the authority to acquire land or to construct facilities for operation by the FAA without prior approval by the FAA. Such action, if inconsistent with the policies of this order, could prejudice a decision by the FAA on proposed changes in an airport which would use the land thus acquired, or on requests for reimbursement for the property, or construction or operation of the facility.

a. When FAA is notified or becomes aware of a possibility that such a situation may be occurring, FAA will advise the public sponsor, other aviation agency or private party that:

(1) Such actions must be consistent with pertinent environmental policy as expressed in this order.

(2) The manner in which the particular property was acquired or the facility constructed will be carefully considered by the FAA prior to approval of any future FAA action involving it.

b. FAA will give particular attention to its responsibilities under DOT Section 4(f) to insure that a special effort is made to preserve the natural beauty of countryside, public parks, and recreation lands, wildlife and waterfowl refuges, and historic sites. FAA will not approve actions requiring the use of DOT Section 4(f) properties unless there is no feasible and prudent alternative and the program includes all possible planning to minimize harm.

c. FAA also will give particular attention to actions involving properties included in or eligible for inclusion in the National Register of Historic Places and the provisions of Title VI of the Civil Rights Act of 1964 and the Uniform Relocation Assistance and Real Properties Acquisition Policies Act of 1970.

d. An action by a sponsor, other aviation agency or private party which has acquired land or constructed a facility for operation by FAA, but without prior approval by FAA, will be reviewed to determine that the action was consistent with the policies of this order and has not precluded full and objective consideration of alternatives.

405. *Environmental impact statements or negative declarations on requests from foreign sources.* a. Requests for FAA action by a foreign government, manufacturer or operator may fall within criteria requiring preparation of an EIS or ND. All initial FAA requests to such a foreign applicant for information which FAA needs to prepare an EIS or ND should be forwarded through the civil aviation authority of the applicant's government. Copies of the DEIS, FEIS, and notices of any public hearings planned on the proposed action should be furnished to the applicant, the appropriate foreign civil aviation authority, and the Washington embassy of the country in which the applicant is located.

b. Any substantial differences arising in the course of the EIS between the originating FAA organization and a foreign applicant should be referred to AEQ which will consult with the Assistant Administrator for International Aviation Affairs to resolve any problems.

406.–499. *Reserved.*

APPENDIX 1. SYSTEMS RESEARCH, ENGINEERING & DEVELOPMENT

1. *General.* This appendix provides guidance and assigns functional responsibilities for the conduct of environmental assess-

ments and the preparation, coordination, executive review, and appropval of environmental assessments, EISs and NDs which concern Research, Engineering & Development (hereafter RE&D) programs of FAA.

2. *Scope.* The RE&D cycle includes such activities as promulgation of directives, policies, plans, programs, budgets, legislative proposals, system design, test evaluation, specification, demonstration, etc. When in the judgment of the responsible RE&D official sufficient environmental impact data is available, an environmental assessment is to be conducted and, where appropriate, an EIS or ND is to be prepared as specified in this order. All activities not specifically excepted in this order are subject to environmental assessment, EISs, or NDs, including such RE&D programs as:

a. *Air traffic control:* (1) System program No. 01 (2) Runways/taxiways program No. 08 (3) Flight service station program No. 13 (4) Technology program No. 16 (5) Support program No. 21;

b. *Navigation:* (1) Approach and landing systems program No. 07;

c. *Aircraft safety:* (1) Environmental program No. 20 (noise/pollution/quality);

d. Selection orders introducing new equipments, procedures, techniques products of RE&D) into the National Aviation System (NAS) or National Airport System (NSA); and

e. Plans, programs such as the SRDS Technical Program Document (TPD), FAA NAS 10-year plan RE&D, and new system designs.

3. *Excepted actions.* RE&D programs excepted from the requirement for an EIS or ND are:

a. Air traffic control radar beacon system (ATCRBS), Program No. 03; Proximity Warning Indicator/Collision Avoidance System (PWS, CAS) Program No. 05; Landside/Oceanic Satellites Program No. 17; New Radar Systems Program No. 02; New Communication Systems Program No. 06; Enroute Control Program No. 12; Navigation Program No. 04; Terminal/Tower Control Program No. 14; Flow Control Program No. 11.

b. Aviation Weather, Weather Data Acquisition, Processing Criteria, Accident Prevention and Survival, Program No. 15;

c. Aircraft Safety Program No. 18; Anti-Hijacking, Flight Safety Criteria Accident Prevention and Survival;

d. Aviation Medicine Program 19, Biomedical Aspects of Design, Personnel Efficiency and Performance;

e. Policy Analysis, System Analysis, System Design studies.

4. *Procedures and responsibilities.* Functionally responsible officials, Lead Directors of Systems Research and Development Service (hereafter ARD), Office of Systems Management (hereafter AEM), and NAFEC or their designees (i.e., Division Chief, Branch Chief, Section Chief, Manager, etc.) of Offices or Services will, on a case-by-case basis:

a. Determine whether a proposed RE&D program action requires an EIS or ND and assure preparation and coordination with the Office or Service concerned, AEQ and AGC of an appropriate statement;

b. Determine if RE&D activities are excepted under paragraph 3 above;

c. Review and approve documentation prepared per subparagraph a. above;

d. Assure consultation with responsible and expert agencies and organizations and invite their comment;

e. Distribute EIS as required;

f. Participate with other offices, services and centers in the conduct of assessments and the preparation, processing and evaluation of an EIS or ND for major actions involving;

(1) Development of systems with future cumulative, significant environmental impact;

(2) The inclusion into the NAS or NSA of new equipment and techniques developed in RE&D programs;

g. Assure submission to AEQ of quarterly list of EISs anticipated or in preparation of RE&D Efforts;

h. Conduct periodic reviews of RE&D actions implementing this order;

i. Assure retention of documentation files by the organizational component having program or subprogram responsibility; and

j. Prepare and transmit to AEQ a publicly available record which sets forth reasons for a determination that although an EIS may be required, its preparation is still premature and thus unnecessary. Such a record should be updated when significant new information becomes available.

5. *Environmental impact statement or negative declaration.* In determining whether RE&D programs and plans which have not been excepted require preparation of an assessment, EIS or ND, factors specified in paragraphs 324-343 should be considered, as well as the following factors:

a. The magnitude of Federal investment in the program;

b. The likelihood of widespread application of the technology;

c. The degree of environmental impact which would occur if the technology were widely applied; and

d. The extent to which continued investment is likely to restrict future alternatives.

6. *Timing of EIS.* a. *General.*—An EIS or ND should be prepared late enough in the development cycle to contain meaningful information but early enough for analysis of environmental impact effects and alternative courses of action to be significant inputs in the program decision making process.

b. *Specific.*—An EIS or ND where required should be completed:

(1) On or before completion of RE&D and before introduction into the NAS or NSA;

(2) Prior to, or with submission for comment to outside organizations of draft standards (RE&D products) or technical data packages per 9500.4; and

(3) Prior to submission of draft Orders, Notices, Advisory Circulars to outside organizations for comment.

7. *Mitigating measures.* Responsible RE&D Directors, or their designees, shall specify in an EIS measures to be taken to mitigate or minimize significant adverse environmental effects. These may include:

a. Selecting alternate actions which most effectively minimize adverse impacts;

b. Conducting field tests in areas least likely to cause significant adverse environmental impact;

c. Locating laboratories and demonstration centers with a view to avoiding adverse environmental impacts; and

d. Minimizing potential adverse effects in the RE&D cycle (design, installation, test, evaluation and specific action).

Appendix 2. Airway Facilities

1. *General.* Facilities and equipment projects; the establishment of new facilities; and maintenance program, ranging from component/equipment modification to major changes in the facilities, may impact the environment. This appendix sets forth environmental procedures to be used regarding airway facilities, the categories of projects which require an EIS or ND, and those which are not subject to an EIS or ND.

2. *Environmental responsibilities.* a. The regional airway facilities division shall implement the environmental procedures associated with all assigned F&E and maintenance projects within the regions, other than those projects which are expected or for which a class ND has been prepared. Such procedures are to include NDs or EISs. These EIS or NDs shall cover all factors relating to the siting of the facility, increases or decreases in operational usage, noise impacts, the impact of flight emissions and other known impacts on the environment.

b. Regional airway facilities division personnel are responsible for preparing, coordinating and processing the environmental actions relating to their assigned programs. They shall transmit copies of these documents as set forth in Chapter 3 with copies to AAF-1 and AEQ-1.

c. Airway Facilities Service is responsible for providing environmental assessment guidance for its assigned programs.

(1) It shall complete class NDs or EISs where appropriate and provide them to the regions to minimize the need for more extensive assessments.

(2) It is responsible for establishing environmental procedures and guidelines for National Airspace System programs, facilities and housing.

(3) To assist the regions in maintaining uniformity of procedures, it shall provide EIS and ND review and coordination.

3. *Environmental impact statements or negative declarations.* Environmental assessments should be developed along with economic and technical considerations in the facility siting and design. Careful consideration of the specific site and the effect of aircraft operations should never be overlooked. Where the individual location impact or the operational use of the facility indicates significant environmental impact or where significant controversy exists or is expected, an EIS should be prepared and circulated in accordance with this order.

4. *Projects subject to environmental assessments and procedures.* The following categories of projects are subject to an environmental assessment and preparation of an EIS or ND:

a. Establishment or relocation of facilities such as Air Route Traffic Control Centers (hereafter ARTCC), Air Route Surveillance Radars (hereafter ARSRs), Beacon Only Sites, and Flight Service Stations (hereafter FSS). These facilities may affect the environment because of land or access requirements; the electronic emissions generated by its operation; the impact on water and sewerage facilities, power distribution facilities, rainfall runoff and traffic flow from public roadways; and the impact on personnel in a given locale;

b. Establishment or relocation of facilities used for communications and enroute navigation such as the VHF Omn. Range (hereafter VOR) or with TACAN (hereafter VORTAC), Remote Center Air Ground (hereafter RCAG), and Radar Microwave Links (hereafter RMLs). The environmental impact of these facilities normally results from providing access to the remote facility and constructing the facility itself;

c. Establishment or relocation of Instrument Landing Systems (hereafter ILS), Approach Light Systems (hereafter ALS), and Runway End Identifier Lights (hereafter REILS). These facilities may be subject of environmental controversy because of the impact of a change in operational use and the location of certain elements off airports;

d. Establishment of FAA housing, sanitation systems, fuel storage and distribution systems, and power source and distribution systems normally should be assessed because of its location, and impact on community land use planning;

e. A non-Federal entity should prepare an environmental impact assessment report for the proposed establishment of non-Federal facilities such as an ILS or TVOR, for which procedures or acceptance by FAA for maintenance and operation is prearranged or anticipated. A copy of this report should be transmitted to FAA so an EIS or ND may be

prepared prior to the FAA's acceptance of the facility with inventory; and

f. Any other facility, including those which are excepted or for which a class ND has been filed, which significantly impacts the quality the human environment or is highly controversial on environmental grounds, requires preparation of an EIS.

5. *Class negative declarations.* a. Class NDs have been filed for the following actions which will not have a significant impact on the quality of the human environment:

(1) Installation of remote transmitter/receiver (hereafter RT/R) facilities or addition of communication channels to the existing facilities when on airport property;

(2) Replacement of older units with engine generators and power plants, used in emergencies when commercial power fails;

(3) Installation of equipment on airports, such as Runway Visual Range equipment (hereafter RVRs), Visual Approach Slope Indicators (hereafter VASI).

b. Actions for which class NDs have been filed normally require no further environmental consideration.

6. *Excepted Projects.* a. Upgrading of building electrical systems or maintenance to existing buildings (including painting, replacement of siding, etc.);

b. Minor expansion of facilities including the addition of communication channels where personnel complements are minimal and which require no additional land, and where expansion is due to remodeling of space in current quarters or existing buildings;

c. Upgrading of facilities to improve their operational capacity, e.g., (1) Existing runway approach lighting installations; (2) Conversion of VOR to VORTAC; and (3) Conversion of ILS to Category II or III standards;

d. Wind and other weather instruments located on airports;

e. Demolition and removal of buildings and structures, except where they are of historical, archaeological and architectural significance as officially designated by Federal, State or local government;

f. Replacement or reconstruction of a structure or facility with a new one of substantially the same size and purpose, where location will be on the same site as the existing building/facility.

g. Water, sewage, electrical, gas, or other utility extension of temporary duration to serve construction;

h. New gardening or landscaping, or the maintenance of existing landscape;

i. Accessory on site structures including storage buildings, garages, small parking areas, and signs and fences;

j. Grading on land with a slope of less than 10 percent, except where located near waterways in any wetland in an officially designated (by Federal, State, or local government agency) scenic area, or in officially mapped areas of severe geologic hazard;

k. Filling of earth into previously excavated land with material compatible with the natural features of the site;

l. Minor trenching and backfilling where surface is restored and the excavated material is protected against wash and runoffs during the construction period;

m. Replacement of power and control cables for facilities, such as ALS, ASR, ILS, and RTR;

n. Repairs and resurfacing of existing access to remote facilities such as ARSR, RCAG, RML, and VORTACs;

o. Installation of equipment on airports, such as Cloud Height Indicators (hereinafter CHI) and Hygrothermometers;

p. Installation of equipment within a facility or on an airport that provides for modernization or enhancement of the service provided by that facility, such as Airport Surveillance Radar (ASR), Radar Bright Display Equipment (hereinafter RBDE) with Plan View Displays (hereafter PVD), Direct Access Radar Channel hereafter DARC), beacon system on an existing radar and test sets.

7. *Environmental considerations during budgetary process.* The environmental impact of proposed projects should be considered during the budgetary process. It is not necessary that EISs or NDs be filed prior to budgeting for a given project. However, where significant, environmentally adverse project impacts are known or anticipated, the project justification should identify all pertinent factors to enable a determination of whether to include the project in the budget or to consider alternatives.

8. *Implementation of commitments on an EIS or ND.* For projects where commitments to protect the environment are detailed in an EIS or ND, the Regional Airway Facilities Division Chief shall include the appropriate statement to implement the commitment in land acquisition or construction design documents.

9. *Timing of environmental procedures.* a. Environmental assessments should be initiated with the beginning of design or engineering effort for the project.

b. No Procurement Request (hereafter PR) for construction will be submitted to the Procurement Office for action until the EIS or ND, if required, has been completed and filed.

c. If the project requires the acquiring of property interests, no formal contact with the property owner for the purpose of acquiring these interests, including any offer, should be made prior to filing a FEIS or ND, except for:

(1) Emergency situations;

(2) Obtaining rights-of-entry for such purposes as preparation for site testing, obtaining data, property surveys, etc.; and

(3) Those cases where the review process indicates that the proposed site warrants further engineering study and requires an EIS. It may be in the agency's interest to obtain an option or other document to assure the availability of the property pending the filing of the FEIS. In this event, the DEIS should state that the FAA has entered into an option and the reason for the option; that alternate sites are being considered through the EIS process; and that a decision to exercise the option will not be made until completion of the review and filing of the FEIS.

Appendix 3. Air Traffic

1. *General.* Air traffic personnel are involved in the assessment of aircraft noise resulting from new or revised air traffic control procedures. The most significant actions that would require environmental assessments are terminal area procedures.

2. *Environmental responsibilities.* a. *Regional offices.* Responsibility for environmental assessment and preparation of EISs and NDs may be delegated to field facilities or retained within the regional office, with assistance from the field facilities. Regional offices and field facilities shall provide input to an environmental assessment when requested by Air Traffic Service (hereafter AAT) or other services.

b. *Headquarters.* The office originating the proposed action is responsible for making environmental assessments and preparing the NDs or EISs. Input may be requested from regional offices and field facilities for an action originating within headquarters.

c. *Cooperation between services.* Actions originated by other services may result in another action for which AAT is responsible. For example: Office of Airports Programs (hereafter AAP) may add a new runway to an airport which could result in the establishment of a Standard Instrument Departure (hereafter SID) or Standard Terminal Arrival Route (hereafter STAR). In accordance with the requirement for early assessment as well as avoiding duplication, air traffic offices shall provide their input, if possible, when requested by the other service as other services are to provide their input when requested by Air Traffic.

3. *Environmental impact statements or negative declarations.* a. After completion of the environmental assessment and consultations, if required, the originator of the proposal will determine whether the action will require an EIS or ND.

b. If the action is excepted from the requirements for an EIS or ND, no further action is required except to note briefly the exception in the project folder. The note will serve as evidence that environmental procedures have been considered.

c. If the action is one which requires a ND, the ND shall be prepared in accordance with Chapter 3. The ND may range in content from a single statement, supported with facts, to an analysis involving the format and content of an EIS. The ND may be filed separately or inserted as part of the project file to serves evidence that the potential environmental impact of the proposed action has been considered and does not significantly affect the quality of the human environment.

d. If the action comes under the category for which an EIS is required, one should be prepared involving the format and contents outlined in Chapter 3 of this order.

4. *Actions subject to environmental assessments and procedures.* The following actions are subject to environmental assessment and preparation of an EIS or ND. a. New or revised SIDs, STARS and other preferential IFR departure and arrival procedures (other than IAPs) for that part of the operations conducted at less than 3,000 feet above the surface where such operations are routinely routed over noise sensitive areas which may include residential neighborhoods, educational, health, religious sites and structures, cultural, historical, and outdoor recreational areas.

b. Special use airspace (restricted areas, warning areas, prohibited areas, alert areas and military operations areas (MOAs). If the floor of the proposed area is below 3,000 feet above the surface or if supersonic flight is anticipated at any altitude, this airspace shall not be designated, established, or modified until:

(1) The notice (NPRM or non-rule circularization) contains a statement supplied by the requesting or using agency that they will serve as lead agency for purposes of compliance with NEPA;

(2) The notice contains the name and address, supplied by the requesting or using agency, of the office representing the agency to which comments on the environmental aspects can be addressed (applicable only if an EIS is to be filed by the requesting agency);

(3) The notice contains the name and address, supplied by the requesting or using agency, of the office representing the agency to which comments on any land-use problems can be addressed (applicable only if special use airspace extends to the surface); and

(4) The rule, determination, or other publication of the airspace action contains a statement, supplied by the requesting agency, that the requirements of NEPA have been met.

d. The provisions of paragraph b.(1) through b.(4) are not applicable to special use airspace actions if minor adjustments are made such as raising the altitudes or, if a change is made in the designation of the controlling or using agency.

5. *Excepted actions.* a. Determinations under FAR Part 77, "Objects Affecting Navigable Airspace" and determinations under FAR 157, "Notice of Construction, Alteration, Activation, and Deactivation of Airports."

b. Procedural actions to the extent covered by a previously filed EIS or ND in the establishment of enroute or terminal navigation aids, when environmental circumstances have not changed.

c. Actions taken under FAR Part 71, "Designation of Federal Airways, Area Low Routes, Controlled Airspace and Reporting Points."

d. Actions taken under FAR Part 75, "Establishment of Jet Routes and Area High Routes" FAR Part 99, "Security Control of Air Traffic"; FAR Part 101, "Moored Balloons, Kites, Unmanned Rockets and Unmanned Free Balloons"; and FAR Part 105, "Parachute Jumping."

e. Procedural actions dictated by emergency determinations.

f. SIDs, STARs and other preferential departure and arrival routes which do not cause traffic to be routinely routed over noise sensitive areas which may include residential neighborhoods, education, health, religious sites and structures, cultural, historical and outdoor recreational areas or those at or above 3,000 feet above the surface.

g. Establishment or modification of Terminal Control Areas (TCA).

6. *Timing of environmental procedures.* An environmental assessment should be conducted when a procedure or action is first proposed or coordinated. If the action originates within the regional office, it may be necessary to request input from field facilities. This preliminary step will help determine whether an EIS or ND is appropriate and help identify the scope of environmental objections. If an action is found to be controversial, alternative courses of action should be considered or the proposed action may be changed to mitigate the environmental impact, so as not to constitute a significant environmental impact.

7. *Mitigating noise impacts.* Where specific anti-noise measures and/or procedures are required and can be provided without derogation of safety, the following shall apply: a. Arrival and departure flightpaths should be established over the least congested areas. If this is impractical, fan-out departures and arrivals should be considered in order to reduce the concentration of noise over any one portion of the surrounding communities.

b. In developing departure procedures, aircraft climb capabilities should be considered and an effort made to minimize low altitude operations. Specified altitudes should also be considered in conjunction with arrival procedures.

c. Noise abatement considerations require that every effort be made, through use of navigational aids, radar vectoring, or off-course climbs, to route instrument flight rules aircraft, during visual flight rules or IFR weather conditions, along flightpaths compatible with noise abatement routes.

d. Where present navigational system and/or aids are not compatible with potential noise abatement procedures, relocation or establishment of new facilities should be considered.

APPENDIX 4. FLIGHT STANDARDS

1. *General.* Flight standards programs and project actions shall be given proper environmental consideration in accordance with the procedures and guidance contained within this order. These actions are categorized as: excepted from environmental procedures because they are not major Federal actions significantly affecting the quality of the human environment, class NDs, or requiring an EIS or ND. Documentation of the environmental impact of all actions not excepted by this order is required.

2. *Environmental responsibilities.* a. The Flight Standards Division Chiefs shall implement the environmental assessment procedures, including developing an EIS or ND as appropriate. In the Western Region and European Region, the Chief, Aircraft Engineering Division and Chief, Aircraft Certification Staff, respectively, shall implement actions involving certification of aircraft products and parts. Normally, the division responsible for the action is responsible for the environmental assessment. Division Chiefs may delegate environmental responsibility to appropriate branches or district/field offices, or they may retain the responsibility within the division with assistance from the branches or district/field offices. Regional flight standards divisions shall coordinate with and assist as necessary the airway facilities, air traffic, and airports divisions and others on those actions involving environmental impacts crossing division lines. The headquarters divisions with assistance from the regions will develop and coordinate class ND actions.

b. Documentation, including the analysis of environmental factors, shall be retained in the project folder to substantiate the environmental assessment. This should be prepared for all projects not excepted, to support the decision that an EIS or ND will be prepared.

c. In the Washington Headquarters, each EIS and ND pertaining to a regulatory project will be prepared for the signature of the Service Director and a concurrence signature of AFS-900.

3. *Environmental impact statement or negative declarations.* Environmental considerations of Flight Standards actions require assessment of all relevant environmental factors. A decision as to whether the action's impact requires a ND or EIS is based on the assessment.

4. *Actions subject to environmental assessments and procedures.* The following FS actions are subject to environmental procedures, analysis and a decision as to whether to prepare a ND or EIS: a. Certificates: New amended or supplemental aircraft types for which environmental regulations do not yet exist, or engine types for which emission regulations do not yet exist, where an environmental analysis has not yet been prepared in connection with the regulatory action;

b. Aircraft/avionic maintenance bases to be operated by the FAA; the program officer is the Chief of Flight Inspection Field Offices, Regional Flight Standards Division Chief or Headquarters Aircraft Programs Division Chief, as appropriate;

c. Regulations and rules which may significantly affect the quality of human environment;

d. Authorization to exceed Mach 1/Flight under FAR 91.55;

e. Operating specifications and amendments thereto that may significantly change the character of the operational environment of the airport (e.g., first time jet aircraft operations at an airport on a regularly scheduled basis). When actions cross regional boundaries, coordination among regions is expected;

f. Pilot training schools certificated under FAR Part 141 and whose anticipated operations at an airport may significantly alter the character of the operational environment of the airport; and

g. New Instrument Approach Procedures, Department Procedures, En Route Procedures and modification to currently approved instrument procedures, which are conducted below 3,000 feet above the surface and which will tend to significantly increase noise over noise sensitive areas. This requires consideration of those operations that will be routinely routed over noise sensitive areas and includes residential neighborhoods; education, health, and religious sites; cultural, historical and recreation areas. A significant increase in noise is based on reduction of distance between aircraft and noise sensitive areas of more than 20 percent.

5. *Excepted actions.* a. Certificates: New, amended or supplemental aircraft type that meet environmental regulations or new, amended or supplemental engine types that meet emission regulations, where an environmental analysis has been prepared in connection with the regulatory action; medical, airmen, export, manned free balloon type, glider type, propeller type, supplemental type not affecting noise, emission or waste; mechanic schools, agricultural aircraft operations, repair stations and other air agency ratings;

b. Special flight authorizations controlled by operating limitations, FARs 21.193, 21.199, and 91.42;

c. All delegations of authority under section 314 of the FAA Act (49 U.S.C. 1301) e.g., designated examiners and engineering representatives;

d. Approvals of aircraft and engine repairs, parts and alterations not affecting noise, emissions, or wastes;

e. Aircraft and engine certifications or approvals under regulations which have been covered by prior EISs or NDs provided there has been no significant change or circumstances;

f. Acoustic change actions that demonstrate compliance with FAR Part 36;

g. Operating specifications and amendments thereto which do not significantly change the character of the operational environment of the airport, including authorizing alternate use of an airport, new use of an airport, or administrative revisions to operating specifications;

h. Regulatory documents which cover administrative or procedural requirements;

i. Regulations, rules, standards, and exemptions (excluding those which if effected may cause a significant impact on the human environment);

j. Instrument Approach Procedures, Departure Procedures, and En Route Procedures conducted at 3,000 feet or more above the surface; instrument procedures conducted below 3,000 feet above the surface which do not cause traffic to be routinely routed over noise sensitive areas; modifications to currently approved instrument procedures conducted below 3,000 feet above the surface that do not significantly increase noise over noise sensitive areas; and increases to minimum altitudes and landing minima. Noise sensitive areas may include residential neighborhoods; educational, health, and religious sites; and cultural, historical and outdoor recreational areas. A significant increase in noise is based on a reduction of distance between aircraft and noise sensitive areas of more than 20 percent;

k. On-going actions for which exceptions or NDs have been prepared, normally, need only documentation in the project folder that the action is not subject to further environmental consideration. However, should it be determined that a particular action in the above category has a significant impact on the quality of the human environment or is highly controversial, an EIS will be required;

l. Denials of: (1) a petition for exemption, (2) a petition for reconsideration of a denial of exemption; (3) a petition for rulemaking or (4) a petition for reconsideration of a denial of a petition for rulemaking. Exemptions and (TSOs) when they are routine in nature and have no significant environmental impact.

6. *Timing of environmental procedures.* Environmental assessments shall be initiated at the earliest practical point in time, along with technical, economic and operational considerations. In order to obtain public participation in the environmental assessment, a statement will be placed in the preamble of each NPRM soliciting comments on the effect of the proposals on the environment. EISs or NDs shall be prepared so that analysis of the environmental impacts and alternate courses of action are significant inputs to the decision. The EIS or ND shall be filed prior to action, for example, in the case of certificates, prior to issuance.

APPENDIX 5. LOGISTICS

1. *General.* Logistics programs, while basically a service function in support of agency needs or actions initiated by other FAA elements, are subject to the procedures and guidance of this order. The Logistics Service shall ensure the filing of the EIS or ND prior to land acquisition and construction, per Appendix 2, paragraph 8 and Appendix 5, paragraph 4. This section delinates the responsibilities of ALG in processing proposed FAA actions and the categories of actions initiated in ALG which require an EIS or ND and those which are expected from environmental procedures or have filed a class ND.

2. *Environmental responsibilities.* Through the negotiations and procurement processing of actions proposed by agency element, ALG is responsible for: a. Converting commitments contained in an EIS or ND into contract clauses applicable to completed products, contractor's facilities, performance of services, and land acquisition documents;

b. Negotiating the cost and application of environmental requirements in contracts;

c. Assuring through inspection and review that the contractor meets environmental requirements in the contract, and adpinisters penalty provisions as provided in applicable contract clauses;

d. Assuring that leases, loans, agreements, permits, easements, and any instrument negotiated with respect to donations, condemnations, purchases, or improvements involving real or personal property, and all utility or service contracts, conform with established environmental standards and incorporate pertinent terms relative thereto; and

e. Assuring that no solicitation or proposal for bids for construction or formal contact with property owners for the purpose of initiating negotiations to acquire land shall be made prior to filing a FEIS or ND, except as provided in Appendix 2, paragraph 9c.

3. *Environmental impact statements or negative declarations.* The environmental considerations of ALG actions shall be documented in an EIS or ND. An environmental assessment shall be developed along with design or specifications to determine whether the action requires an EIS or ND. Preparation of the EIS or ND shall be in accordance with Chapter 3.

4. *Actions subject to environmental assessments and procedures.* The agency acquisition of land for and the construction of new office buildings is subject to environmental procedures, assessment and a decision as to whether its impact requires an ND or EIS (ALG-200 is responsible for these environmental procedures).

5. *Excepted or class ND actions.* a. Motor Fleet Management (purchase of new motor vehicles), where such vehicles are obtained from General Services Administration (GSA) under a lease arrangement or through a direct purchase as part of a national buy;

b. Use of space in buildings which are constructed for or controlled by GSA;

c. Lease of existing buildings;

d. Lease of buildings or portions of buildings on airports constructed for FAA by a private contractor;

e. Lease of space for a firm term of one year or less;

f. Acquisition of land for an existing leased operational facility.

APPENDIX 6

This appendix is the Office of Airports Programs' (AAP) Instructions for Processing Airport Development Actions Affecting the Environment, formerly Order 5050.2B as approved by the AAP Deputy Assistant Administrator on October 21, 1976.

1. *Purpose.* This appendix provides instructions and guidance for preparing and processing the environmental assessments of airport development proposals as required by various laws and regulations.

2. *Distribution.* This appendix has been distributed to Washington Office of Airports Programs, Office of the Chief Counsel, Office of Environmental Quality, and the Office of Aviation System Plans to branch level; to Regional Airports Divisions, Regional Counsel, and Regional Planning Staffs to the branch level; and to all Airports District Offices as FAA's Order 5050.2B, Instructions for Processing Airport Development Actions Affecting the Environment, dated October 21, 1976.

3. *Cancellation.* Order 5050.2A, Instructions for Processing Airport Development Actions Affecting the Environment, dated February 24, 1975, is cancelled by Order 5050.2B (same title), dated October 21, 1976, is cancelled through its incorporation into this Order 1050.1B.

4. *Authority.* Section 102 of the National Environmental Policy Act of 1969 (Pub. L. 91-190) (hereinafter "NEPA"); Section 16 of the Airport and Airway Development Act of 1970 (Pub. L. 91-258), as amended (Pub. L. 94-353) (hereinafter "the Airport Act"); Section 4(f) of the Department of Transportation Act (Pub. L. 90-495); DOT Order 5610.1B (39 FR 35231); CEQ Guidelines (40 CFR Part 1500).

5. *Applicability.* This appendix applies to any Federal decision relating to airport development. Included are actions involving the Planning Grant Program (PGP), the Airport Development Aid Program (ADAP), airport site selection pursuant to Sections 308 and 309 of the Federal Aviation Act of 1958, and requests by sponsors for the release of obligations to permit sale of airport property.

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CHAPTER 1. DEFINITIONS

1. *Definitions applicable to this appendix.*

a. *Major Federal action significantly affecting the quality of the human environment.* This is any Federal action falling within the scope of paragraph 20 of this appendix. These actions require the preparation of an environmental impact statement.

b. *Environmental impact assessment report.* This is the report, prepared by the sponsor of an action, analyzing the environmental impact of a proposed action for which Federal financial assistance is being requested or for which a Federal authorization is required. This report may serve as the basis, in whole or in part, for the FAA's draft environmental impact statement or negative declaration.

c. *Draft environmental impact statement.* This is the document that represents FAA's evaluation of the environmental impact of a proposed action when coordination pursuant to Section 102(2)(C) of NEPA is initiated. The agency makes its own evaluation and assumes responsibility for the draft environmental impact statement. It is simultaneously distributed by FAA to the Council on Environmental Quality (CEQ), other appropriate Federal agencies, state and local agencies, and to the public.

d. *Environmental decision memorandum.* This is an FAA staff memorandum transmitting the negative declaration or environmental impact statement and the proposed Federal Finding to the responsible official. The memorandum sets forth the action to be taken, discusses the key issues, and indicates any factors requiring special consideration.

e. *Final environmental impact statement.* This is the document that represents FAA's final evaluation of the environmental impact of a proposed major Federal action. The final environmental impact statement will usually consist of the draft environmental impact statement, as amended if necessary, comments thereon, responses thereto, the decision memorandum, and a Federal Finding. Reports cited as a reference in the statement need not be included in the documentation. The environmental impact statement is the vehicle for considering the environmental impacts of a proposed Federal action. This document must accompany each proposed action through the Federal decisionmaking process.

f. *Federal finding.* This is a determination by the responsible official signifying approval or disapproval of a negative declaration or a final environmental impact statement.

g. *Negative declaration.* This is the document that constitutes FAA's evaluation that a particular action will not significantly alter the airport's impact on its surrounding environment and the action is not highly controversial on environmental grounds. Coordination and review pursuant to Section 102(2)(C) of NEPA are not required.

h. *Negative declaration with section 16(c)(4) coordination.* This is a negative declaration as defined above which, because the project involves airport location, a major runway extension, or runway location, must be coordinated with the Department of the Interior and the Environmental Protection Agency.

i. *Prior finding affirmation.* This is a finding by the responsible official that a proposed action is within the scope of a previously approved environmental impact statement or negative declaration. Affirmation of a prior finding establishes the continued validity of a pervious environmental determination with respect to a currently proposed Federal action.

j. *Human environment.* This is the aggregate of all external conditions and influences (ecological, biological, economic, social, cultural, historical, aesthetic, etc.) that affects the life of a human.

k. *Responsible official.* This is the official responsible for making the final determination as to whether the environmental requirements for a proposed Federal action have been satisfied.

l. *Sponsor.* This is any public agency eligible to receive Federal financial assistance under the Airport Act or anyone proposing an airport development project for which a Federal authorization is required.

m. *Major runway extension.* This is a runway extension which either expands the airport's existing boundary or a clear zone into surrounding land areas, or upgrades an existing runway to permit first-time jet aircraft usage, to permit usage by a larger or noisier type of jet aircraft, or to permit a significant increase in the level of jet aircraft operations.

n. *Major new construction or expansion of passenger handling and parking facilities.* This is such development on a hub airport that would provide for accommodation of part or whole of an aggregate increase of 25 percent (but not less than 100,000) in enplanements for the forecast period.

2.-9. [*Reserved*]

CHAPTER 2. REQUIREMENT FOR ENVIRONMENTAL CONSIDERATION

10. *General.* Environmental amenities and values shall be carefully considered and weighed in a timely manner in evaluating all proposed Federal actions relating to airport planning and development, utilizing a systematic interdisciplinary approach. The environmental assessment and consultation process is to provide officials and decision makers, as well as members of the public, with an understanding of the potential environmental impacts of the proposed action. While environmental considerations are obviously not the only ones to be weighed, they are to be evaluated as fully and as fairly as nonenvironmental considerations. The FAA's objective is to avoid or minimize adverse environmental impacts that might flow from any proposed Federal action. Unless excepted by this appendix, an environmental impact statement, negative declaration, or prior finding affirmation is required for all proposed Federal actions related to airport development.

11. *Sponsor's responsibility.* Sponsors of airport projects are responsible for preparing an environmental impact assessment report containing a discussion and analysis of the environmental implications and impacts associated with the proposed action. Such a report shall be developed in coordination with appropriate local, state, and Federal agencies, with community involvement as described in this appendix and in direct consultation with FAA. It is important that the material contained therein be objective, comprehensive, and accurate in order for it to serve as the basis for the preparation of the FAA's draft environmental impact statement or negative declaration. The sponsor's responsibility also extends to providing additional data and information to the FAA when required to assist in its review of environmental impacts and for use in the preparation of the draft and final statements.

12. *FAA responsibility.* The FAA is responsible for analyzing the environmental impacts and consequences of any proposed Federal action involving an airport development project, for preparing and circulating draft and final environmental impact statements, and ultimately for making the Federal Finding on the proposed action. Although an environmental impact assessment report submitted by an airport sponsor may be used in whole or in part, the FAA is responsible for the facts, opinions, and judgments upon which the finding or other environmental determination is based. It is, therefore, incumbent upon the FAA to assure that all documentation presents a full, accurate, and fair assessment of the environmental consequences of the proposed action.

13. *Use of consultants.* Consultants may be employed to prepare environmental impact assessment reports for airport sponsors. They may also be used to prepare background or supplemental material and otherwise assist in preparing a draft or final environmental statement for which the FAA takes responsibility. Care should be exercised in selecting consultants to assure that the skills and effort to be provided are commensurate with the complexity and magnitude of the environmental assessment. In reviewing the work of consultants, FAA must insure that complete and objective consideration has been given to all relevant project impacts and alternatives, particularly if the consultant may expect further contracts based on the outcome of the environmental decision. During negotiations with a consultant, completeness and objectivity may be jeopardized if either the sponsor or the FAA indicates that a particular alternative is favored, or suggests that consideration of possible follow-on work should affect the negotiation.

14. *Lead agency.* CEQ Guidelines provide that: "Where more than one agency (1) directly sponsors an action, or is directly involved in an action through funding, licenses, or permits, or (2) is involved in a group of actions directly related to each other because of functional interdependence and geographic proximity, to the maximum extent possible one statement should be prepared for all Federal actions involved. Agencies in such cases should consider the possibility of joint preparation of a statement by all agencies concerned, or designation of a single 'lead agency' to assume supervisory responsibility for preparation of the statement. Where a lead agency prepares the statement, the other agencies involved should provide assistance with respect to their areas of jurisdiction and expertise. In either case, the statement should contain an environmental assessment of the full range of Federal actions involved, should reflect the views of all participating agencies, and should be prepared before major or irreversible actions have been taken by any of the participating agencies. Factors relevant in determining an appropriate lead agency include the time sequence in which the agencies become involved, the magnitude of their respective involvement, and their relative expertise with respect to the project's environmental effects. As necessary, the Council on Environmental Quality will assist in resolving questions of responsibility for statement preparation in the case of multi-agency actions. Federal Regional Councils, agencies, and the public are encouraged to bring to the attention of the Council and other relevant agencies appropriate situations where a geographic or regionally focused statement would be desirable because of cumulative effects likely

to result from multi-agency actions in the area."

Questions concerning "lead agency" decisions should be directed by the region to the Airports Planning Division, AAP-400, to be raised with CEQ through appropriate agency consultation channels. For projects serving and primarily involving land owned by or under the jurisdiction of another Federal agency, that agency may be the appropriate lead agency.

15. *Community involvement.* While most requests for Federal financial assistance originate with a local public agency, the involvement of the community at large is a necessary element in the decision-making process. Communities, organizations (such as environmental, conservation, aviation and airspace user, public service, education, labor or business organizations), and other individuals affected by airport development proposals submitted to the FAA shall be provided an effective opportunity to comment at all appropriate stages in the decision-making process; and, in all cases, they shall be provided an opportunity to review and comment on draft statements and final statements. In accordance with Section 16(d) of the Airport Act, an opportunity for public hearings must be offered on any action involving location of a new airport, location of a new runway, or extension of a runway. For other actions, a public hearing should be considered in accordance with the guidelines contained in paragraph 57b of this appendix. FAA Advisory Circular 150/5050-4, Citizen Participation in Airport Planning, dated September 26, 1975, has additional specific guidance on community involvement.

16. *Information availability.* In accordance with the policy set forth in 49 CFR 7.87(c), the FAA is responsible for making available environmental statements, comments received, and underlying documents to the public without charge to the fullest extent practical, or at a reduced charge which is not more than the actual cost of reproducing copies.

17.–18. [Reserved.]

CHAPTER 3. ENVIRONMENTAL ACTION CHOICES

19. *General.* a. All proposed Federal actions involving the following categories of airport development actions (including development shown on the airport layout plan) must be supported by an environmental assessment and resultant finding: (1) New airport site selection and development.

(2) New runway.

(3) Major runway extension.

(4) Runway strengthening which would permit first time jet use or use by larger or noisier type of jet aircraft.

(5) Major new construction or expansion of passenger handling or parking facilities with Federal funding.

(6) Land acquisition associated with all the above items plus any land acquisition which causes relocation of residential or business activities or involves land covered under Section 4(f) of the Department of Transportation Act.

(7) Establishment or relocation of instrument landing system (ILS), approach lighting system (ALS), or runway end identification lights (REILs) (when airport development aid funds are used).

(8) Any airport development action that falls within the scope of paragraph 20 or which involves any of the following, as more particularly described in paragraph 44: (a) Use of any Department of Transportation Act Section 4(f) land.

(b) Effect on property included in or eligible for inclusion in the National Register of Historic Places or other property of state or local historical, architectural, archeological, or cultural significance.

(c) Wetlands or coastal zones.

(d) Endangered or threatened species.

b. The actions identified in subparagraph a. above must be supported through one of the following action choices: (1) Fully coordinated environmental impact statements (paragraph 20).

(2) Negative declaration actions: (a) As a result of changing a draft environmental impact statement (paragraph 21);

(b) Requiring limited coordination per Section 16(c)(4) of the Airport Act (paragraph 22); or

(c) Requiring limited assessment (paragraph 23).

(3) Actions affirming prior findings (paragraph 24).

20. *Fully coordinated NEPA section 102(2)(c) actions.* a. An environmental impact statement shall be prepared for the following proposed Federal actions: (1) Any action that has an effect that is not minimal on properties protected under Section 4(f) of the DOT Act or Section 106 of the Historic Preservation Act.

(2) Any action that is likely to be highly controversial on environmental grounds.

(3) Any action that is likely to have a significant impact on natural, ecological, cultural, or scenic resources of national, state, or local significance, including endangered species and wetlands.

(4) Any action that is likely to be highly controversial with respect to the availability of adequate relocation housing.

(5) Any action that: (a) Causes substantial division or disruption of an established community, or disrupts orderly, planned development, or is determined to be not reasonably consistent with plans or goals that have been adopted by the community in which the project is located; or

(b) Causes a significant increase in surface traffic congestion.

(6) Any action that: (a) Has a significant impact on noise levels of noise sensitive areas;

(b) Has a significant impact on air quality or violates the standards for air quality of an affected locality, the state, or the Environmental Protection Agency;

(c) Has a significant impact on water quality or may contaminate a public water supply system; or

(d) Is determined to be inconsistent with any Federal, state, or local law or administrative determination relating to the environment.

(7) Other action that directly or indirectly affects human beings by creating a significant impact on the environment.

b. In determining whether an environmental impact statement is required for a proposed Federal action, it is necessary to consider the over-all, cumulative impact of the proposed action and the consequences of subsequent related actions. This is important because the effect of a number of decisions about a complex of projects can be individually limited to the extent that a negative declaration would appear to be appropriate for each project; however, when considered together, the projects may have a considerable cumulative impact. If an action would permit further contemplated actions (either by the FAA, another agency, or the sponsor), then in determining whether to prepare an environmental impact statement, the impacts of the further contemplated actions, as well as the impacts of the proposed action, must be considered. If an environmental statement is required, it must be processed before a commitment is made that would enable the further contemplated action or foreclose or narrow the consideration of alternatives to such contemplated action.

c. A proposed Federal action is considered highly controversial when the action is opposed by a Federal, state, or local government agency or by a substantial number of the persons affected by such action on environmental grounds. If the responsible official has any doubt as to whether a given number of opposing persons is "substantial," that doubt should be resolved by processing the action as a highly controversial one. In an action involving relocation of persons or businesses, a controversy over the amount of the acquisition or relocation payments is not considered to be a controversy with respect to availability of adequate relocation housing.

d. Details on processing and approval of these actions are contained in Chapter 7.

21. *Change of draft environmental impact statements to negative declarations.* a. During the processing of an environmental impact statement as discussed in Chapter 7, the FAA may conclude that the proposed action is not a major Federal action significantly affecting the quality of the human environment and therefore does not require the preparation of a final environmental impact statement pursuant to NEPA Section 102(2)(C). In this case, the appropriate action choice is to change the action and prepare a negative declaration. If a draft environmental impact statement has been circulated, then particular action is required as discussed in Chapter 8.

b. This type of situation will occur when the environmental circumstances that prompted the draft statement have been dismissed, avoided, or eliminated. This may happen because of a change in the project, a change in the nature or degree of impacts, an inaccuracy in the data, or a misunderstanding of the facts contained in the draft statement. The reason for changing a draft environmental impact statement to a negative declaration must be specific, clearly established, and properly documented. It cannot be based merely on the absence of adverse comments by reviewing agencies. If the Section 102(2)(C) process was initiated because of opposition by a local, state, or Federal agency, written documentation must be obtained from the agency indicating that the opposition no longer exists.

22. *Negative declaration actions requiring Airport Act section 16(c)(4) coordination.* a. This action choice occurs when the proposed action involves the location of an airport, the location of a runway, or the major extension of a runway but does not have consequences bringing it within the scope of paragraph 20. A negative declaration must be supported by an environmental impact assessment report, prepared in accordance with Chapter 5 of this appendix, substantiating the determination that the proposed action will not significantly alter the airport's impact on its surrounding environment and is not highly controversial on environmental grounds.

b. Pursuant to Section 16(c)(4) of the Airport Act, the Department of the Interior and the Environmental Protection Agency (by transfer of functions from the Department of Health, Education, and Welfare) must be consulted even in circumstances when a negative declaration is appropriate. Those agencies should be forwarded a copy of the negative declaration (and environmental impact assessment report) and advised that, although the project is not expected to significantly affect the quality of the human environment, they are being consulted pursuant to Section 16(c)(4).

c. FAA processing and approval of this action choice are described in Chapter 9.

23. *Other negative declaration actions.* This action choice applies to those projects which do not have circumstances bringing them within the scope of either paragraph 20 or 22 and which are not excepted under paragraph 25. Content, processing, and ap-

proval of this action choice are described in Chapter 10.

24. *Prior finding actions.* This action choice is applicable if, after a thorough review, it is found that the proposed project conforms to plans or projects for which an environmental impact statement or negative declaration concerning the environmental impact has been made; that the data and analyses contained in the previously approved documentation are still substantially valid insofar as they pertain to the proposed action; that preparation of a new environmental impact statement or negative declaration is not necessary; and that the prior environmental impact statement or negative declaration may be affirmed. Content, processing, and approval of this action choice are described in Chapter 11.

25. *Excepted actions.* The following actions do not have the potential for causing a significant environmental impact and do not require an environmental impact assessment report:

a. Policy and planning documents not intended for direct implementation.

b. Grants of funds for airport system planning and airport master planning.

c. Airport planning, design, and development program advisory circulars issued by FAA as administrative and technical guidance to the public.

d. ADAP actions which are tentative and conditional and are clearly taken as a preliminary action to establish a sponsor's eligibility under ADAP.

e. Airport-related emergency actions.

f. All airport development actions other than those categories identified in paragraph 19a and not falling within the categories identified in paragraph 20.

g. The issuance of certificates and related actions under the Airport Certification Program (Federal Aviation Regulations, Part 139).

h. Advisory actions as described in paragraph 36.

26.-29. Reserved.

CHAPTER 4. SPECIAL ACTION CONSIDERATIONS

30. *Assessing alternatives.* a. In determining which alternatives to consider, all actions that might reasonably be expected to accomplish the project objective should be identified for preliminary reivew. This should include actions that are not necessarily within the authority of the sponsor or the FAA to take, such as the selection of an airport site outside of the sponsor's jurisdiction, the use of another mode of transportation, air traffic operational constraints, and jurisdictional land use and zoning practices. If preliminary examination indicates that some or all of the alternative actions are unreasonable, those actions should be identified with a statement of the reasons for not considering them. Sufficient analysis of reasonable alternatives (including the alternative of taking no action) and their environmental benefits, costs, and risks should accompany the proposed statement through the review process to insure that consideration of the alternatives is not prematurely foreclosed.

b. Both Section 16(c)(4) of the Airport Act and Section 4(f) of the DOT Act require a finding that "no feasible and prudent alternative" exists. The terms "feasible" and "prudent" are separate criteria and refer to sound engineering principles and sound judgment, respectively. A construction alternative, for example, may be feasible if, as a matter of sound engineering principles, it can be built. It may not be prudent, however, because of environmental, social, or economic consequences. Generally, the proposed action is that alternative which is feasible and prudent when, all factors considered (safety, efficiency, economic, social, and environmental) the benefits of the proposed alternative outweigh those of all other alternatives. For additional guidance relative to Section 4(f), see subparagraph 30d.

c. Section 16(c)(4) of the Airport Act provides that the Secretary of Transportation shall authorize no project under the Airport Development Aid Program involving airport location, a major runway extension, or runway location found to have an adverse effect unless he shall render a finding in writing, following a full and complete review, that no feasible and prudent alternative to the project exists and that all possible steps have been taken to minimize such adverse effect. The degree of adverse effect on the environment is the primary factor in determining the detail required in assessing the feasible and prudent alternatives. A distinction is made here between adverse effect and significant adverse effect. This distinction is established in the course of the environmental assessment process, as follows: During the project planning stage, an environmental assessment is developed, and basic feasible and prudent alternatives to accomplish the desired end are proposed. In assessing the feasibility of these alternatives, general broad scale environmental effects are considered and a development alternative is proposed which becomes the project described. When further detailed environmental assessment of the proposed alternative yields no significant adverse effect as identified in paragraph 20, then the initial assessment of the other alternatives is sufficient for Section 16(c)(4) purposes. However, if during this assessment it is determined that the proposed alternative falls under paragraph 20, then a more thorough investigation of other alternatives as called for in paragraph 46a is in order.

d. Section 4(f) of the DOT Act provides that the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance, or any land from an historic site of national, state, or local significance as determined by the officials having jurisdiction thereof unless there is no feasible and prudent alternative to the use of such land and such program includes all possible planning to minimize harm. Project development involving DOT Section 4(f) does not necessarily fall within the processing requirements of NEPA Section 102(2)(C). However, regardless of which action choice is appropriate, the documentation must contain an assessment of alternatives and evidence of planning to minimize harm to the Section 4(f) land, as more particularly described in paragraph 44f. To comply with Section 4(f), it is necessary to show that a rejected alternative to a proposed action presents unique problems, or that the costs or community disruption it entails reach extraordinary magnitudes.

e. Determinations that the "do nothing" alternative does not exist as a feasible and prudent alternative will generally be made on the basis of comparisons of benefits and adverse effects. Consideration of alternatives at different locations which would satisfy project requirements should include comparisons of similar effects at each location.

f. An alternative that would have substantially the same amount of environmental impact as the proposed action does not represent a prudent alternative if it would reduce the effectiveness of the project.

g. As a minimum, a negative declaration shall consider the alternative of "do nothing."

31. *Consultation required by section 16(c)(4).* a. Section 16(c)(4) requires consultation with the Department of the Interior and the Environmental Protection Agency regarding the effects certain types of airport projects may have on natural resources. When this consultation occurs as part of the Section 102(2)(C) coordination process, it must be made clear in the heading of the draft statement and in the transmittal that consultation is sought for purposes of both Sections 102(2)(C) and 16(c)(4).

b. Differences of opinion that develop as a result of Section 16(c)(4) consultation should be resolved at the field level to the extent possible. Any unresolved issues, including objections on the adequacy of the assessment of impacts or alternatives or objections to the proposed Section 16(c)(4) action, should be identified and called to the attention of the responsible official. It should be noted that the role of the Department of the Interior and of the Environmental Protection Agency is one of consultation, not concurrence, on Section 16(c)(4) actions. After consultation, it is FAA's responsibility to give due consideration to the comments received and to make the decision as to whether the action should be approved pursuant to Section 16(c)(4), that no feasible and prudent alternative exists, and that all possible steps have been taken to minimize adverse effects.

32. *Airport layout plan approvals.* a. *Applicability.* This paragraph applies only to items of development approved for the first time by FAA, shown on a new or revised airport layout plan (ALP).

b. *General.* Proposals to construct new runways, runway extensions, terminal buildings or other major and supportive development are shown on an ALP. Inclusion on the plan signifies only that the proposed development has been identified by public sponsors for planning purposes. It does not represent a commitment by the sponsor to implement the indicated development. FAA reviews the planned development with respect to safety, efficiency, and utility. FAA's action does not represent a commitment to provide financial assistance to implement the proposed plan.

c. *Approval.* (1) When all items of development covered by paragraph 19a of this appendix have been the subject of environmental findings pursuant to the provisions of this order, then the ALP may be approved unconditionally.

(2) When such environmental action has not been completed, the ALP may be approved subject to the following condition which shall be included in the ALP approval letter: "The approval indicated by my signature is given subject to the condition that the proposed airport development identified by item herein as requiring environmental processing may not be undertaken without prior written environmental approval by the FAA."

(3) The approval letter will identify, by item, those items shown on the ALP which are covered by paragraph 19a and have not yet been environmentally approved by FAA.

(4) The FAA approval of an ALP shall be indicated as follows:

(a) The FAA unconditional approval shall be shown on the face of the ALP by use of the term "approved."

(b) The FAA conditional approval shall be shown on the face of the ALP by use of the term "conditionally approved" and cross-referencing the ALP approval letter.

33. *Master planning grants.* Master planning grants are not considered major Federal actions for purposes of Section 102(2)(C) of NEPA; and, therefore, an environmental impact assessment report or statement is not required for issuance of the grant. Preparation of an environmental

impact assessment report is usually included as one of the elements of the master plan, as is the preparation of a new or revised airport layout plan. The airport layout plan is the vehicle through which FAA acts with respect to airport planning and which is subject to the requirements in paragraph 32 of this appendix. The environmental impact assessment report may be submitted as a separate document or as an element of the master planning document. Assessment reports may be prepared to cover either the ultimate plan as developed by the study or stages of such development, depending on the independent utility of each stage and the certainty of ultimate development.

34. *Airport location approval.* An airport development aid project for construction or land acquisition may not be approved unless the airport site is approved by the FAA. Federal approval of a proposed site is always preceded by an environmental assessment. If location selection is made as an initial phase of a master planning study, the environmental assessment must take into account enough of the ultimate planned development to assure that, with the best available information, the selection is based upon considerations that the need for and benefits of future development of the site outweigh any adverse environmental impacts.

35. *Air and water quality certification.* Section 16(e)(1) of the Airport Act requires that applications for projects involving airport location, runway location, or a major runway extension shall not be approved unless the governor of the state in which the project is located certifies that there is "reasonable assurance" that the project will be located, designed, constructed, and operated in compliance with applicable air and water quality standards. To establish a "reasonable assurance," applicable standards and implementation requirements must have been established and an official designated who has authority to enforce compliance with the standards. When standards have not been approved but applicable standards have been promulgated by the EPA, EPA's approval shall be obtained. Lack of objection to air and water quality considerations as set forth in the environmental impact statement may be construed as EPA approval. While the air and water quality certifications should be included in the final environmental impact statement whenever possible, their inclusion is not a prerequisite to approval of the statement if the statement includes documentation from the governor or appropriate state official indicating a reasonable expectation that the certification will be given. The states' certification or the EPA's approval must be received, however, before the project can be approved by the FAA.

36. *Advisory actions.* Some Federal actions, such as airspace actions, are of an advisory nature and are neither permissive nor enabling. Actions of this type are not ordinarily major Federal actions, and environmental assessments or statements are not required as a condition for accomplishing the action. If it is known or anticipated that some subsequent Federal action would require processing in accordance with environmental procedures, the advisory action should so indicate.

37. *Compatible land-use assurance.* Section 18(4) of the Airport Act requires an assurance, satisfactory to the Secretary, that appropriate action, including the adoption of zoning laws, has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. FAA officials shall contact the sponsor and representatives of affected communities to encourage the development of compatible land-use controls early in the project planning stage. Appropriate assurances should be included in the environmental impact assessment report to document what is being done by the jurisdiction(s) with land-use control authority. An update on any prior assurances should also be included. For purposes of this appendix, reasonable assurance occurs when appropriate action has been or will be taken. What constitutes appropriate action depends on the jurisdictional land-use control capability of the sponsor. It is recognized that not all airport sponsors have direct jurisdictional control. However, sponsors are public agencies with a voice in the affairs of the community in which the airport development is undertaken and should be required, as a minimum, to use their best effort to assure proper zoning or other land-use controls near the airport. Depending on the sponsor capability, "appropriate action" could range from extension of such influence to acquisition of land in fee. It is the FAA official's responsibility to determine that appropriate action, constituting reasonable assurance, has been or will be taken.

38. *Land acquisition.* Public sponsors may have the authority to acquire land adjacent to existing airports or for new airports without prior approval by the FAA. Such action could prejudice or preclude a favorable decision by the FAA on proposed changes in airport layout or development which would use the land thus acquired or on requests for reimbursement for the property. When FAA is notified or becomes aware of a possibility that such a situation may be occurring, FAA will advise the public sponsor that such actions must be consistent with pertinent environmental policy as expressed in this appendix, that the manner in which the particular property was acquired will be carefully considered by the FAA prior to approval of any future FAA action involving the property, and that particular attention will be given by the FAA to its responsibilities under DOT Section 4(f) to insure that a special effort is made to preserve the natural beauty of the countryside, public parks and recreation lands, wildlife and waterfowl refuges, and historic sites. Particular attention will also be given by the FAA to actions by a sponsor involving properties on or eligible for inclusion in the National Register of Historic Places as well as the provisions of Title VI of the Civil Rights Act of 1964 and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. A sponsor who has acquired land without prior approval by the FAA must demonstrate to the satisfaction of the FAA that his action was consistent with the policies expressed in this appendix and has not prejudiced full and objective consideration of alternative or actually precluded possible implementation of a preferable alternative.

39. *Releases from land covenants.* When a sponsor accepts a Federal airport development grant or a conveyance of Federal surplus property for airport purposes, he incurs specific obligations with respect to the uses of the property. FAA action is required to release a sponsor from his obligations in the event he desires to sell any of the airport property. This action requires an appropriate environmental assessment in accordance with the provisions of this appendix. The assesament must address all known and immediately foreseeable environmental consequences of the release action. In making the finding determination, the responsible Federal official should consider the effects of any covenants which will encumber the title and the extent of Federal ability to enforce these covenants subsequent to the release action. The standard conditions of release relative to the right of flight, including the right to make noise from such activity and the prohibition against erection of obstructions or other actions which would interfere with flight of aircraft over the land released, may be considered as mitigating factors in the environmental assessment, especially as regards noise impact and land-use compatibility. When the intended use of released land is consistent with uses described and covered in a prior environmental assessment, the prior data and analysis may be used as input to the present assessment. When the conditions as set forth in paragraph 24 apply, a prior finding affirmation may be used to support the property release.

CHAPTER 5. CONTENT OF ENVIRONMENTAL IMPACT ASSESSMENT REPORTS AND IMPACT STATEMENTS

40. *General.* a. Environmental impact assessment reports are the major source documents for consideration and evaluation of environmental aspects of airport-related decision making and become the primary basis for the environmental impact statements and negative declarations. The required information should be presented in an easily understood form and as concisely as possible to permit the responsible official to use it effectively. Illustrations and reproductions should be legible and free of clutter. Review may be facilitated by adhering to typical presentation format. However, it is recognized that environmental factors are often unique to a given project and adherence to a rigid format is not required. Content and format should be geared to the particular action. More attention should be paid to the more significant environmental issues and problems. Less important material may be summarized, consolidated, appended, or simply referenced.

b. Environmental conclusions expressed in the text must be supported by appropriate reference to underlying studies, data sources, or other information considered in the preparation. As a general rule, the body of the document may include brief summaries of supporting data but should not be burdened with highly technical analyses or extensive detail. Such material is more appropriately included in appendices or by reference to separate texts or other literature as needed to support the environmental assessment. Reference data not attached to the document shall be available to the responsible official or any member of the public upon request.

41. *Add-on process for environmental impact statements.* Environmental impact statements may be constructed and organized with a view to adding sections in the progressive development of a final environmental impact statement. This add-on process permits responsible officials to examine the resolution of issues that were developed in the review process. The add-on process should not ordinarily be used if responses to substantive comments on the draft require extensive new material or otherwise make the composite statement confusing or difficult to follow. In such cases, the text of the draft should be revised as appropriate for use in the final statement.

42. *Description.* Each document should begin with a section describing the proposed Federal action, a statement of its purpose, and a description of the environment of the area affected, including any illustrating maps, photographs, and data necessary to adequately describe the action and affected area. Included in this section should be the following specific items:

a. A concise description of the proposed Federal action, its purpose, and contemplated future related actions, including facility installations and procedural actions;

b. Location of the airport;

c. Existing and planned land uses and zoning in the airport-community area, including affected residential areas, public parks, wildlife and waterfowl refuges, wetlands and coastal zones, recreation areas, and historic sites;

d. Nearby schools and places of public assembly, hospitals, shopping areas, and adjacent political jurisdictions affected by the proposed development;

e. Other Federal or federally assisted activities in the affected area related to the proposed action (e.g., highways and other transportation projects, housing development and relocation, etc.), including a description of the interrelationships and cumulative environmental impacts of all related Federal projects in the planning and development stages;

f. Population, growth characteristics, and activity forecasts and assumptions used to justify the project and determine secondary impacts; and

g. A statement indicating how the proposed action conforms to or conflicts with the objectives and specific terms of approved or proposed Federal, state, regional, or local plans, policies, and controls, including comprehensive land-use plans and state Coastal Zone Management programs, if any, for the affected area. Efforts to reconcile any conflicts or inconsistencies should be described and documented.

43. *Background information.* A section to describe or discuss background information is often useful to help the reviewer appreciate circumstances related to the proposed action. This section should highlight development and environmental actions to date. This section may include such items as bond actions, action by the community or citizen groups pertinent to the proposal, or any other unique factors associated with the project which do not properly belong in another section of the document.

44. *Probable impacts.* The document shall describe and appraise probable impacts of the proposed action on the human and natural environment. The analyses shall include consideration of beneficial and adverse impacts as well as direct and indirect impacts and shall specify the actions to be taken to minimize those adverse effects that cannot be avoided. The amount of detail presented shall be commensurate with the extent and expected impact of the action. In discussing each of the various impacts, it is important that the present environment be described sufficiently so that the predicted consequences of the action are assessed and understood in relation to the existing situation. Each project shall be examined for the presence of any of the following impacts, not necessarily in the following order:

a. *Noise and land use.* (1) *Applicability.* Noise impacts must be examined when project actions individually or cumulatively involve airport location, runway location, major runway extension, or runway strengthening which would permit operation by larger or noisier jet aircraft.

(2) *Requirements.* (a) The analysis shall include continuous contours of equal noise exposure using one of the following cumulative noise (or aggregated noise energy) methodologies: Noise Exposure Forecast (NEF), Composite Noise Rating (CNR), Day/Night Level (Ldn), Equivalent Noise Level (Leq), or Community Noise Equivalent Level (CNEL). As a minimum, such contours shall show the boundaries of all areas exposed to noise levels equal to or greater than NEF 30, CNR 100, Ldn 65, or equivalent for present conditions and forecast conditions with and without the proposed project. The effect on noise impacts resulting from other related actions, including installation of navigation aids and air traffic control procedures, shall be considered. The results of coordination and the positions of other affected FAA operating services on these aspects shall be included when applicable.

(b) For noise-sensitive areas identified as existing within the contours identified in (a), additional analysis is required if the proposed action is highly controversial because of noise impacts or if the areas identified will be exposed to jet operations for the first time or if the noise increase is greater than three units (NEF, CNR, Ldn) over that which would be created without the project. Such calculation of difference should include consideration of any noise abatement procedures which exist.

(c) When required by (b), additional analysis shall include information on average duration above 65, 75, 85, 95, 105, and 115 dB(A) for a complete day's operation, for the evening period (7 p.m. to 10 p.m.), and for the night period (10 p.m. to 7 a.m.), for forecast conditions with and without the project. This information may be provided for selected points in intervals of not greater than 3,000 feet.

(3) *Effective date.* The noise analysis required by (2)(a) shall be included in all environmental impact assessment reports submitted to FAA after the effective date of this appendix. The additional analysis required by (2)(b) shall be included in all such reports submitted to FAA 12 months after the effective date of this appendix. All final environmental impact statements submitted to the responsible official for approval action shall contain the analyses required by (2)(a) 12 months after the effective date of this appendix and by (2)(b) 24 months after this effective date.

(4) *Content.* (a) The noise analysis shall include sufficient information to permit lay and technical readers to relate noise exposure data to an understanding of its potential effects, including sufficient explanation of the noise descriptor(s) used in the assessment to convey the technical as well as the conceptual significance of the noise measures.

(b) The text and the graphics shall present the principal findings. Detail required to derive the findings shall be included in appendices, with appropriate reference in the text.

(c) The following graphics shall be included:

1 Layout plan of the present, or proposed, airport indicating proposed development.

2 Map(s) of the airport vicinity, including for each condition analyzed: runway location and orientation; present and planned land uses; noise-sensitive areas by type; zoning, property to be acquired, or other land-use controls; and continuous contours of equal noise exposure and related flight tracks superimposed by prominent, legible lines, appropriately labeled. Aerial photographs, when available, are very helpful in illustrating the relation of the airport to surrounding land uses.

(5) *Analysis.* (a) The general literature on the effects of noise on man and on recommended land use or exposure criteria varies in depth, breadth, accuracy, and reliability. The use of such information is an effort by the FAA to make the state-of-the-art visible to the public. The use of such information and the level of detail necessary for noise impact assessment will vary with the level of impacts, the extent and nature of noise-sensitive areas affected, and the degree of interest in the project.

(b) For purposes of Section 18(4) of the Airport Act, the noise impact assessment shall include documentation to support the sponsor's assurance that appropriate action, including the adoption of zoning laws, has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft.

(c) The analysis shall include clear and concise references to source data, a discussion of noise from other than aircraft operations when the additive effect is significant, and a discussion of any nonstandard data or calculation procedures used in the analysis.

(d) The analysis shall contain a discussion of the noise impact for each identified noise-sensitive area including size and location of residential areas exposed to specified noise levels, numbers of people and schools impacted, and such other information as may be necessary to describe the degree of incompatibility between the noise and existing and planned land uses (e.g., residential neighborhoods; educational, health, and religious structures and sites; and outdoor recreational, cultural, and historic sites).

(e) The analysis shall, to the extent reasonable and based on available literature on the subject, include discussion of potential effects of noise on hearing, communications and sleep interference, and annoyance, both within the context of outdoor activities as well as indoor activities. Consideration shall be given to the amount of acoustical protection provided by construction and architectural characteristics as well as climatological situations which might affect lifestyles and therefore alter the "average" interpretations placed on the effects of noise.

(6) *Records.* The appropriate FAA regional or airports district office shall assure that sufficient information is retained to permit an independent review to recreate the complete noise exposure analysis.

b. *Air quality.* Air quality should be examined by estimating the pollution impact of the proposed action in terms of existing and forecast operations. Air pollutant concentrations as well as total amounts of pollutants should be estimated and evaluated as necessary for consistency with state implementation plans for air quality under the Clean Air Act and other applicable Federal, state, or local standards. Air pollution effects of increased surface traffic resulting from increased air traffic and enplaned passengers should be estimated and considered when affected by the project. Methods should be proposed or referenced for controlling and minimizing air pollution resulting from construction of the project.

c. *Water quality.* Water quality requirements, available water resources, and the impact on the existing water table should be considered when appropriate. Problems pertaining to treatment and disposal of wastes should also be considered and evaluated for consistency with applicable standards. Action taken to minimize pollution due to surface runoff, which may include infiltration of polluted runoff, from areas of extensive grading and paving should be discussed, including short-term and long-term effects of construction upon area drainage and aquifers.

d. *Social impacts.* Social and community impacts may occur as a consequence of some proposed project. When these impacts include displacement of people and businesses and/or disruption of established communities, the following information should be included in the document for the purpose of establishing that relocation can be managed. This information may need to be obtained from secondary sources and community sources.

(1) An estimate of numbers and family characteristics of households to be displaced (e.g., minorities, income levels, renter or owner, elderly, large families).

(2) Effects of surface traffic disruption including effects on access to community fa-

cilities, recreation areas, and places of residence and business.

(3) Impact on the neighborhood and housing to which relocation is likely to take place.

(4) A description of businesses to be displaced and general effects of business dislocation on the economy of the community.

(5) Ability to provide adequate relocation housing for the types of families to be displaced and a description of actions proposed to remedy any insufficiency, including, if necessary, housing of last resort, as authorized by Section 206(a) of the Uniform Relocation and Real Property Acquisition Policies Act of 1970.

(6) Results of consultation with local officials, relocation or other social agencies, and community groups regarding the impacts. (A description of special relocation advisory services to be provided, if any, for the elderly, handicapped, or illiterate regarding interpretation of benefits and other assistance available.)

e. *Induced socioeconomic impacts.* The location or expansion of an airport may produce significant secondary socioeconomic impacts on the community. These impacts may include shifts in the patterns of population movement and growth, public service demands, and changes in business and economic activity. The effects of these impacts should be estimated and discussed.

f. *DOT section 4(f).* It is necessary to identify publicly owned parks, recreation areas, wildlife and waterfowl refuges, and public or privately owned historic sites of local, state, or national significance affected by the proposed action. DOT Section 4(f) is applicable to the physical taking or other use of land so identified. The description of the land should include size, activities, patronage, access changes, unique or irreplaceable qualities, and relationship to other similarly used lands in the vicinity.

(1) When there is an actual physical taking of Section 4(f) land in conjunction with the proposed action, there is no latitude for judgment regarding Section 4(f) applicability. When there is no physical taking but there is the possibility of use of Section 4(f) land, the FAA must determine if the activity associated with the proposed action conflicts with or is compatible with the normal activity associated with this land. The proposed action is compatible if it would not affect the normal activity or aesthetic value of a public park, recreation area, refuge, or historic site. When so construed, the action would not constitute use and would not, therefore, invoke DOT Section 4(f).

(2) Any part of a publicly owned park, recreation area, refuge, or historic site is presumed to be significant unless there is a statement of insignificance relative to the whole park by the Federal, state, or local official having jurisdiction thereof. Any such statement of insignificance is subject to review.

(3) Where Federal lands are administered for multiple uses, the Federal official having jurisdiction over the lands shall determine whether the subject lands are in fact being used for park, recreation, wildlife, waterfowl, or historic purposes.

(4) Where property is owned by and currently designated for use by a transportation agency and a park or recreation use of the land is being made only on an interim basis, a Section 4(f) determination would not ordinarily be required.

(5) Where the use of a property is changed by a state or local agency from a Section 4(f) type use to a transportation use in anticipation of a request for FAA approval, Section 4(f) should be considered to apply, even though the change in use may have taken place prior to the request for approval or prior to any FAA action on the matter. This is especially true where the change in use appears to have been undertaking in an effort to avoid the application of Section 4(f).

(6) The physical taking or detrimental use of Section 4(f) land must be avoided if there is a feasible and prudent alternative, as described in paragraph 30.

(7) If there is no feasible and prudent alternative to the use of such land, include a statement of actions taken or to be taken to minimize harm to the protected area including replacement of land and facilities and design measures such as planting or screening to mitigate any adverse effects. Replacement satisfactory to the Secretary of the Interior is specifically required for recreation lands aided by the Department of the Interior's Land and Water Conservation Fund and for certain other lands falling under the jurisdiction of the Department of the Interior. Include evidence of concurrence or efforts to obtain concurrence of appropriate officials having jurisdiction over such land regarding actions proposed to minimize harm.

(8) If land is involved which was acquired with Federal grant money (i.e., open space under Department of Housing and Urban Development; various conservation programs under Department of the Interior), the final documentation shall include appropriate communication with the grantor agency.

(9) Whether or not Federal agency lands are involved, the documentation shall reflect consultation with the Department of the Interior and, as pertinent, the Department of Housing and Urban Development or the Department of Agriculture, pursuant to the requirements of Section 4(f).

g. *Historical and archaeological sites.* The document should specify actions to be taken to preserve and enhance districts, sites, buildings, structures, and objects of historical, architectural, archaeological, or cultural significance affected by the project.

(1) By use of the National Register and National Register Criteria (36 CFR Parts 60 and 800, published in the FEDERAL REGISTER on February 10, 1976), the document should identify properties that may be affected by the project that are included in or eligible for inclusion in the National Register of Historic Places. The National Register is published in its entirety each February in the FEDERAL REGISTER. Monthly additions and listings of eligible properties are published in the FEDERAL REGISTER the first Tuesday of each month. The Secretary of Interior will advise, upon request, whether properties are eligible for the National Register.

(2) If application of the Advisory Council on Historic Preservation's (ACHP) Criteria of Effect (36 CFR Part 800) indicates that the project will have an effect upon a property included in or eligible for inclusion in the National Register of Historic Places, the document should state the effect. The effect should be evaluated in consultation with the State Historic Preservation Officer (SHPO), in accordance with the ACHP's Criteria of Adverse Effect (36 CFR Part 800).

(3) A determination of no adverse effect should be documented with evidence of the application of the ACHP's Criteria of Adverse Effect, the views of the appropriate SHPO, and review of the determination by the ACHP.

(4) If the project will have an adverse effect upon a property included in or eligible for inclusion in the National Register of Historic Places, the final environmental impact statement must include either an executed Memorandum of Agreement or comments from the ACHP and an account of actions to be taken in response to the comments of the ACHP. Procedures for obtaining a Memorandum of Agreement and the comments of the Council are found in 36 CFR Part 800.

(5) To determine whether the project will have an effect on properties of state or local historical, architectural, archaeological, or cultural significance that are not included in or eligible for inclusion in the National Register, the responsible official should consult with the SHPO, with the local official having jurisdiction of the property, and where appropriate, with historical societies, museums, or academic institutions having expertise with regard to the property. Use of land from historic properties of Federal, state, and local significance as determined by the official having jurisdiction thereof involves Section 4(f) of the DOT Act and the document should include information necessary to support a Section 4(f) determination.

(6) The FAA has an agreement with the Department of the Interior for assuring compliance with the Archaeological and Historic Preservation Act of 1974, relative to mitigation of damage to archaeological and historic data incident to construction activities of FAA or FAA assisted projects. Preliminary surveys to identify the location of these cultural resources may be necessary in those cases where there is a reason to believe that such resources may exist and may be destroyed by the project and where such surveys have not yet been accomplished. The SHPO should be consulted to ascertain the need for any preliminary survey, including justification for such survey, and also to evaluate the siginificance of any cultural resources affected. Evidence of coordination with the SHPO should be included in the document. In addition, any identified irreplaceable loss or destruction of significant scientific, prehistorical, historical, or archaeological data shall be identified in the document with evidence of notice provided to the Secretary of Interior and measures described that will insure the recovery, protection, and preservation of such data, including preliminary survey, salvage, or other investigations appropriate to the case.

h. *Flood hazard evaluation.* When a project under consideration encroaches on a flood plain, the document should include evidence that studies have been made and evidence that consultations with agencies with expertise have been carried out. In compliance with Executive Order 11296 and Flood Hazard Guidelines for Federal Executive Agencies, promulgated by the Water Resources Council, the document shall describe measures necessary to handle flood hazard problems, including, when appropriate, measures to be taken during construction.

i. *Considerations relating to wetlands or coastal zones.* Where wetlands (including control, modification, impoundment, diversion, and channel deepening of streams or other bodies of water) or coastal zones are involved, the document should include:

(1) Information on location, types, and extent of wetlands areas that might be affected by the proposed action.

(2) An assessment of the impacts resulting from both construction and operation of the project on the wetlands and associated wildlife, and a statement of the measures to be taken to preserve, protect, and enhance wetlands and to avoid, to the fullest extent practical, drainage, filling, or interference with wetlands or the water resources supplying them.

(3) Statements by the local representative of the Department of the Interior, the Department of Commerce, the Corps of Engineers, and any other officials with special expertise concerning the impacts of the project on the wetlands, the worth of the particular wetlands area involved to the community and

to the Nation, and recommending whether the proposed action should proceed and upon what conditions, if any.

(4) Information necessary to support a DOT Section 4(f) determination if the wetlands or coastal zones come under any of the 4(f) categories of publicly owned land of state, local, or national significance as determined by the officials having jurisdiction thereof. Wetlands subject to a publicly owned protective easement for provision of feed and nesting to migratory waterfowl are considered to be publicly owned land from a wildlife and waterfowl refuge under Section 4(f).

j. *Costal zone management programs.* Where the proposed action is within or may affect the land or water uses in the area covered or which may be covered by a state coastal zone management program, the document shall include evidence of consultation with the state coastal zone management agency. If a state coastal zone management program has been approved by the Department of Commerce, the document shall include the following:

(1) A determination as to consistency with the approved state coastal zone management program, including a record of coordination as specified in the Coastal Zone Management Act. Federal agencies are to insure consistency with state programs, to the fullest extent practicable.

(2) If it is determined that the proposed project is inconsistent with the state's approved program, the responsible official shall not approve the action except upon a finding by the Secretary of Commerce that the proposed action is consistent with the purposes or objectives of the Coatsal Zone Management Act or necessary in the interest of national security. The document shall include this finding, where warranted.

k. *Energy supply and natural resources development.* Where applicable, the document should reflect consideration of whether the project will have any effect on either the production or consumption of energy and other natural resources and discuss such effects if they are significant.

l. *Construction impacts.* In general, adverse impacts during construction will be of less importance than long-term impacts of a proposal. Nonetheless, the document should appropriately address such matters as the following, identifying any special problem areas.

(1) Noise impacts from construction or delivery of materials through residential areas and any specifications providing maximum noise levels.

(2) Disposal of spoil and effect on borrow areas and disposal sites (include reference to pertinent specifications).

(3) Controls on air pollution from dust, burning, etc. (with reference to pertinent specifications or advisory circulars).

(4) Impacts on water quality from runoff and associated sedimentation and control measures (referencing specifications or advisory circulars).

m. *Wildlife and Waterfowl.* In considering the effects of the project upon wildlife, it should be assumed that, although displaced wildlife may move to adjacent land areas, a long-term loss will accrue by virtue of reduction of the wildlife carrying capacity. Where part of a wildlife habitat is removed, the possibility that the remaining habitat is insufficient in size and quality to continue to support all resident species should be addressed. Any long-term losses may be described in general terms unless an endangered or threatened species is involved.

n. *Impacts relating to endangered and threatened species or fauna and flora.* The document should include evidence that the proposed action will not jeopardize the continued existence of endangered or threatened species or result in the destruction or modification of critical habitat of these species.

(1) If any species listed by the Department of the Interior as endangered or threatened exist in the area of the proposed action's potential impact, the document should provide evidence of consultation with the Regional Director of the Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS), as appropriate, regarding the impacts of the action on the species. The Fish and Wildlife Service, Department of the Interior, is responsible for protection of terrestrial and fresh water species; the National Marine Fisheries Service, Department of Commerce, is responsible for protection of marine species.

(2) The document should describe the anticipated effects of the proposed action and alternatives to the action on listed species, the nature of the listed species' habitat, and whether that habitat has been determined to be critical by the FWS or NMFS.

(3) The final document should summarize the results of consultation with FWS or NMFS and indicate any specific measures, including possible design or location alternatives, which will be taken to conserve listed species and to avoid destruction or modification of critical habitat.

o. *Light emissions.* Aviation lighting required for the purposes of security, obstruction clearance, and navigational guidance may create an annoyance among people in the vicinity of the installation. In this instance, documentation shall include:

(1) Site location with a diagram of lights or light systems.

(2) Description of lights, as to their purpose, installation, beam angle and measurements, intensity, color, flashing sequence, and other pertinent characteristics of the particular system and its use.

(3) Measures to lessen any annoyance, such as shielding or angular adjustments.

45. *Actions to minimize unavoidable adverse effects.* Actions to be taken to minimize adverse environmental effects that cannot be avoided should be included in the discussion of each applicable impact category. The document should summarize these actions.

46. *Alternatives.* The document must evaluate thoroughly and objectively the environmental impact of all reasonable project alternatives, particularly those which would mitigate environmental impacts. To the extent that the impacts of alternatives are of the same type and significance, the effects should be stated and compared with the proposed action, and the reasons given why the alternatives are rejected. The analysis of the environmental benefits, costs, and risks must be sufficient to show that an alternative that might enhance environmental quality or have a less detrimental effect has not been prematurely rejected or foreclosed. Rejection of the alternative of taking no action or postponing action pending further study must be supported by a detailed examination of the need for the project and the consequences of taking no action. When appropriate, satisfying the increased transportation needs by using other modes of transportation should be considered. Further discussion on assessing alternatives is contained in paragraph 30.

47. *Relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity.* The document must examine the extent to which the proposed action involves tradeoffs between short-term environmental gains at the expense of long-term losses or long-term gains at the expense of short-term losses and the extent to which the proposed action forecloses or broadens future options.

48. *Irreversible and irretrievable commitments of resources.* The document must examine the extent to which the proposed action would irreversibly and irretrievably curtail the range of beneficial uses of the environment including cultural as well as natural resources. If new, unusual, or limited sources or types of materials are involved in a project, a quantitative estimate and description should be included. Normally, labor and materials required to accomplish an airport development project do not significantly curtail the range of beneficial uses of the environment. Depletion of materials in short supply or significant irreversible changes in natural and cultural resources should be covered in this section.

49. *Citizen involvement.* A summary of citizen involvement and the holding of public hearings and meetings and any environmental issues raised should be documented with appropriate responses to the issues. Documentation of the public notice requirements for public hearings as covered in paragraph 57c shall be included, together with a summary or transcript of any public hearing held.

50. *Summary of impacts.* It is generally desirable, especially for complex actions, to include in the document a summary of the significant points developed.

51.–53. *Reserved.*

Chapter 6. Sponsor Processing and Coordination

54. *Consultation with FAA.* The environmental process begins at the local level with the airport sponsor. A summary of the process is contained in Figure 2. Early consultation between FAA and the airport sponsor and/or his consultant is necessary to review the various factors and the coordination process required in conjunction with the environmental assessment, including the following factors:

a. Environmental action choices,
b. Key decision-making issues,
c. Alternatives,
d. Environmental assessment criteria,
e. Project schedule considerations,
f. Public involvement, including public notice,
g. Required coordination,
h. Reproduction and publication requirements, and
i. Follow-on assistance.

55. *Early coordination.* In choosing among alternatives to accomplish the project objective, environmental factors require the same consideration as economic, technical, or other factors. Consequently, in developing the details of proposed alternatives, environmental feasibility should influence choices, along with economic and technical feasibility. Early coordination with appropirate Federal, state, and local agencies and with the community in the environmental assessment process will assist this consideration. Such coordination should be initiated as appropriate during the initial description and evaluation of alternatives, and continue during the developemnt of the preliminary environmental impact assessment report, prior to the formal coordination that takes place during the A-95 review process. Early coordination can serve a number of purposes. It is an aid in the identification of environmental impacts and can help trigger advance planning of measures to mitigate environmental effects, including changes in project design. The community can be provided with timely information and have its opinions heard at the earliest formative stage of the project, which may avoid serious controversy later on. The amount of early coordination advisable will depend on the complexity, sensitivity, and anticipated environmental impacts of the proposed action. Information received during early coordination should be used in the environmental impact assessment report.

56. *A-95 Review.* a. Review of proposed airport development actions by state and local government organizations routinely occurs through procedures set forth in the Office of Management and Budget (OMB) Circular No. A-95 (Revised). The purpose of the A-95 clearinghouse process is to assure that proposed federally assisted programs and projects are reviewed and evaluated in advance in terms of their potential impact on or conflict with statewide or areawide comprehensive planning or upon the plans and programs of local governments.

b. The A-95 clearinghouse process for projects is set forth in Order 5100.17, Airport Development Aid Program (ADAP), Authority, Program Policy, Eligibility and Allowability Criteria (Book I).

c. Under A-95 procedures, sponsors are required to notify the appropriate clearinghouses as soon as project planning has developed in sufficient detail to inform the clearinghouses of the nature and scope of the development proposed to be undertaken for which Federal assistance will be sought. This should take place at least 60 days prior to the date the sponsor submits its preapplication form requesting Federal assistance.

d. During the initial clearinghouse review period, the preapplication for Federal aid may be completed. This period may also be used to complete the requirement for public hearings, if applicable. The A-95 procedure includes provision for consideration of the project's probable impact on the environment and input from areawide and local agencies authorized to develop and enforce environmental standards or which have expertise or jurisdiction with respect to environmental impacts. An appropriate vehicle to solicit such input is the preliminary environmental impact assessment report.

e. The clearinghouse should be asked to inform known interested groups of the project. If either the sponsor or FAA has knowledge of such groups, this information should be given to the clearinghouse. During this same period, the clearinghouse may act as liaison between the agencies affected and the sponsor, arranging meetings and such other forms of consultation as may be necessary to work towards resolution of any problem raised by the proposed project.

f. The comments and recommendations received through the A-95 clearinghouse process become input to the sponsor's environmental impact assessment report and ultimately must be reported and appropriately addressed in the FAA's environmental documentation.

57. *Public hearing.* a. If a new airport location, a new runway, or an extension of an existing runway is involved, the sponsor must afford the opportunity for public hearings as required by Section 16(d)(1) of the Airport Act. The public hearing oportunity should normally be afforded prior to formal submission of a sponsor's environmental impact assessment report.

b. In deciding whether a public hearing is appropriate in other cases, the FAA and sponsor should consider the following:

(1) The magnitude of the proposal in terms of environmental impact, economic costs, the geographic area involved, and the uniqueness or size of commitment of the resources involved;

(2) The degree of interest in the proposal, as evidenced by requests from the public and from the Federal, state, and local authorities that a hearing be held;

(3) The complexity of the issue and the likelihood that information will be presented at the hearing which will be of assistance to the agency in fulfilling its responsibilities under the Act; and

(4) The extent to which public involvement already has been achieved through other means, such as earlier public hearings, meetings with citizen representatives, and/or written comments on the proposed action.

c. In preparing for a public hearing, the sponsor is required to comply with the requirements in Section 152.73 of the Federal Aviation Regulations, including adequate public notice of:

(1) The intent to undertake the proposed airport development, with a concise description of the proposed development;

(2) The opportunity for a public hearing;

(3) The scheduling of a public hearing (time, date, and place), if requested by interested parties; and

(4) The availability and location of the preliminary environmental impact assessment report.

Notice of the hearing is required to be published in an areawide or local newspaper of general circulation.

d. Additional information concerning the public hearing is contained in Advisory Circular 150/5100-7A. Hearings may be held by the sponsor simultaneously with the A-95 review process. The preliminary environmental impact assessment report is to be made available for public examination at least 30 days prior to the hearing and so noted in the hearing notification. Comments received through the A-95 process should be made available at the public hearing if the A-95 process has been completed. Copies of preliminary environmental impact assessment reports should be made available for review in accordance with anticipated public interest at convenient locations such as libraries, city halls, schools, and the airport manager's office. Consideration should be given to providing copies of assessment reports to interested persons or organizations without cost or at a price commensurate with the cost of reproduction and printing.

58. *FAA submission.* Upon completion of local and state review, an environmental impact assessment report shall be submitted by the sponsor to the FAA. It shall include comments and recommendations made by or through the A-95 clearinghouse, a detailed summary of environmental issues developed in public hearings, and responses to comments on the preliminary environmental impact assessment report. This preliminary report shall be revised to the extent that the revision represents an appropriate response to comments received during the review process. The A-95 review process and public hearing need not be repeated if the preliminary assessment report effectively served its purpose as the vehicle for review. At least one copy of the transcript of public hearings must be obtained by the sponsor for his record. The sponsor must furnish a copy of the transcript to FAA upon request. The number of copies of documentation submitted to the FAA should be determined by consultation with the FAA and should include a copy designated as a reproducible master which should be of good quality.

59. *Reserved.*

Chapter 7. FAA Processing and Approval of Fully Coordinated NEPA Section 102(2)(C) Actions

60. *General.* a. This section applies to proposed Federal actions requiring an environmental impact statement. The FAA is responsible for evaluation and resolution of environmental issues included in the impact statements. In order to insure accurate descriptions and environmental assessments, site visits by FAA personnel should be made whenever practical.

b. Documentation developed in the local and state review process may be incorporated into the FAA's draft statement. If the FAA is the proponent of the proposed action, local and state review may be initiated simultaneously with the Federal review. Steps will be taken to secure such additional information as needed to insure that the draft statement is adequate for intergovernmental coordination. The Federal review process does not constitute an agency commitment to approve the proposed action.

c. Draft environmental impact statements shall be reviewed by affected FAA program divisions and staff officers at the regional level prior to filing or public review. This internal review is to assure that related foreseeable agency actions by other FAA elements are properly covered in the draft statement and are coordinated with the appropriate action office so that commitments which are the responsibility of other divisions or offices will be carried out.

d. Copies of the draft statements shall be made available to organizations and individuals at no charge to the extent practical or at a fee commensurate with the cost of reproducing copies for the required intergovernmental coordination.

e. In addition to the data from the environmental impact assessment report and other documentation developed in the local and state review, draft statements shall contain the following:

(1) Each statement shall indicate the organization involved and the public law applicable to the proposed action. For example:

Department of Transportation Federal Aviation Administration, Draft Environmental Impact Statement

This statement is submitted for review pursuant to the following public law requirements: Section 102(2)(C) of P.L. 91-190, 42 U.S.C. 4321; Section 16(c)(4) of P.L. 91-258; Section 4(f) of P.L. 90-495.

(2) Each draft statement shall be prefaced by a summary in the format shown in Figure 1 of this appendix.

(3) Pursuant to the January 9, 1973, memorandum for heads of departments and agencies from the Director, OMB, and the Chairman, Council on Environmental Quality (CEQ), on the subject of state and local review of impact statements, all comments on the environmental effects of the project received through the A-95 process, either by the clearinghouse or by state and local environmental agencies through the clearinghouse, must be enclosed with the draft impact statement. All substantive comments received from individuals and responses thereto and either a summary or transcript of any public hearing will also be made a part of the draft statement. Copies of the draft statement are to be sent to each agency making such comments. These agencies may elect to comment again, depending in part on the extent to which their earlier comments were considered in preparing the draft statement. Review of the draft statement may be secured through the clearinghouse or directly with the state and local agencies involved. In some states, the governor may have designated a specific agency, other than the clearinghouse, to secure review of the impact statements. In any case, copies of the draft statement should be sent to the clearinghouses and to affected cities and counties. A time limit for review commensurate with that for Federal review may be established and should be specified in the transmittal.

61. *Distribution for Federal review.* a. *Distribution for Headquarters' Review and to CEQ.* Six copies of the draft environmental impact statement including the A-95 comments and the summary sheet are to be forwarded to the Office of Airports Programs (Attention: AAP-400) which shall be responsible for further distribution within the FAA

and DOT. Regions shall send five copies of the draft statement directly to CEQ, addressed as follows:

General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C. 20006.

Agencies commenting on the draft statement are required to file copies of their comments directly with CEQ as well as with FAA per Section 1500.11(a) of CEQ Guidelines issued August 1, 1973, (40 C.F.R. 1500). These comments are to accompany and become a part of the final environmental impact statement.

b. *Intergovernmental coordination.* (1) Agencies consulted by the FAA in connection with preparation of environmental impact statements are those which have "jurisdiction by law or special expertise with respect to any environmental impact involved," or which are "authorized to develop and enforce environmental standards." These Federal agencies include components of (depending on the aspect or aspects of the environment involved):

Environmental Protection Agency
Department of Agriculture
Department of Commerce
Department of Defense
Department of Health, Education and Welfare
Department of Housing and Urban Development
Department of the Interior
Department of Transportation
Energy Resource's Development Administration
Advisory Council on Historic Preservation
Federal Energy Administration (five copies)

(2) For action specifically affecting the environment within their regional jurisdictions, the following Federal agencies are also to be consulted:

National Capital Planning Commission
Delaware River Basin Commission
Tennessee Valley Authority
Appalachian Regional Commission
Susquehanna River Basin Commission

(3) Airports regional offices shall determine which of the above agencies to consult. (Guidance is contained in Appendix 7 of this order.) In seeking comment, FAA airports regional offices may establish a time limit of not less than 45 days for reply after which, if no comments are received, it may be presumed that the agency consulted has no comments to make. Fifteen-day extensions should normally be granted when requested by other agencies. Time limits should take into account the magnitude and complexity of the statement and degree of public interest in the project.

(4) All draft Section 102(2)(C) statements will be coordinated with the appropriate regional offices of other Federal agencies having the necessary expertise or jurisdiction, except that statements to be coordinated with any component of DOI or the Department of Commerce (DOC) shall be sent directly to the Washington headquarters of these departments (see paragraph 61b(6) below). Appendix 7 contains the addresses of the Federal agency offices.

(5) Five copies of draft statements shall be sent to the appropriate regional office of EPA. Comments from EPA are categorized according to the following criteria:

The impact is rated by EPA as follows:
LO=Lack of Objections,
ER=Environmental Reservations, or
EU=Environmentally Unsatisfactory.

The statement adequacy is categorized by EPA as:
1. Adequate,
2. Insufficient Information, or
3. Inadequate.

Further explanation of these codes is contained in Appendix 8 of this order.

All EPA comments on the draft statement are sent to cognizant FAA offices and will be available to the public.

(6) All draft Section 102(2)(C) environmental statements needing DOI and/or DOC review should be sent directly to:

Assistant Secretary, Program Policy, Attn: Director, Environmental Project Review, Department of the Interior, Washington, D.C. 20240.

and/or

Office of the Deputy Assistant Secretary for Environmental Affairs, U.S. Department of Commerce, Washington, D.C. 20230.

When Section 16(c)(4) of the Airport Act and/or Section 4(f) of the DOT Act are involved, it is especially important to note this fact in the heading and in the transmittal to DOI to assure completeness of their review. The number of copies to be furnished DOI for its intradepartmental use to facilitate orderly and timely review by its several bureaus and offices is as follows:

(a) Twelve copies for projects in each state except those listed in (b) and (c) below.

(b) Thirteen copies for projects in North and South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

(c) Fourteen copies for projects in Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

For projects involving Section 4(f) of the DOT Act, no additional copies are required. However, DOI routinely requires 60 days to review Section 4(f) statements. Nothing in this order is intended to preclude sending of preliminary statements or engaging in other forms of consultation with field offices of DOI for technical assistance or advance information for the purpose of effecting improved coordination.

(7) CEQ publishes weekly in the FEDERAL REGISTER a list of environmental statements received during the preceding week. On draft statements, this date of publication normally determining the beginning of the 90-day minimum period for fully coordinated Section 102(2)(C) statements before which no administrative action to commit the project can take place.

(8) An amendment or supplement may be filed with CEQ by the FAA on a draft or final environmental impact statement. In such a case, AAP-400 should consult with AGC and TES concerning the possible need for or desirability of filing an amendment or supplement or recirculation of the revised statement for an appropriate period.

62. *Public notice.* a. Each regional office shall formulate a system for announcing that a draft environmental impact statement has been prepared and is being circulated for intergovernmental coordination and that comments are being solicited on the environmental impact of the proposed project. The announcement shall be made through the appropriate media in the area affected and in cooperation with the sponsor of the project. Information on availability of the statement shall be contained in the announcement. Copies of the draft environmental statement should be sent to parties with a known interest in the proposed project. In addition to FAA regional and district offices, the statement shall be made available for review at the sponsor's office, local public libraries, and at other appropriate locations of general public access. The regional office may call upon the regional public affairs office to assist in publicizing the status and availability of impact statements.

b. Three additional copies of draft statements involving controversial projects should ordinarily be provided to the Office of Airports Programs, Attention: AAP-400.

c. A number of extra copies of draft statements should be provided free of charge or at a fee commensurate with the cost of reproduction when projects are expected to generate unusual public interest.

63. *Preparation and review of final impact statement.* a. Content of the final environmental impact statement normally includes the draft statement and any additional documentation developed in the Federal review as well as the information listed below. However, if the complexity of the issues and comments are such that a complete revision of the text of the statement would best respond to the environmental considerations, the final statement may be a rewritten document which integrates the responses to comments on the draft statement within the final text. Documentation in the final statement shall include:

(1) The Federal Finding signed by the responsible official which will normally be the first document in the final statement package. The Federal Finding may be incorporated in the environmental decision memorandum.

(2) The summary required by CEQ Guidelines.

(3) The body of the environmental impact statement titled at the top of the first page as indicated in paragraph 60e(1). The text shall refer to the documents containing the required consultation and assurances.

(a) For all airport development there shall be evidence to support the following ADAP grant assurances as required by the Airport Act.

1 The project is reasonably consistent with existing plans of planning agencies for development of the area (Section 16(c)(1)(a));

2 Fair consideration has been given to the interest of communities in or near the project location (Section 16(c(3));

3 Appropriate action has been or will be taken to restrict, to the extent reasonable, the use of land in the vicinity of the airport to purposes compatible with airport operations (Section 18(4));

4 Appropriate air and water quality certificates have been or will be obtained (Section 16(e)).

(b) For projects involving an airport location, runway location, or major runway extension pursuant to Section 16(c)(4) of the Airport Act, there shall be evidence to support a conclusion that:

1 There is no feasible and prudent alternative, and

2 All possible steps have been taken to minimize adverse effects.

(c) For projects involving the use of lands subject to Section 4(f) of the DOT Act, there shall be evidence to support a conclusion that:

1 There is no feasible and prudent alternative to the use of such land, and

2 The project includes all possible planning to minimize harm to such lands resulting from such use.

(d) For projects involving the displacement and relocation of people, there shall be evidence to support assurances that:

1 Fair and reasonable relocation payments and assistance have been or will be provided pursuant to provisions in Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

2 Comparable decent, safe, and sanitary dwellings are available or will be built if necessary prior to actual displacement.

(e) For all projects, there shall be evidence of the consultation and coordination (as described under paragraph 44) that is required for each applicable area of environmental consideration, including documentation that such consultation has been taken into account.

(4) All substantive comments received on the proposal shall be included in the final statement. If the statement has not been revised since the draft stage, each comment shall be listed and followed by appropriate response or reference to where the subject is covered in the statement. For revised final statements, comments may be dealt with in the body of the statement. Copies of all substantive commenting letters shall also be included. Any unresolved environmental issues and efforts to resolve them, through further consultation or otherwise, should be identified and discussed in the statement. For instance, where an agency comments that the statement has inadequate analysis or that the agency has reservations concerning the impacts or believes the impacts are too adverse for approval, either the issue should be resolved or the final statement should reflect efforts to resolve the issue and set forth any action that will result.

b. The distribution of the proposed final environmental impact statement shall be accomplished in one of the following ways:

(1) When approval authority is retained by headquarters, five copies of the proposed final environmental impact statement, including the summary sheet and the Federal Finding, and containing copies of and responses to comments by other Federal agencies and other organizations or individuals who have commented on the draft, are to be forwarded to AAP-400 for final action. (If the project has generated public interest, a check should be made with AAP-400 to determine if extra copies are needed.)

(2) When approval authority is delegated to the Regional Director and concurrence by headquarters is requested, two copies are to be forwarded to APP-400 for action.

64. *Approval of final impact statement.* a. *General.* The decision to implement an airport project is made subsequent to the approval of the final environmental impact statement. This decision to implement occurs when the appropriate official reviews all project requirements and determines that an action can and should be taken. Project approval and issuance of the grant offer, therefore, follow review and approval of the environmental impact statement and are usually the actions for which the statement is prepared.

b. *Legal Review.* All Section 102(2)(C) enviromental impact statements shall be reviewed for legal sufficiency by the Chief Counsel (AGC) or his designee. Statements involving Section 4(f) of the DOT Act shall be reviewed by headquarters' legal counsel.

c. *Delegation of Authority.* Final approval authority on environmental impact statements for airport development projects has been delegated to the FAA but subject to prior concurrence by the Assistant Secretary for Environment, Safety, and Consumer Affairs (TES) for projects in the following categories:

(1) Any new airport serving a metropolitan area (construed as an SMSA unless specifically directed otherwise).

(2) Any new runway or runway extension for an airport, any part of which is located in an SMSA and is either certificated under Section 612 of the Federal Aviation Act of 1958, as amended, or used by large aircraft (except helicopters) of commercial operators.

(3) Any project to which a Federal, state, or local governmental agency has expressed opposition on environmental grounds.

(4) Any project for which TES requests an opportunity to review and concur in the final statement, or for which FAA requests such review and concurrence by TES.

(5) Any projects in the above categories which also fall under Section 4(f) of the DOT Act will also require concurrence by the DOT Office of the General Counsel (TGC).

The Assistant Administrator, Office of Airports Programs, has final impact statement approval authority for any project in categories (1) through (4) above, subject to prior review for legal sufficiency by AGC and concurrence by TES and TGC as required. All other Section 102(2)(C) actions may be approved by the regional director, after review for legal sufficiency by regional counsel and subject to concurrence by the Assistant Administrator, Office of Airports Programs, and AGC, when such concurrence is requested upon headquarters' review of the draft statement or when requested by the regional director.

d. *Headquarters' Review.* When final approval of an environmental statement is retained in headquarters, the headquarters coordination is initiated when statements are received in the Office of Airports Programs. Copies are forwarded by AAP-400 to AEQ, AGC for review for legal sufficiency, and then to appropriate elements of OST when required for review and concurrence with a request for response within 15 to 30 days depending upon the complexity of the statement. Following headquarters' review, the statement is revised as necessary or additional information may be added. The statement, with any comment, is then submitted to the Assistant Administrator, Office of Airports Programs, for approval.

e. *Federal Finding.* Each final environmental impact statement must contain a Federal Finding signed by the responsible official with appropriate concurrences as discussed above. The Finding must be appropriate for the proposed action. For projects that meet the conditions set forth by all applicable environmental laws, guidelines, and procedures, a Finding that approximates the following is usually sufficient:

"After careful and thorough consideration of the facts contained herein and following consideration of the views of those Federal agencies having jurisdiction by law or special expertise with respect to the environmental impacts described, the undersigned finds that the proposed Federal action is consistent with existing national environmental polices and objectives as set forth in Section 101(a) of the National Environmental Policy Act of 1969."

When appropriate for Section 16(c)(4) of the Airport Act (and/or Section 4(f) of the DOT Act) the Finding shall also include the following:

"It is also determined that there is no feasible and prudent alternative to the proposed action (and/or to use of lands covered by Section 4(f) of the Department of Transportation Act of 1966, as amended); and further, the proposed action includes all possible steps to minimize any adverse effects (and/or all possible planning to minimize harm to such lands)."

In all instances, continue with the following:

"Having met all relevant requirements for environmental consideration and consultation, the proposed action is authorized to be taken at such time as other requirements have been met and subsequent to expiration of waiting periods established to inform CEQ and the public of this action."

65. *Final distribution and notification.* a. *General.* Distribution of final environmental impact statements to EPA, other agencies and organizations, CEQ, and the public should, insofar as possible, be simultaneous so as to avoid unnecessary inquiries and insure that all interested parties have a fair opportunity to review the documentation. The implementing administrative action for the project can take place no sooner than 30 days after the release date, which is the last of the following three notification actions—the date the statement was filed with CEQ or was provided to the commenting agencies or was made available to the public.

b. *Distribution to EPA.* The FAA regional office preparing the final environmental impact statement shall forward to EPA one copy of the final statement if it was categorized LO-1. Otherwise, five copies shall be sent to EPA. In the event that EPA has comments on a final impact statement, the FAA regional office shall make every reasonable effort to resolve any conflicting issues. If the issue cannot be resolved, the matter shall be referred to AAP-400.

c. *Other distribution by the region.* A copy of the final environmental impact statement shall also be sent to each Federal, state, and local agency and private organizations which made substantial comments on the draft statement and to individuals who requested a copy of the final statement or who made substantive comment on the draft. The sponsor of the project shall also be sent a copy as well as the appropriate state and areawide clearinghouses unless otherwise designated by the governor. When the number of commenters is such that distribution in this manner is impracticable, alternative arrangements shall be made after consultation with CEQ and DOT through AAP-400.

d. *Distribution to CEQ.* The region will distribute to CEQ the required five copies of final statements. The region will forward the copies directly to:

General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C. 20006

A copy of the transmittal shall be sent to AAP-400 for information.

e. *Distribution to AEQ.* The region will send one copy to AEQ-1 for information and for ultimate transmission by AEQ to the DOT Library.

f. *Availability to Public.* (1) Additional copies shall also be made available by the region to the public for review by distribution to appropriate locations accessible to the general public.

(2) The availability of the final statement shall be announced in the appropriate local media in a manner similar to the announcement method for the draft environmental impact statement.

66. *Implementation of environmental commitments.* Steps will be taken through funding agreements, contract plans and specifications, and other appropriate follow-up actions to assure that representations made in the environmental documentation with respect to mitigation of environmental impacts will be carried out. Any proposed deviation from prescribed action that may reduce protection to the environment must be reviewed at the same level at which the initial environmental approval was given. The proposed deviation shall be reviewed by TES, if TES concurred in the initial approval.

67.–69. *Reserved.*

CHAPTER 8. FAA PROCESSING AND APPROVAL TO CHANGE A DRAFT ENVIRONMENTAL IMPACT STATEMENT TO A NEGATIVE DECLARATION

70. *General.* a. If there is some doubt as to the potential of an action for significant impact, early consultation with appropriate governmental or private agencies should be undertaken to resolve questionable areas. This may include sending the environmental

impact assessment report to selected agencies for their review and comment, with a cover letter explaining the issue. Upon evaluation of information received through the consultation and coordination or from other sources, the regional office will determine whether the action should or should not be processed pursuant to Section 102(2)(C) of NEPA.

b. Notwithstanding the above precautions, there may still be cases in which, after circulation of a draft environmental impact statement, the FAA finds that the proposed action will not significantly alter the airport's impact on its surrounding environment and is not highly controversial on environmental grounds and therefore does not require the preparation of a final environmental impact statement pursuant to Section 102(2)(C). The FAA may then change the action and prepare a negative declaration.

c. The general requirements for processing a draft statement, distributing it for Federal review, and giving public notice are the same as those set forth in paragraphs 60, 61, and 62 for a fully coordinated NEPA Section 102(2)(C) action.

71. *Documentation.* a. Documentation to support a decision to change a draft environmental impact statement to a negative declaration shall include:

(1) The Federal Finding supporting the conclusion that the action will not result in significant environmental impact and is not highly controversial.

(2) The summary similar to that shown in Figure 1, except that the heading shall read "Negative Declaration" and a sentence shall be added to explain that the draft environmental impact statement was changed to a negative declaration.

(3) The draft environmental impact statement shall be included as part of the negative declaration package. If not contained in the draft statement, additional supportive evidence must be supplied for all applicable environmental considerations and required assurances. Reference paragraph 63a(3).

(4) All substantive comments received through the Federal review process shall be included in the negative declaration package. Each comment shall be listed with appropriate reference to the draft statement and/or such additional response as may be necessary to dispense with the issue raised. If the draft is revised and resubmitted, comments may be dealt with in the body of the statement. To the extent that impacts have been identified in the draft statement as having the potential for significant impact, supplemental data in the documentation must reveal that such potential has been eliminated. Elimination of the potential for significant impact can occur when the project has been changed, something in the impacted environment has changed, or because subsequent data has revealed an inaccuracy or misunderstanding of earlier information, measurements, or other factors. Any controversy which led to the preparation and circulation of a draft statement must be resolved or withdrawn. If the conditions which prompted the preparation of the draft statement are not specifically dismissed in an adequate manner, the draft environmental impact statement cannot be changed to a negative declaration.

b. The distribution of the negative declaration package shall be accomplished in the same manner and with the same number of copies as a proposed final environmental impact statement (reference paragraph 63b).

72. *Approval.* a. *Approval authority.* The Assistant Administrator, Office of Airports Programs, has the authority to approve the negative declaration for any project identified in paragraph 64c except that TES and TGC concurrence is not required. Approval is subject to review for legal sufficiency by AGC. For projects not subject to TES concurrence, the negative declaration is approved by the regional director, subject to regional counsel review and AAP and AGC concurrence per paragraph 64c.

b. *Federal Finding.* The Finding for this action should approximate the following: "A draft environmental impact statement for the proposed action has been prepared and federally coordinated in the manner contemplated by Section 102(2)(C) of the National Environmental Policy Act of 1969. A careful and thorough evaluation of the facts contained in the draft statement, and consideration of the comments received from the public and other Federal agencies having jurisdiction by law and special expertise in environmental matters, now supports a determination that the proposed action is not highly controversial and will not significantly affect the quality of the human environment."

When appropriate for Section 16(c)(4) of the Airport Act (and/or Section 4(f) of the DOT Act), the Finding shall also include the following: "It is also determined that there is no feasible and prudent alternative to the proposed action (and/or to use of lands covered by Section 4(f) of the Department of Transportation Act of 1966, as amended); and, further, the proposed action includes all possible steps to minimize any adverse effects (and/or all possible planning to minimize harm to such lands)."

In all instances, continue with the following: "Having met all relevant requirements for environmental consideration and consultation, the proposed action is authorized to be taken at such time as other requirements have been met."

73. *Final distribution and notification.* a. *Distribution.* When the decision to change a draft statement to a negative declaration is made, a distribution of the negative declaration package as described in paragraph 71a shall be made in a manner similar to that for a fully coordinated Section 102(2)(C) action (reference paragraphs 65b, c, and d). The final 30-day CEQ review period is no longer applicable, and the implementing administrative action can take place any time after termination.

b. *Public notification.* The decision to change a draft impact statement to a negative declaration should be publicized in the appropriate local media in the same manner as was the draft statement. Copies of the negative declaration need not be distributed, although copies must be made available upon request.

74. *Implementation of environmental commitments.* Any representations made in the environmental documentation with respect to minimization of adverse environmental effects shall receive the same follow-on action and review as for NEPA actions as described in paragraph 66.

75.–79. *Reserved.*

CHAPTER 9. FAA PROCESSING AND APPROVAL OF AIRPORT ACT SECTION 16(c)(4) COORDINATED ACTIONS

80. *General.* a. This chapter applies to airport development actions for which limited Federal coordination is required pursuant to Section 16(c)(4) of the Airport Act but do not otherwise fall within the requirements for fully coordinated NEPA Section 102(2)(C) actions (reference paragraph 22).

b. The general requirements for preparation and processing of draft statements as set forth in paragraphs 44 and 60 are equally applicable to Section 16(c)(4) coordinated actions except that the heading on the report shall read "Negative Declarations/Section 16(c)(4) Coordination." A summary is not required.

81. *Distribution for Federal review.* a. Distribution of Section 16(c)(4) negative declarations by airports regional offices for review is limited to the Office of Airports Programs, EPA, and DOI. The negative declaration, including A-95 clearinghouse comments and any other substantive comments received and responses thereto and the summary or transcript of any public hearing held (or evidence that it was offered), shall be distributed as follows: (1) One copy to the Office of Airports Programs (Attention: AAP-400). (2) Five copies to EPA regional offices. (3) The same number of copies to DOI as required for draft environmental impact statements, sent directly to the same address in Washington as given in paragraph 61b(6). (4) It may be necessary to send copies to the Department of Agriculture or the Department of Housing and Urban Development if DOT Section 4(f) land is involved in the action.

b. Copies of negative declarations to EPA and DOI are to be accompanied by a transmittal letter explaining the purpose for the consultation as described in paragraph 22b. A time limit for review of not less than 45 days shall be established after which it may be presumed that the agency consulted has no comments to make.

c. The copy received by the Office of Airports programs will receive limited review for the purpose of evaluating the quality of the Section 16(c)(4) negative declarations. No concurrence by the Office of Airports Programs on individual 16(c)(4) actions is required. No further distribution is made within FAA or DOT headquarters, nor are any copies filed with CEQ.

82. *Public notice.* The regional office shall formulate a system for announcing the availability of the negative declaration through appropriate media in the area affected and in cooperation with the sponsor of the project. The announcement shall indicate the availability of the negative declaration for review which shall include FAA regional and district offices, the sponsor's office, local public libraries, and other appropriate locations of general public access. Copies of negative declarations shall be provided, on request, free of charge or at a fee commensurate with the cost of reproduction.

83. *Documentation.* Documentation to support approval of the Section 16(c)(4) coordinated action shall include: a. The Federal Finding supporting the conclusion that the

action will not result in significant environmental impact, that there is no feasible and prudent alternative, and that all possible steps have been taken to minimize adverse effects.

b. Supporting evidence for all applicable environmental considerations and required assurances. Reference paragraph 63a(3). It should be noted that the requirements for consultation and documentation as described under paragraph 44 for applicable environmental considerations also pertain to Section 16(c)(4) actions (e.g., historical and archaeological site considerations, DOT 4(f) lands, wetlands and coastal zones, endangered species).

c. The negative declaration.

d. All substantive comments received through the consultative process. If any such comment takes issue with the preliminary conclusion that there are no significant impacts, then either such additional evidence as may be necessary to support this conclusion must be included in the documentation and furnished to the commenting agency or the fully coordinated Section 102(2)(C) action process must be initiated.

84. *Approval.* a. *Approval authority.* The decision to apply this action choice may be made by the regional director. After the required consultation with DOI and EPA, the regional director may approve the Federal Finding after review by the regional counsel for legal sufficiency. If either DOI or EPA indicates significant environmental impacts or objects to the proposed action on environmental grounds, the preparation and processing of a draft environmental impact statment pursuant to NEPA Section 102(2)(C) is required. See paragraphs 20a(2) and 20c.

b. *Federal Finding.* A Finding for a Section 16(c)(4) coordinated action would approximate the following: "After careful and thorough consideration of the facts developed herein, and after consultation with EPA and DOI pursuant to Section 16(c)(4) of the Airport and Airway Development Act of 1970 regarding the effects of the proposed action, the undersiged finds: that the proposed Federal action is consistent with existing national environmental policies and objectives as set forth in Section 101(a) of the National Environmental Policy Act of 1969 (NEPA); that it will not significantly affect the quality of the human environment or othewise include any condition requiring full consultation pursuant to Section 102(2)(C) of NEPA; that there is no feasible and prudent alternative to the proposed action; and that the proposed action includes all possible steps to minize any adverse effects."

When appropriate for Section 4(f) of the DOT Act, the Finding shall also include the following: "It is also determined that there is no feasible and prudent alternative to use of lands covered by Section 4(f) of the Department of Transportation Act of 1966, as amended; and further, that the proposed action includes all possible planning to minimize harm to such lands."

In all instances, continue with the following: "Having met all relevant requirements for environmental consideration and consultation, the proposed action is authorized to be taken at such time as other requirements have been met."

85. *Final distribution.* After a Section 16(c)(4) coordinated action is approved, the region shall send one copy of the approval package to EPA, DOI (in Washington), and AAP-400 for record purposes. (If no changes have been made in the negative declaration, no additional copy of that report need be included in the final package sent to AAP-400.)

86. *Implementation of environmental commitments.* Any representations made in the negative declaration with respect to minimization of adverse environmental effects shall receive the same follow-on action and review as for NEPA actions as described in paragraph 66.

87.-89. *Reserved.*

CHAPTER 10. CONTENT, PROCESSING, AND APPROVAL OF OTHER NEGATIVE DECLARATION ACTIONS

90. *Content of an assessment report.* a. For actions which do not require coordination pursuant to NEPA Section 102(2)(C) or the Airport Act Section 16(c)(4), an environmental assessment report may be prepared by the public sponsor and addressed to the appropriate FAA official.

b. The report must include: (1) A description of the proposed action and its purpose. (2) A discussion of the proposed method of accomplishment, including construction techniques and safeguards to be utilized to minimize possible adverse effects upon the environment. (3) A discussion, based on consideration of possible impacts as described in paragraph 44, supporting the assessment that the airport development project will not significantly alter the airport's impact upon its surrounding environment. (4) A discussion indicating consistency with community planning. (5) Alternatives considered and why rejected.

c. The responsible official must review the evidence and determine that an environmental impact statement and coordination pursuant to paragraph 20 are not required.

91. *Coordination.* There is no formal Federal review prescribed for the negative declaration. However, appropriate Federal, state, or local coordination must be completed as described under paragraph 44 for any applicable areas of environmental consideration (e.g., historical and archaeological site considerations, DOT 4(f) lands, wetlands and coastal zones, endangered species). In all cases, coordination with the State Historic Preservation Officer is required. In addition, nothing in this order shall be construed as preventing such informal coordination as may be considered prudent by the region to satisfy itself regarding the extent of specific impacts. The negative declaration shall be reviewed by any affected FAA program division and staff official at the regional level before finalization.

92. *Notification.* Formal announcement of availability of negative declarations is not required. However, such reports, including the A-95 coordination comments, shall be made available on request free of charge or at a fee commensurate with the cost of reproduction through FAA region and/or district offices and the sponsor's office.

93. *Documentation.* Documentation to support approval of an action described herein shall include the negative declaration and the Federal Finding plus supporting evidence for all applicable environmental considerations and required assurances. Reference paragraph 63a(3). It should be noted that the requirements for consultation and documentation as described under paragraph 44 for applicable environmental considerations also pertain to these actions.

94. *Approval.* a. *Approval authority.* The decision to apply this action choice may be made by the regional director. If the project involves a determination under Section 4(f) of the DOT Act, approval is subject to review for legal sufficiency by regional counsel.

b. *Federal finding.* The Finding for this action should approximate the following: "After careful and thorough consideration of the facts contained herein, the undersigned finds: that the proposed Federal action is consistent with existing national environmental policies and objectives as set

forth in Section 101(a) of the National Environmental Policy Act of 1969 (NEPA); that it will not significantly affect the quality of the human environment or otherwise include any condition requiring consultation pursuant to Section 102(2)(C) of NEPA or Section 16(c)(4) of the Airport and Airway Development Act of 1970."

When appropriate for Section 4(f) of the DOT Act, the Finding shall also include the following: "It is also determined that there is no feasible and prudent alternative to use of lands covered by Section 4(f) of the Department of Transportation Act of 1966, as amended; and further, that the proposed action includes all possible planning to minimize harm to such lands."

In all instances, continue with the following: "Having met all relevant requirements for environmental consideration and consultation, the proposed action is authorized to be taken at such time as other requirements have been met."

95. *Final distribution.* Distribution of the above documentation outside the region is not required by this order. However, such documentation shall be made readily available upon request.

96. *Implementation of environmental committments.* Any representations made in the assessment report with respect to minimization of adverse environmental effects shall receive the same follow-on action and review as described in paragraph 66.

97.-99. *Reserved.*

CHAPTER 11. PRIOR FINDING AFFIRMATIONS

100. *General.* When a proposed action falls within the scope of a previously approved environmental impact statement or negative declaration, a prior finding affirmation may be in order. The following circumstances should be reviewed when deciding upon the applicability of an affirmation. a. If the action is to be taken within two years of the original environmental approval and if there is no substantive change in either the description of the action or the environmental impacts attributable to the action, no further assessment or prior finding affirmation is required.

b. If the action is to be taken in a two- to five-year period after the original environmental approval, an affirmation of the prior finding may be made if a thorough analysis reveals that the action conforms with the prior approved plan or projects and that the data and analysis in the prior environmental assessment, as they apply to the proposed action, are still substantially valid.

c. If the action is to be taken more than five years atfer the original decision, normally a new assessment in the form of an environmental impact statement or negative declaration will be necessary depending on the scope and thoroughness of the initial assessment and current applicability. In special cases, it is possible that the applicability of a prior finding may be documented and a prior finding affirmation may be made.

101. *Coordination.* No Federal coordination of the prior finding affirmation is required except for such intradepartmental coordination as needed to obtain approval as described in paragraph 104. However, nothing in this appendix shall be construed as preventing such informal coordination as may be considered prudent or necessary by the region to establish the current validity of the data and analyses as contained in the prior assessment.

102. *Notification.* Formal announcement of availability of prior finding affirmations or supporting documentation is not required. However, such documentation shall be made available on request free of charge or at a fee commensurate with the cost of reproduction through FAA region and/or district offices and the sponsor's office.

103. *Documentation.* The prior finding affirmation package shall contain the following documentation: a. A report for approval by the responsible official which includes:

(1) A description of the proposed action and its relationship to the description of work in the prior approved assessment.

(2) An affirmation statement as set forth in paragraph 104b.

b. A copy of the prior approved environmental impact statement or negative declaration and the prior decision memorandum and Federal Finding shall be made available to the responsible official.

104. *Approval.*—a. *Approval Authority.* The authority to approve a prior finding affirmation is at a level commensurate with the description and extent of environmental impacts of the proposed action, with appropriate concurrences and review for legal sufficiency as indicated in paragraphs 64, 84, or 94, whichever is applicable.

b. *Prior Finding Affirmation.* The affirmation statement for this action should approximate the following: "After careful and thorough consideration of the facts contained in the environmental impact statement (or negative declaration) approved (date), the undersigned finds that the proposed Federal action is consistent with the assessment contained therein and that the prior Federal Finding as pertains to the proposed action is hereby affirmed."

When Section 16(c)(4) of the Airport Act (and/or Section 4(f) of the DOT Act) applies to the proposed action, add the following: "It is hereby affirmed that there is no feasible and prudent alternative to the proposed action (and/or to use of lands covered by Section 4(f) of the Department of Transportation Act of 1966, as amended); and further, the proposed action includes all possible steps to minimize any adverse effects (and/or all possible planning to minimize harm to such lands)."

In all instances, continue with the following: "Having previously met all relevant requirements for environmental consideration and consultation, the proposed action is authorized to be taken at such time as other requirements have been met."

105. *Final distribution.* Distribution of the above documentation is not required outside the FAA by this appendix. However, such documentation shall be made readily available upon request.

FIGURE 1. SUMMARY TO ACCOMPANY DRAFT AND FINAL STATEMENTS

(Check one) ( ) Draft ( ) Final Environmental Statement.

Name of responsible Federal agency (with name of operating division where appropriate). Region of origin and name, address, and telephone number of individuals at the agency who can be contacted for additional information about the proposed action or the statement.

1. Name of action (check one) ( ) Administrative Action ( ) Legislative Action.

2. Brief description of action and its purpose. Indicate what states (and counties) particularly affected, and what other proposed Federal actions in the area, if any, are discussed in the statement.

3. Summary of environmental impacts and adverse environmental effects.

4. Summary of major alternatives considered.

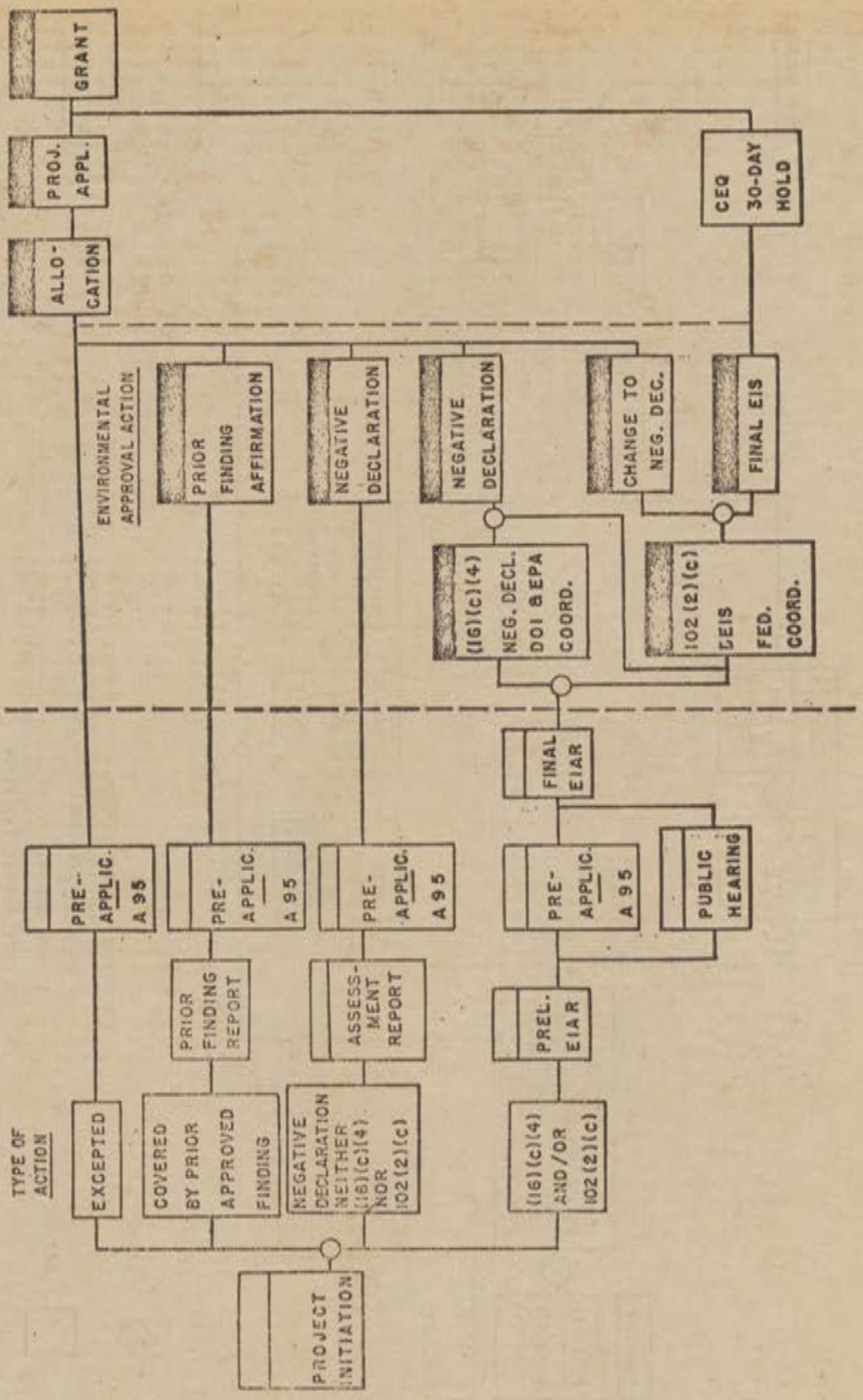
5. For draft statements, list all Federal, state, and local agencies and other parties from which comments have been requested. For final statements, list all Federal, state, and local agencies and other parties from which written comments have been received.

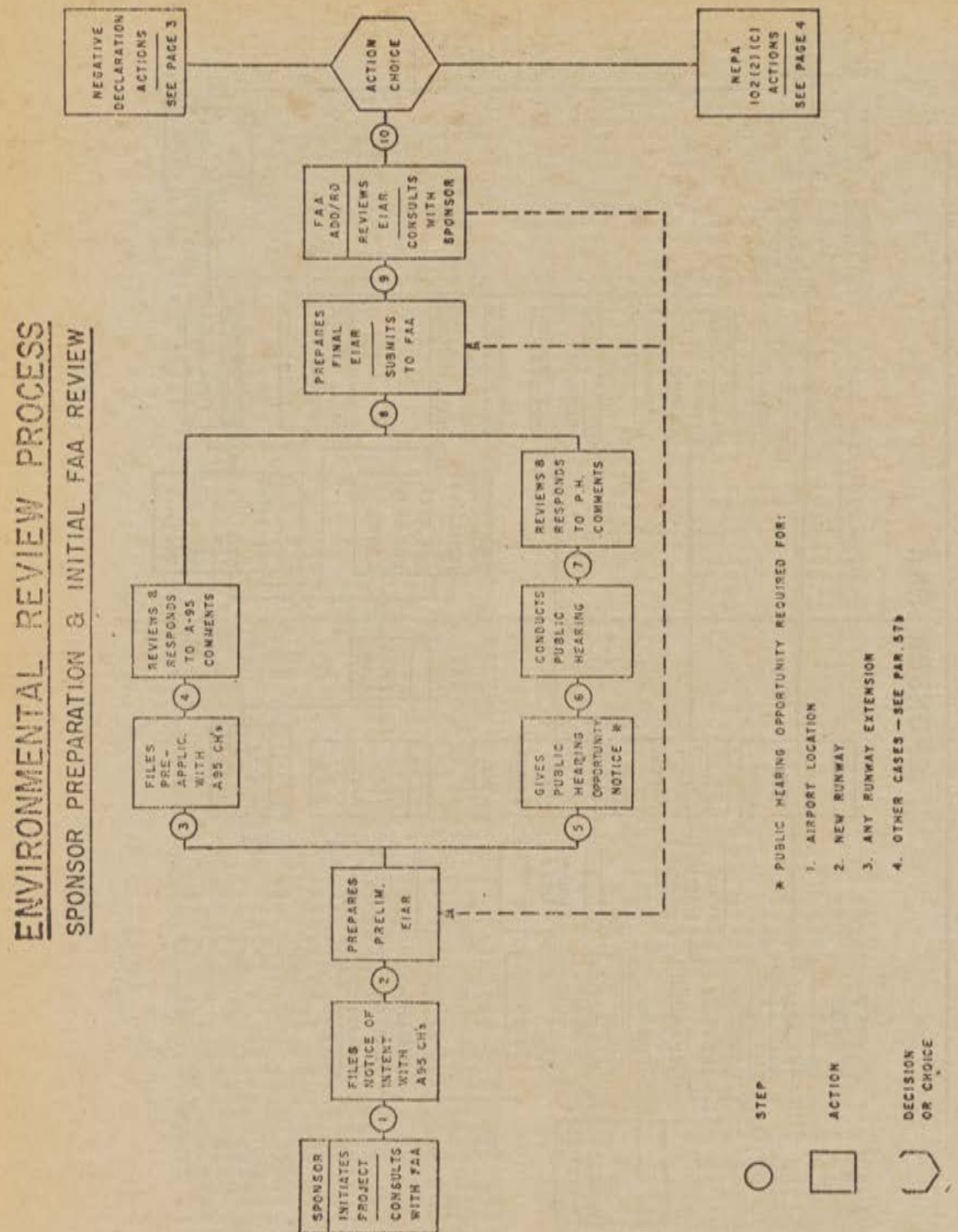
6. Date draft statement (and final environmental statement, if one has been issued) made available to CEQ and the public.

7. Date of public hearing, if one was held.

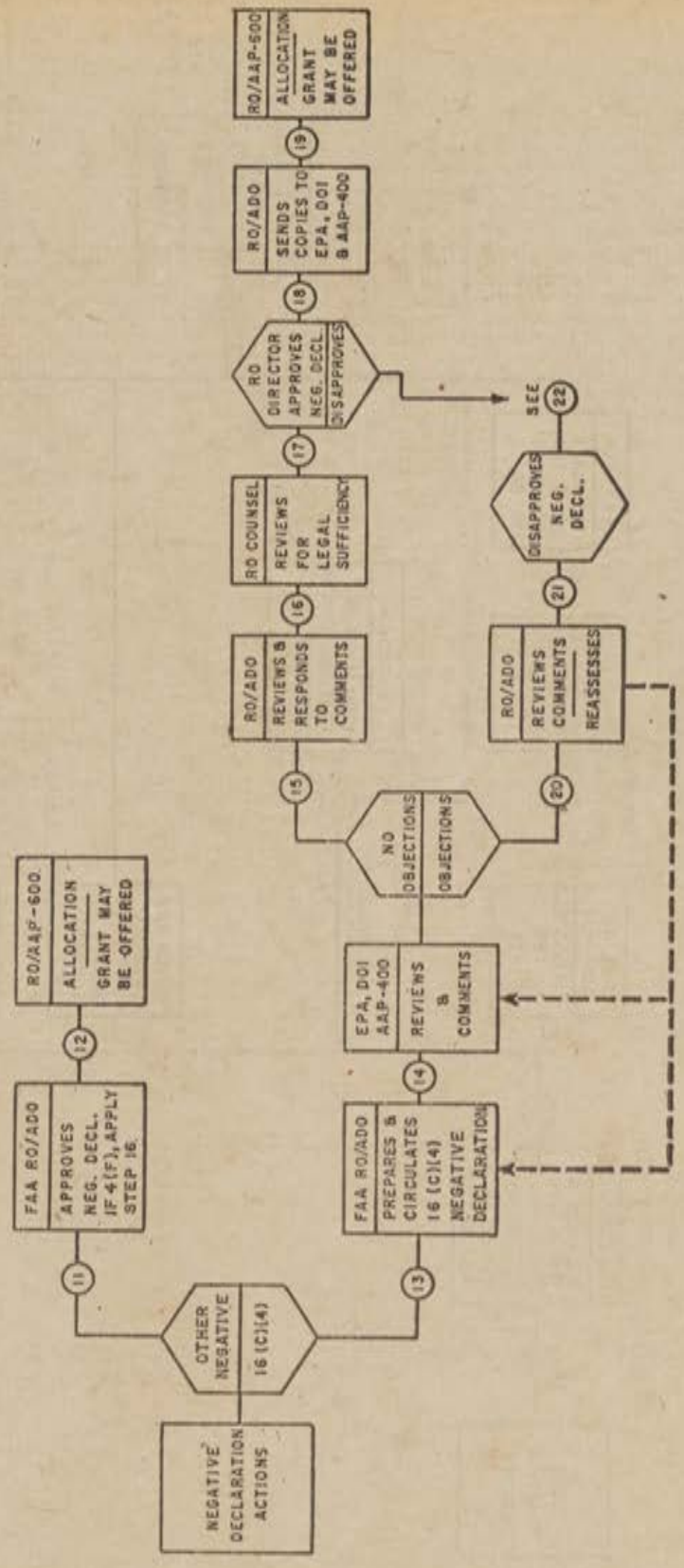
FIGURE 2. ENVIRONMENTAL PROCESS FLOWCHARTS

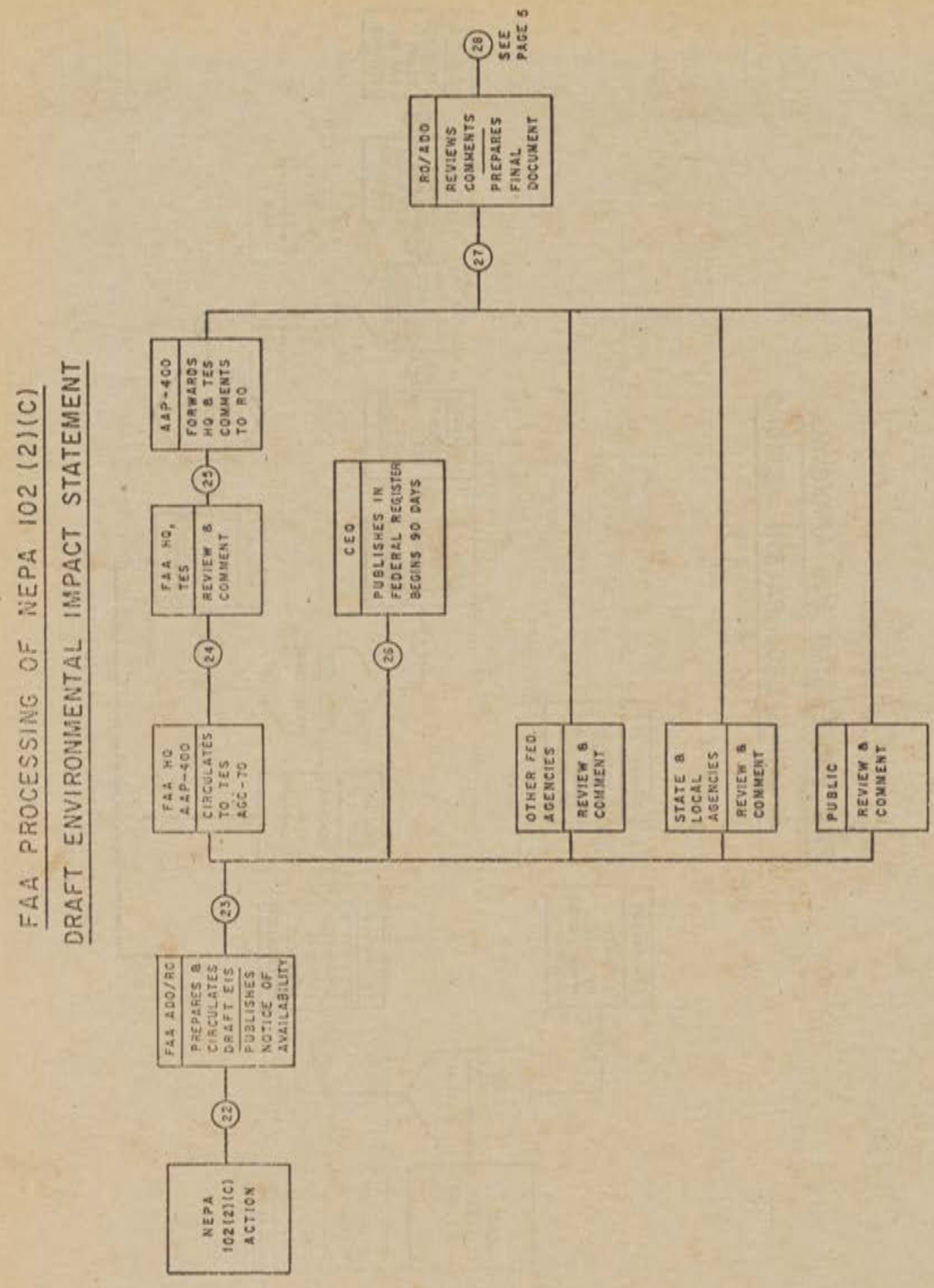
OVERVIEW OF ENVIRONMENTAL REVIEW PROCESS

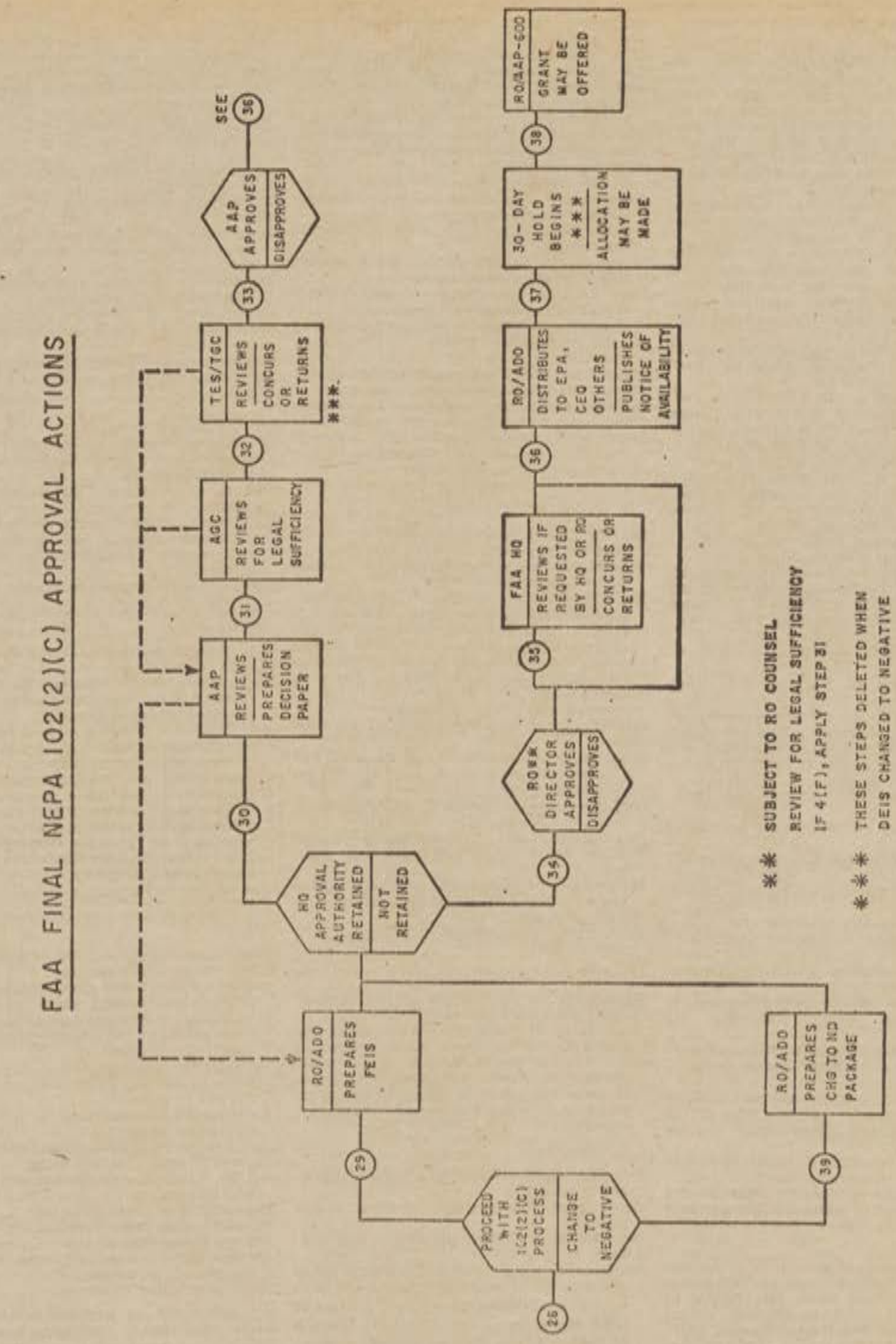



ENVIRONMENTAL REVIEW PROCESS
SPONSOR PREPARATION & INITIAL FAA REVIEW
NEGATIVE DECLARATION ACTIONS — SEE PAGE 3
ACTION CHOICE
NEPA 102(2)(C) ACTIONS — SEE PAGE 4
SPONSOR INITIATES PROJECT — CONSULTS WITH FAA
FILES NOTICE OF INTENT WITH A95 CH's
PREPARES PRELIM. EIAR
FILES PRE-APPLIC. WITH A95 CH's
REVIEWS & RESPONDS TO A-95 COMMENTS
GIVES PUBLIC HEARING OPPORTUNITY NOTICE *
CONDUCTS PUBLIC HEARING
REVIEWS & RESPONDS TO P.H. COMMENTS
PREPARES FINAL EIAR — SUBMITS TO FAA
FAA ADD/RD — REVIEWS EIAR — CONSULTS WITH SPONSOR
* PUBLIC HEARING OPPORTUNITY REQUIRED FOR:
1. AIRPORT LOCATION
2. NEW RUNWAY
3. ANY RUNWAY EXTENSION
4. OTHER CASES — SEE PAR. 57b
STEP
ACTION
DECISION OR CHOICE

FAA PROCESSING AND APPROVAL OF NEGATIVE DECLARATION ACTIONS




FAA PROCESSING OF NEPA 102 (2)(C)
DRAFT ENVIRONMENTAL IMPACT STATEMENT
NEPA 102(2)(C) ACTION
22
FAA ADO/RO
PREPARES & CIRCULATES DRAFT EIS
PUBLISHES NOTICE OF AVAILABILITY
23
FAA HQ AAP-400
CIRCULATES TO TES AGC-70
24
FAA HQ, TES
REVIEW & COMMENT
25
AAP-400
FORWARDS HQ & TES COMMENTS TO RO
26
CEQ
PUBLISHES IN FEDERAL REGISTER BEGINS 90 DAYS
OTHER FED. AGENCIES
REVIEW & COMMENT
STATE & LOCAL AGENCIES
REVIEW & COMMENT
PUBLIC
REVIEW & COMMENT
27
RO/ADO
REVIEWS COMMENTS
PREPARES FINAL DOCUMENT
28
SEE PAGE 5


FAA FINAL NEPA 102(2)(C) APPROVAL ACTIONS
AAP
REVIEWS
PREPARES DECISION PAPER
AGC
REVIEWS FOR LEGAL SUFFICIENCY
TES/TGC
REVIEWS
CONCURS OR RETURNS
***.
AAP
APPROVES
DISAPPROVES
SEE 36
HQ APPROVAL AUTHORITY
RETAINED
NOT RETAINED
RO/ADO
PREPARES FEIS
PROCEED WITH 102(2)(C) PROCESS
CHANGE TO NEGATIVE
RO/ADO
PREPARES CHG TO HQ PACKAGE
ROW* DIRECTOR
APPROVES
DISAPPROVES
FAA HQ
REVIEWS IF REQUESTED BY HQ OR RO
CONCURS OR RETURNS
RO/ADO
DISTRIBUTES TO EPA, CEQ OTHERS
PUBLISHES NOTICE OF AVAILABILITY
30- DAY HOLD BEGINS
***
ALLOCATION MAY BE MADE
RO/AAP-600
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** SUBJECT TO RO COUNSEL REVIEW FOR LEGAL SUFFICIENCY IF 4(F), APPLY STEP 31
*** THESE STEPS DELETED WHEN DEIS CHANGED TO NEGATIVE

APPENDIX 7. CONSULTATION AND DISTRIBUTION OF ENVIRONMENTAL IMPACT STATEMENTS

1. *Consultation-coordination.* Agencies consulted by the FAA in connection with the preparation or coordination of environmental impact statements are those which have "jurisdiction by law or special expertise with respect to any environmental impact involved," or "which are authorized to develop and enforce environmental standards." As appropriate to the scope and impact, draft and final statements will be sent to the following State, local, and Federal agencies with jurisdiction by law or expertise with respect to any environmental impacts involved:

a. *State and Local Agencies:* (1) State and areawide or local clearinghouses; (2) Other State and local agencies, including those with expertise in environmental and transportation matters; and (3) Affected cities and counties.

b. *Special interest groups* and other interested parties at National, State and local levels (see paragraph 207).

c. *Federal Agencies.* Distribution to Federal agencies consulted by the FAA include the regional offices of the agencies and DOT model administrations listed below. Those to be sent to the Department of Interior (DOI) or the Department of Commerce (DOC) shall be sent directly to the Washington headquarters of these Departments, at addresses shown, not to the regional offices.

(1) Environmental Protection Agency.

(2) Department of Agriculture.

(3) Department of Commerce (headquarters), Office of the Deputy Assistant Secretary for Environmental Affairs, U.S. Department of Commerce, Washington, D.C. 20230.

(4) Department of Defense.

(5) Department of Health, Education, and Welfare.

(6) Department of Housing and Urban Development.

(7) Department of Interior (headquarters)*, Assistant Secretary—Program Policy, Attn: Director, Environmental Project Review, Department of the Interior, Washington, D.C. 20240.

(8) Department of Transportation (TES-1, 2 copies).

(9) Council on Environmental Quality (5 copies).

(10) Energy Research & Development Administration.

(11) Advisory Council on Historic Preservation.

(12) Federal Energy Administration.

(13) U.S. Nuclear Regulatory Commission (3 copies).

(14) National Capital Planning Commission.

(15) Delaware River Basin Commission.

(16) Tennessee Valley Authority (10 copies).

(17) Appalachian Regional Commission.

(18) Susquehanna River Basin Commission.

d. *General.* Unless specifically requested by the reviewing agency, only one copy of the statement is required. Exceptions to this are the following:

(1) Federal Energy Administration—five copies.

(2) Department of Interior: (a) Twelve copies for projects in each state, except those listed in (b) and (c) below.

(b) Thirteen copies for projects in North and South Dakota, Nebraska, Kansas, Oklahoma and Texas.

(c) Fourteen copies for projects in Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

2. *Subject areas of environmental impact and Federal and Federal-State agencies with jurisdiction by law or special expertise to comment thereon.*

a. *Air—Air quality.*

Department of Agriculture—Forest Service (impact on vegetation)
Nuclear Regulation Commission (radioactive substances)
Department of Health, Education and Welfare
Environmental Protection Agency
Department of the Interior—Bureau of Mines (fossil and gaseous fuel combustion)
Fish and Wildlife Service (impact on wildlife)
Bureau of Outdoor Recreation (impact on recreation)
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
National Aeronautics and Space Administration (remote sensing, aircraft emissions)
Department of Transportation—Assistant Secretary for Systems Development and Technology (auto emissions)
United States Coast Guard (vessel emissions)

b. *Water—water quality.*

Department of Agriculture—Soil Conservation Service—Forest Service.
U.S. Nuclear Regulatory Commission (radioactive substances).
Department of the Interior—Bureau of Reclamation—Bureau of Land Management (public lands); Bureau of Indian Affairs (Indian lands); Fish and Wildlife Service (fresh water species); Bureau of Outdoor Recreation; Geological Survey; Office of Saline Water.
Environmental Protection Agency.
Department of Health, Education, and Welfare.
Department of Defense—Army Corps of Engineers; Department of the Navy (ship pollution control).
National Aeronautics and Space Administration (remote sensing).
Department of Transportation—United States Coast Guard (oil spills, ship sanitation).
Department of Commerce—National Marine Fisheries Service (salt water species).
Water Resources Council.
River Basin Commissions (as geographically appropriate).

c. *Fish and wildlife.*

Department of Agriculture—Forest Service; Soil Conservation Service.
Department of Commerce—National Marine Fisheries Service (salt water species).
Department of the Interior—Fish and Wildlife Service (fresh water species); Bureau of Land Management; Bureau of Outdoor Recreation; Environmental Protection Agency.

d. *Solid waste.*

U.S. Nuclear Regulatory Commission (radioactive waste).
Department of Defense—Army Corps of Engineers.
Department of Health, Education, and Welfare.
Department of the Interior—Bureau of Mines (mineral waste, mine and acid waste, municipal solid waste, recycling); Bureau of Land Management (public lands); Bureau of Indian Affairs (Indian lands); Geological Survey (geologic and hydrologic effects); Office of Saline Water (demineralization).
Department of Transportation—United States Coast Guard (ship sanitation).
Environmental Protection Agency.
River Basin Commissions (as geographically appropriate).
Water Resources Council.

e. *Noise.*

Department of Commerce—National Bureau of Standards.
Department of Health, Education, and Welfare.
Department of Housing and Urban Development (land use and building materials aspects).
Department of Labor—Occupational Safety and Health Administration.
Department of Transportation—Assistant Secretary for Systems Development and Technology.
Environmental Protection Agency.
National Aeronautics and Space Administration.

f. *Radiation.*

U.S. Nuclear Regulatory Commission.
Department of Commerce—National Bureau of Standards.
Department of Health, Education, and Welfare.
Department of the Interior—Bureau of Mines (uranium mines); Mining Enforcement and Safety Administration (uranium mines).
Environmental Protection Agency.

g. *Transportation and handling of hazardous Materials.*

U.S. Nuclear Regulatory Commission (radioactive substances).
Department of Commerce—Maritime Administration; National Marine Fisheries Service (salt water species).
Department of Defense—Armed Services Explosive Safety Board; Army Corps of Engineers (navigable waterways).
Department of Transportation—Federal Highway Administration, Bureau of Motor Carrier Safety; United States Coast Guard; Federal Railroad Administration; Assistant Secretary for Systems Development and Technology; Office of Hazardous Materials; Office of Pipeline Safety.
Environmental Protection Agency.

h. *Energy and natural resources conservation.*

Department of Agriculture—Forest Service; Soil Conservation Service.
Department of Commerce—National Bureau of Standards (energy efficiency).
Department of Housing and Urban Development—Federal Housing Administration (housing standards).
Department of the Interior—
Office of Energy Conservation;
Bureau of Mines;
Bureau of Reclamation;
Geological Survey;
Power Marketing Administration.
Federal Energy Administration.
Energy Research and Development Administration.
Department of Transportation.
Environmental Protection Agency.
Federal Power Commission.
General Services Administration (design and operation of buildings).
Tennessee Valley Authority.

i. *Protection of environmentally critical areas—floodplains, wetlands, beaches and dunes, unstable soils, steep slopes, aquifer recharge areas, etc.*

* Thirteen copies for projects in North and South Dakota, Nebraska, Kansas, Oklahoma, and Texas; fourteen copies for projects in Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; and twelve copies for projects in other states.

Department of Agriculture—Agricultural Stabilization and Conservation Service; Soil Conservation Service; Forest Service.
Department of Commerce—National Marine Fisheries Service (salt water species).
Department of Defense—Army Corps of Engineers.
Department of Housing and Uurban Development (urban and floodplain areas).
Department of the Interior—Office of Land Use and Water Planning; Bureau of Outdoor Recreation; Bureau of Reclamation; Fish and Wildlife Service (fresh water species); Bureau of Land Management; Geological Survey.
Environmental Protection Agency (pollution effects).
National Aeronautics and Space Administration (remote sensing).
River Basins Commissions (as geographically appropriate).
Water Resources Council.

j. *Land use in coastal areas.*

Department of Agriculture—Forest Service; Soil Conservation Service (soil stability, hydrology).
Department of Commerce—National Marine Fisheries Service (salt water species).
Department of Defense—Army Corps of Engineers (beaches, dredge and fill permits, Refuse Act permits).
Department of Housing and Urban Development (urban areas).
Department of the Interior—Office of Land Use and Water Planning; Fish and Wildlife Service; National Park Service; Geological Survey; Bureau of Outdoor Recreation; Bureau of Land Management (public lands).
Department of Transportation—United States Coast Guard (bridges, navigation).
Environmental Protection Agency.
General Services Administration.
Office of Economic Opportunity.

k. *Density and congestion mitigation.*

Department of Health, Education, and Welfare.
Department of Housing and Urban Development.
Department of the Interior—Office of Land Use and Water Planning; Bureau of Outdoor Recreation.
Department of Transportation.
Environmental Protection Agency.

l. *Neighborhood character and continuity.*

Department of Health, Education, and Welfare.
Department of Housing and Urban Development.
National Endowment for the Arts.
Office of Economic Opportunity.

m. *Historic, architectural, and archaeological preservation.*

Advisory Council on Historic Preservation.
Department of Housing and Urban Development.
Department of the Interior—National Park Service; Bureau of Land Management (public lands); Bureau of Indian Affairs (Indian lands).
General Services Administration.
National Endowment for the Arts.

n. *Outdoor recreation.*

Department of Agriculture—Forest Service; Soil Conservation Service.
Department of Defense—Army Corps of Engineers.
Department of Housing and Urban Development (urban areas).
Department of the Interior—Bureau of Land Management; National Park Service; Bureau of Outdoor Recreation; Fish and Wildlife Service (fresh water species); Bureau of Indian Affairs.
Environmental Protection Agency.
National Aeronautics and Space Administration (remote sensing).
River Basin Commissions (as geographically appropriate).
Water Resources Council.

3. *Offices within Federal and Federal-State agencies for information regarding the agencies' NEPA activities and for receiving other agencies' impact statements for which comments are requested.*

ADVISORY COUNCIL ON HISTORICAL PRESERVATION

Office of Architectural and Environmental Preservation, Advisory Council on Historic Preservation, Suite 430, 1522 K Street NW., Washington, D.C. 20005 (254-3974).

ENVIRONMENTAL PROTECTION AGENCY

Director, Office of Federal Activities, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (755-0777).
Regional Administrator, I, U.S. Environmental Protection Agency, Room 2303, John F. Kennedy Federal Bldg., Boston, Mass. 02203 (617-223-7210).
Regional Administrator, II, U.S. Environmental Protection Agency, Room 908, 26 Federal Plaza, New York, New York 10007 (212-264-2525).
Regional Administrator, III, U.S. Environmental Protection Agency, Curtis Bldg., 6th and Walnut Sts., Philadelphia, Pa. 19106 (215-597-9801).
Regional Administrator, IV, U.S. Environmental Protection Agency, 1421 Peachtree Street, Northwest Atlanta, Ga. 30309 (404-526-5727).
Regional Administrator, V, U.S. Environmental Protection Agency, 1 N. Wacker Drive, Chicago, Illinois 60606 (312-353-5250).
Regional Administrator, VI, U.S. Environmental Protection Agency, 1600 Patterson Street, Suite 1100, Dallas, Texas 75201 (214-749-1962).
Regional Administrator, VII, U.S. Environmental Protection Agency, 1735 Baltimore Avenue, Kansas City, Missouri 64108 (816-374-5493).
Regional Administrator, VIII, U.S. Environmental Protection Agency, Suite 900, Lincoln Tower, 1860 Lincoln Street, Denver, Colorado 80203 (303-837-3895).
Regional Administrator, IX, U.S. Environmental Protection Agency, 100 California Street, San Francisco, California 94111 (415-556-2320).
Regional Administrator, X, U.S. Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101 (206-442-1220).

Department of Agriculture, Office of the Secretary, Attn.: Coordinator Environmental Quality Activities, U.S. Department of Agriculture, Washington, D.C. 20250 (447-39655).
Appalachian Regional Commission, Office of the Alternate Federal Co-Chairman, Appalachian Regional Commission, 1666 Connecticut Avenue NW., Washington, D.C. 20235 (967-4103).

REGION IV

Regional Environmental Officer, U.S. Department of Health, Education, and Welfare, Room 404, 50 Seventh Street NE., Atlanta, Georgia 30323 (404-526-5817).

REGION V

Regional Environmental Officer, U.S. Department of Health, Education, and Welfare, Room 712, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois 60607 (312-353-1644).

REGION VI

Regional Environmental Officer, U.S. Department of Health, Education, and Welfare, 1114 Commerce Street, Dallas, Texas 75202 (214-749-2236).

REGION VII

Regional Environmental Officer, U.S. Department of Health, Education, and Welfare, 601 East 12th Street, Kansas City, Missouri 64106 (816-374-3584).

REGION VIII

Regional Environmental Officer, U.S. Department of Health, Education, and Welfare, 9017 Federal Building, 19th and Stout Streets, Denver, Colorado 80202 (303-837-4178).

REGION IX

Regional Environmental Officer, U.S. Department of Health, Education, and Welfare, 50 Fulton Street, San Francisco, California 94102 (415-556-1970).

REGION X

Regional Environmental Officer, U.S. Department of Health, Education, and Welfare, Arcade Plaza Building, 1321 Second Street, Seattle, Washington 98101 (206-442-0490).
U.S. Nuclear Regulatory Commission, Assistant Director for Environmental Projects, Division of Reactor Licensing, Washington, D.C. 20555 (492-7000).
Department of Defense, Office of the Assistant Secretary for Defense (Health and Environment), U.S. Department of Defense, Room 3E172, The Pentagon, Washington, D.C. 20301 (697-2111).
Delaware River Basin Commission, Office of the Secretary, Delaware River Basin Commission, Post Office Box 360, Trenton, N.J. 08603 (609-883-9500).

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Environmental Affairs, Office of the Assistant Secretary for Administration and Management, Department of Health, Education, and Welfare, Washington, D.C. 20202 (963-4456).

REGION I

Regional Environmental Officer, U.S. Department of Health, Education, and Welfare, Room 2007B, John F. Kennedy Center, Boston Massachusetts 02203 (617-223-6837).

REGION II

Regional Environmental Officer, U.S. Department of Health, Education, and Welfare, Federal Building, 26 Federal Plaza, New York, New York 10007 (212-264-1308).

REGION III

Regional Environmental Officer, U.S. Department of Health, Education, and Welfare, P.O. Box 13716, Philadelphia, Pennsylvania 19101 (215-597-6498).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Director, Office of Community and Environmental Standards, Department of Housing and Urban Development, Room 7206, Washington, D.C. 20410 (755-5980).
Regional Administrator I, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, Room 405, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (617-233-4066).
Regional Administrator II, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, 26 Federal Plaza, New York, New York 10007 (212-264-8068).

Regional Administrator III, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, Curtis Building, Sixth and Walnut Street, Philadelphia, Pennsylvania 19106 (215–597–2560).

Regional Administrator IV, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, Peachtree-Seventh Building, Atlanta, Georgia 30323 (404–526–5585).

Regional Administrator V, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, 360 North Michigan Avenue, Chicago, Illinois 60601 (312–353–5680).

Regional Administrator VI, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, Federal Office Building, 819 Taylor Street, Fort Worth, Texas 76102 (817–334–2867).

Regional Administrator VII, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, 911 Walnut Street, Kansas City Missouri 64106 (816–374–2661).

Regional Administrator VIII, Envronmental Clearance Officer, U.S. Department of Housing and Urban Development, Samsonite Building, 1051 South Broadway, Denver, Colorado 80209 (303–837–4061).

Regional Administrator IX, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, 450 Golden Gate Avenue, Post Office Box 36003, San Francisco, California 94102 (415–556–4752).

Regional Administrator X, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, Room 226, Arcade Plaza Building, Seattle, Washington 98101 (206–583–5415).

Susquehanna River Basin Commission, Office of the Executive Director, Susquehanna River Basin Commission, 5012 Lenker Street, Mechanicsburg, Pa. 17055 (717–737–0501).

Tennessee Valley Authority, Office of the Director of Environmental Research and Development, Tennessee Valley Authority, 720 Edney Building, Chattanooga, Tennessee 37401 (615–755–2002).

Department of Transportation, Director, Office of Environmental Affairs, Office of the Assistant Secretary for Environment, Safety, and Consumer Affairs, Department of Transportation, Washington, D.C. 20590 (426–4357).

U.S. Coast Guard, Office of Marine Environment and Systems, U.S. Coast Guard, 400 7th Street, SW., Washington, D.C. 20590 (426–2007).

Federal Highway Administration, Office of Environmental Policy, Federal Highway Administration, 400 7th Street SW., Washington, D.C. 20590 (426–0351).

Federal Railroad Administration, Office of Policy and Plans, Federal Railroad Administration, 400 7th Street SW., Washington, D.C. 20590 (426–1567).

Urban Mass Transportation Administration, Office of Program Operations, Urban Mass Transportation Administration, 400 7th Street SW., Washington, D.C. 20590 (426–4020).

APPENDIX B. DEFINITIONS OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

1. *Environmental impact of the action.* a. *LO—Lack of objection.* EPA has no objection to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

b. *ER—Environmental reservations.* EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

c. *EU—Environmental unsatisfactory.* EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

2. *Adequacy of the impact statement.* a. *Category 1—Adequate.* The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

b. *Category 2—Insufficient information.* EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

c. *Category 3—Inadequate.* EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

[FR Doc.77-17890 Filed 6-24-77;8:45 am]

federal register

MONDAY, JUNE 27, 1977
PART III



DEPARTMENT OF TRANSPORTATION

Coast Guard

■

AIR POLLUTION PREVENTION

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Parts 154, 155, and 156]

[CGD 75-124]

POLLUTION PREVENTION

Vessel and Oil Transfer Facilities

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard proposes to amend the pollution prevention regulations for vessels and oil transfer facilities to reduce accidental discharges of oil or oily wastes during vessel operations and during the transfer of oil or oily wastes to or from vessels. The proposed changes also clarify certain existing rules. Public and industry comments, the Coast Guard's operational experience, and new requirements under the International Convention for the Prevention of Pollution from Ships, 1973, make these proposed changes necessary.

DATES: Comments must be received on or before: August 11, 1977.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81) U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. A copy of the economic evaluation from which the economic summary in this document is taken and a copy of the environmental analysis are also available for examination at the above address.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Each person submitting a comment should include his name, address, and organization, if any, identify this notice (CGD 75-124), and give reasons for his comments. No public hearing is planned. If the Coast Guard determines that a public hearing is necessary the time and place will be set in a later notice in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Lieutenant Commander Harvey G. Knuth, Project Manager, Office of Marine Environment and Systems, and Mr. Stephen D. Jackson, Project Attorney, Office of Chief Counsel.

DISCUSSION OF PROPOSED AMENDMENTS

Parts 154, 155, and 156 were published December 21, 1972 (37 FR 28250), effective July 1, 1974, and were amended September 11, 1975 (40 FR 42189). Since being published, many comments have been received, showing that some changes are needed. The Coast Guard's operational experience leads to the same conclusion. Additionally, in November 1973 the International Conference on Marine Pollution, under the auspices of the Inter-Governmental Maritime Consultative Organization (IMCO), adopted the International Convention for the Prevention of Pollution from Ships, 1973. This Convention, when it enters into force, will require oil-water separators, and bilge oil content monitors or alarms. The Coast Guard has decided that the Convention establishes a reasonable and environmentally effective set of standards on which certain vessel requirements for the discharge of oily mixtures can be based.

A discussion of the proposed amendments that significantly alter the regulations follows:

1. The heading of Part 154, Large Oil Transfer Facilities, is misleading as the application of this part is not a function of facility size, but rather vessel capacity. Therefore, "large" is deleted.

2. The wording in § 154.100 has been misconstrued generally to mean that this part applies only when a transfer is being conducted. Proposed § 154.100(a) is changed to show that Part 154 applies at all times during which a facility is in an operationally ready status and is capable of conducting oil transfer operations.

Although public vessels are exempt from compliance with these regulations, facilities that transfer oil to or from public vessels are not. Therefore, "public vessel" is added to proposed § 154.100.

The specific exemption of lube oil and non-petroleum based oil is deleted. If lube oil is transferred in bulk to or from a vessel with a capacity of at least 250 barrels of lube oil, regardless of the use of the lube oil, it should be regulated. If non-petroleum based oil is transferred in bulk to or from a vessel it will be regulated when the vessel capacity for non-petroleum based oil reaches 250 barrels.

The Coast Guard is considering expanding the applicability of § 154.500 to all facilities, regardless of the capacity of the vessel served, to ensure that all hose assemblies used to transfer oil meet the design standards. Upon determining the need, regulations may be published.

3. Several definitions are added or reworded in proposed § 154.105.

4. Proposed §§ 154.107 and 154.108 replace § 154.330 (waivers) and are similar to proposed §§ 155.107, 155.110, 156.107, and 156.110. The Captain of the Port (COTP) and the Officer in Charge, Marine Inspection (OCMI) need the authority to allow alternatives to the requirements in these regulations that provide an equivalent level of protection for the environment, without having to grant an exemption. Proposed § 154.108 sets out the conditions for granting an exemption. An exemption does not require an equivalent level of protection of the environment; therefore, the procedures for obtaining an exemption are more stringent than those in proposed § 154.107.

5. The notification requirement in § 154.110(b)(3) is moved to proposed § 156.120(a) because it is an operational oil transfer requirement.

6. Proposed § 154.120(b) provides for the COTP to give a written report of inspection results to the facility operator for the record required by § 154.740(e).

7. Section 154.140 is moved to proposed § 156.112 because it is an operational oil transfer requirement.

8. Update and COTP review of the operations manual is incomplete. To improve control over the quality of the operations manual, new §§ 154.300(c) and (e) are added. No provision is made for facilities where English is not the predominant language.

Therefore, new § 154.300(a)(3) is added to require a bilingual operations manual when needed. Sections 154.760 and 154.770 are moved to new §§ 154.300 (b) and (f) and 154.320(b) to consolidate general operations manual requirements. Section 154.300(b) is moved to new § 154.300(d).

9. Review of the operations manual by operating and inspecting personnel is difficult because of the variety of formats. Proposed § 154.310 requires that the contents of the operations manual be listed in the order specified. The list of contents is expanded to include the proposed changes in Part 154.

10. New §§ 154.320(b) and (c) are added to allow the facility operator to initiate amendments to the operations manual.

11. New § 154.325 describes the letter of adequacy issued under new § 154.300 (e). A letter of adequacy is the means proposed by the Coast Guard to improve control over the quality of the operations manual by ensuring that the manual meets the requirements of this part and Part 156.

12. Proposed § 154.500 applies to all hoses because hoses of three inches inside diameter and less are often used to transfer oil and should meet design standards. Proposed § 154.500 also applies to all hoses regardless of the date of manufacture. By the time the proposed regulations are final most hoses manufactured before 1973 will be out of service. If a facility operator has an unused pre-1973 hose, then he may apply for an alternative under proposed § 154.107.

Sections 154.500(f) and (g) are changed by proposed §§ 154.500(e), (f), and (g). Proposed § 154.500(e) requires that the products for which the hose may be used and the maximum allowable working pressure (MAWP) must be marked on the hose. Proposed § 154.500 (g) requires that the burst pressure not be marked on the hose because the potential exists to mistake the burst pressure for the MAWP.

New § 154.500(h) is added to require that each hose used to transfer oil for fuel to a vessel that has a fill pipe for which containment is impractical must be equipped with an automatic back-pressure shutoff nozzle.

A note is added at the end of § 154.500 to inform readers of the availability of the American National Standards Institute (ANSI) standards mentioned in these regulations.

13. New § 154.510(b), requiring that manufacturers certify that a loading arm meets ANSI standards, is added to assist Coast Guard enforcement personnel in inspecting the facility.

14. Proposed § 154.520 requires closure devices for all hoses not in use to prevent oil spills resulting from residual oil in unblanked hoses.

15. When these regulations were first published, monitoring devices were in the developmental stage. Now, there are a number of devices on the market, and new § 154.525 is added to require installation of monitoring devices when the COTP determines that certain conditions exist.

16. Proposed § 154.530(a)(1) replaces § 154.530(b) and shows that the definition of hose handling and loading arm area applies whether the facility or the vessel is providing the hose.

The discharge containment sizes in § 154.530 are changed by proposed § 154.530(b) to correspond with the sizes now required in proposed § 155.310 for vessels, except that containment of less than 2 barrels is not allowed even for hoses of less than 6 inches inside diameter because fixed containment of less than 2 barrels at a facility is impractical.

Section 154.530(d) is changed by proposed § 154.530(c) to require that portable containment be at least ½ barrel capacity.

New § 154.530(d) is added to provide for portable containment for mobile facilities, because fixed containment of any size is impractical for a mobile facility.

17. In § 154.545, "ready access" is a vague term that causes unnecessary response delays. Therefore, new § 154.545(c) is added to require each facility to establish time delays for deployment of containment equipment, subject to approval by the COTP.

New § 154.545(d) is added to require the installation of oil containment material around vessels when the COTP determines that certain conditions exist.

18. Proposed § 154.550(a) deletes the requirement that the emergency shutdown communications system be separate from the routine communications system.

Proposed § 154.550(b) adds a requirement that the emergency shutdown means must be other than the valve at the dock manifold connection, to prevent the inadvertent release of a significant amount of oil if the valve at the dock manifold connection is damaged.

New § 154.550(c) sets time limits for emergency shutdown.

19. New paragraphs (c), (d), and (e) are added to § 154.560 to provide that the communications system must be usable at all times, may be the same as the system permitted for emergency shutdown, and must use intrinsically safe portable radio devices.

20. Proposed § 154.570 deletes the requirement for specific illumination intensities except when the illumination is apparently inadequate. When the illumination is apparently adequate, specific illumination intensities are required and the illumination levels prescribed in proposed § 154.570(b) must be met. New § 154.570(d) is added to require that lighting not interfere with navigation.

21. New § 154.740(f) is added to require that the declaration of inspection be available for inspection by the COTP.

22. Sections 154.760 and 154.770 are moved to proposed §§ 154.300 and 154.320 (see item 8), and § 154.780 is moved to proposed § 156.113 because they are operational oil transfer requirements.

23. The date in proposed § 155.100 is deleted since these regulations are already in effect.

24. Several definitions are added or reworded in proposed § 155.105.

25. New § 155.107 is added and § 155.110 is changed for the reasons stated in item 4.

26. Section 155.130 is moved to proposed § 156.112 because it is an operational oil transfer requirement.

27. Proposed § 155.310(a) reduces the overall size of containment on vessels and provides a further breakdown of containment sizes for hoses of less than 6 inches inside diameter.

New § 155.310(b) is added to allow portable containment on tank barges with coamings surrounding the cargo hatches.

28. The Notice of Proposed Rule Making for the existing Part 155, published 24 December 1971, proposed that a fixed or portable container of at least 14 U.S. gallons be installed on vessels. Section 155.320 was extensively modified in its final form in response to a request for relief for smaller vessels. However, instead of permitting the use of a smaller container on smaller vessels, the final rule switched to requiring a two barrel fixed container on new vessels and a five gallon portable container on existing vessels. The two barrel fixed containment in § 155.320 has proven to be excessively large. Accordingly, proposed § 155.320 reduces the size of fixed containment, differentiates between sizes of new vessels above 300 gross tons, and provides for small portable containers on new vessels under 300 gross tons while retaining small portable containers for all existing vessels (under § 155.320, an existing vessel is one constructed before 1 July 1974). Extending the requirement for fuel oil discharge containment to vessels under 100 gross tons is being considered, and regulations may be published upon determining the need.

29. Proposed §§ 155.330 through 155.410 require installation of 15 parts per million (p.p.m.) oil-water separators and bilge oil content alarms or bilge oil content monitors aboard all vessels of 100 gross tons or more operating in the navigable waters and contiguous zone of the United States.

Sections 155.330 through 155.410 require that vessels of 100 or more gross tons be fitted with fixed piping systems for discharge to reception facilities of oily residues from main and auxiliary machinery spaces and fuel oil tanks that carry ballast. An exception is allowed for those vessels installing oil-water separating equipment acceptable to the Commandant of the Coast Guard. This approach encourages installation of the fixed piping system for discharge to reception facilities, but does little to promote installation and use of oil-water separating equipment. The net result is that oily mixtures containing large volumes of water and small amounts of oil are retained onboard for discharge to reception facilities. Very few ports have adequate facilities for receiving and processing large volumes of mixtures containing little oil and vessel operators have discharged the untreated oily mixtures overboard in violation of the law.

These proposed regulations, by requiring installation and use of oil-water separating equipment would reduce the total volume of oily mixtures retained onboard and would also increase the oil content of the mixtures. Thus, much smaller storage and handling capacity would be sufficient at reception facilities. Processing to recover reusable oil would also be simplified. All of this would reduce the overall cost of reception facilities and would stimulate their construction. In some cases a vessel could combine the residue from an oil-water separator with fuel for use in the propulsion plant and not need to use reception facilities.

To facilitate the availability of acceptable 15 p.p.m. oil-water separators, bilge oil content monitors and alarms, the Coast Guard is proposing approval regulations for that equipment in 46 CFR 162.050 elsewhere in this issue of the FEDERAL REGISTER. Those proposed regulations are based on the specifications adopted at the Sixth Session of the Marine Environment Protection Committee (MEPC) of the Intergovernmental Maritime Consultative Organization (IMCO).

30. Proposed §§ 155.330(b)(2), (b)(3) and (b)(5)(ii) combine and clarify the requirements on a vessel's fixed piping system contained in §§ 155.340, 155.350, 155.370, and 155.380. Proposed §§ 155.330(b)(1) and 155.330(b)(4) specify requirements for the oily waste and slop retention system required in § 155.330. Proposed § 155.330(b)(5)(i) adds a requirement for sample points in the fixed piping system. Proposed §§ 155.330(b)(6), (b)(7) and (b)(8) require installation of 15 p.p.m. oil-water separators and oil-content monitors or alarms and set out the piping system design requirements. Proposed §§ 155.330(b)(1) and (b)(4) through (b)(8) are effective 2 years after the effective date of the final rule or at the vessel's first shipyard maintenance and repair availability after 6 months after publication of the final rule, whichever is earlier. This is done to allow vessel owners and operators to schedule the design work and equipment procurement necessary to comply with those requirements.

Several sources have indicated to the Coast Guard that a well designed oily mixture settling system might be capable of producing an effluent containing 15

p.p.m. of oil in water or less at significantly less cost than the purchase and installation of a 15 p.p.m. oil-water separator. Proposed § 155.330(c) allows substitution of an installed oily mixture settling system for the 15 p.p.m. oil-water separator required by proposed § 155.330(b)(6) if the settling system meets the design requirements in proposed §§ 155.330(c) (1) and (2) and if, after installation aboard the vessel, the settling system is acceptable to the Commandant (acceptance procedures to be proposed).

Proposed § 155.330(d) requires that each 15 p.p.m. oil-water separator, monitor, and alarm installed aboard a vessel after April 1, 1980 be approved by the Coast Guard under 46 CFR 162.050. (Elsewhere in this issue of the FEDERAL REGISTER.) The April 1, 1980, effective date for this requirement is proposed to allow time for approval testing of oil-water separating, monitoring, and alarm equipment.

Proposed § 155.330(d) does not apply to oil-water separators, bilge monitors, and bilge alarms installed on vessels before April 1, 1980. The question of whether separators, monitors, and alarms installed before April 1, 1980, should be required to meet the Coast Guard's applicable approval specifications is currently under study. Related questions, of whether separators, monitors, and alarms should be allowed to continue in service and, if so, under what conditions, are the subject of current discussion by the IMCO Marine Environment Protection Committee. The Coast Guard intends to issue regulations concerning existing installations after completion of its studies and the current IMCO discussions.

31. Proposed § 155.340 replaces and clarifies the requirements for oily waste and slop retention contained in § 155.330.

32. Proposed § 155.350 combines the requirements for bilge and fuel ballast residue pumping arrangements aboard vessels of less than 100 gross tons contained in §§ 155.360 and 155.390. Nothing in these proposed regulations requires installation of oil-water separating equipment aboard vessels of less than 100 gross tons; however, such vessels may, if they wish, install this equipment if it is installed and operated in accordance with proposed §§ 155.330(d) and 155.410.

33. The requirements for reception facility discharge points for vessels of less than 1600 gross tons in §§ 155.340(b)(2) and 155.370(b)(2) are moved to proposed § 155.360.

34. The requirements for shore connections applicable to uninspected U.S. vessels and all other vessels not in ocean or coastwise service in §§ 155.350(c) and 155.380(c) are moved to proposed § 155.370. Additionally, the requirement in § 155.350(c) that vessels not in ocean or coastwise service have shore connections meeting the specifications in appendix A to Part 155 or conforming to standard B16.5, Steel Pipe Flanges and Flanged Fittings or B16.31, Nonferrous Pipe Flanges, of the American National Standards Institute for a 4 inch standard flange has been deleted and replaced with a requirement that each shore connection or portable adapter on the vessel must fit the connections at each reception facility to which the vessel transfers oily residues.

35. Proposed § 155.380 exempts any vessel, that has a means onboard to burn as fuel, incinerate, or otherwise consume all oil residues, from the requirements for fixed reception facility discharge points and installed discharge pumps contained in proposed §§ 155.330(b)(2) and (b)(3) if the vessel has any means to transfer oil residues to a reception facility.

36. Proposed § 155.390 exempts any tank vessel, that combines all other oily mixtures with oily cargo residues for transfer and discharge in accordance with the requirements of Part 157 of this chapter, from the requirements in proposed § 155.330.

37. Proposed § 155.400 requires that a vessel operator have on board, and use, the instruction manual for the fixed piping system and each oil-water separator, oily mixture settling system, and bilge oil content monitor or alarm. This requirement is proposed to ensure that vessel operators have available and use the information necessary to operate in compliance with the discharge regulations contained in proposed § 155.410.

38. Proposed § 155.410 contains requirements for overboard discharges of oily mixtures. Proposed § 155.410(a) requires that each overboard discharge of an oily mixture into the navigable waters, or the contiguous zone, that is not combined with oily cargo residues, be made through a properly operating 15 p.p.m. separator and bilge monitor or alarm (as noted in item 30, § 155.330(c) provides that an oily mixture settling system acceptable to the Coast Guard may be substituted for the 15 p.p.m. separator). The 15 p.p.m. oil in water standard is contained in Annex I to the International Convention for the Prevention of Pollution from Ships, 1973. Proposed § 155.410(a)(2) notes the requirement that any overboard discharge of an oily mixture must conform to the limit prescribed by the Environmental Protection Agency (EPA) in 40 CFR 110.

That limit provides that a discharge may not create a sludge or emulsion or produce visible traces of oil in the water or along adjoining shorelines. The Coast Guard is currently having discussions with the EPA on the question of whether a discharge concentration of 15 p.p.m. oil in water is within the discharge limit prescribed by EPA regulations.

Proposed § 155.410(b) requires that each discharge of an oily mixture, that is not combined with an oily cargo residue, made from a U.S. vessel beyond twelve miles from the nearest land be made while the vessel is proceeding en route and at a concentration of 100 p.p.m. or less of oil in water. The 100 p.p.m. standard is contained in Annex I to the International Convention for the Prevention of Pollution from Ships, 1973.

Proposed § 155.410(c) requires that discharges of oily cargo residues and of oily mixtures combined with oily cargo residues meet Part 157 of this chapter.

Proposed § 155.410(d) establishes an effective date 2 years after the effective date of the final rule for the requirements in proposed §§ 155.410(a) and 155.410(b). This is intended to allow time for vessel owners and operators to accomplish the design, procurement and installation work necessary to comply with the discharge requirements.

39. The purpose of § 155.440 is to inform operating personnel of the prohibition against and the penalty for oil discharges. Proposed § 155.440 deletes the exception for foreign vessels and adds a requirement for the placard to be printed in the language(s) of the crew.

40. Section 155.480 is deleted since it duplicates regulations in 46 CFR 61.

41. Proposed changes to § 155.710 were recently published in the FEDERAL REGISTER at 42 FR 21190. Proposed § 155.710 in this document reflects those proposed changes. Comments on this proposed section should reference docket number CGD 74-044a.

42. Proposed § 155.720 clarifies that the requirement for oil transfer procedures also applies to transfers from tank to tank within a vessel because they are a potential spill source.

43. New § 155.740(c) is added to require that the vessel operator makes the oil transfer procedures available for inspection by the COTP or OCMI.

44. Proposed § 155.750 reflects proposed changes to Part 155. New § 155.750(o) requires cargo information for vessels, similar to the requirement for facilities in § 154.310(a)(6).

45. Sections 155.760, 155.770, and 155.780 are reworded for clarity, and the term U.S. is deleted from proposed § 155.770 to prohibit the draining of oil into bilges on all vessels.

46. New § 155.785, which is similar to proposed § 154.770, is added to regulate communications during vessel to vessel oil transfers (see item 19).

47. Proposed § 155.790 changes the lighting requirements for the same reasons as § 154.570 (see item 20).

48. The oil transfer hose use requirements in § 155.800 are moved to proposed § 156.120(k).

49. New § 155.805 is added to require that vessels have the means to blank off their hoses when not in use, which is similar to proposed § 154.520.

50. New § 155.815 is added to require that all vessel openings that could let water in or oil out are properly secured when the vessel is underway.

51. Section 155.820(d) is deleted because the requirement for valve inspection (§ 155.480) is deleted (see item 40). Proposed § 155.820(d) requires that the declaration of inspection be available for inspection by the COTP or OCMI.

52. Proposed § 156.100 includes public vessels and deletes the exceptions for lube oil and non petroleum based oil for the same reasons as proposed § 154.100 (see item 2).

The exception for the transfer operation on a public vessel is added because public vessels are exempt from compliance with the regulations, even though the transfer operation on a facility or other vessel transferring oil to or from a public vessel is not exempt.

53. Several definitions are added or reworded in proposed § 156.105.

54. Section 156.107 is changed and new § 156.110 is added for the reasons stated in item 4.

55. Sections 154.140, 154.780, and 155.130 are moved to new §§ 156.112 and 156.113 because they are operational oil transfer requirements.

56. Proposed § 156.115, presently § 156.110 deletes the specific conditions for serving as a person in charge of more than one vessel, which are unnecessarily restrictive, and replaces them with COTP authorization.

57. Generally, § 156.120 is changed for clarity. Some new requirements are added, and some paragraphs are moved within the section. A discussion of the specific changes follows:

a. The requirement to notify the COTP of oil transfer operations is moved from § 154.110(b) to proposed § 156.120(a) for the reasons stated in item 5. It is expanded to cover all transfers, instead of just mobile facility transfers, because the Coast Guard is unaware of numerous transfers that occur.

b. Proposed § 156.120(d) requires that hose should be supported to prevent kinking, as well as strain on the coupling.

c. New § 156.120(g) is added to require the use of the closure devices required by proposed §§ 154.520 and 155.805.

d. Proposed § 156.120(h) adds an exception for loading and unloading of deep tanks from the fixed connection requirement.

e. Proposed § 156.120(i) prevents simultaneous cargo transfer and ballasting or deballasting of cargo tanks, and still permits ballasting or deballasting of segregated ballast tanks while transferring cargo, because the piping and pumps are separate systems. The provisions requiring locking of valves is deleted because it is an unsafe practice and is prohibited under 46 CFR 35.35–10.

f. Proposed § 156.120(j) adds a definition of reinforcement.

g. New § 156.120(k) is added to replace the portion of § 155.800 regarding oil transfer hose use requirements.

h. New § 156.120(m) is added to ensure that monitoring devices required by proposed § 154.525 are being used.

i Proposed § 156.120(n) requires that any liquid be drained from containment to prevent any reduction in the capacity of containment.

j. Proposed § 156.120(p) prohibits any leaking connections except components of the oil transfer system that are inherently leaky, such as the packing glands of a pump.

k. New §§ 156.120 (s) and (t) are added and § 156.120(o) is reworded and moved to proposed § 156.120(u) to describe the responsibilities of the person in charge and other personnel on duty during oil transfers.

1. Proposed § 156.120(z) applies only to transfers between tank barges, because lighting for any other vessel to vessel transfer, involving at least one self-propelled vessel, is required by proposed § 155.790.

58. New § 156.125 requires that, whenever an oil discharge occurs, the oil transfer operation must be stopped and clean up started before the oil transfer operation may be resumed.

59. Section 156.130 is reworded for clarity.

60. Proposed §§ 156.150 (a) and (b) require each person in charge to inspect his own area of responsibility and to fill out the declaration of inspection.

Sections 156.150 (e) and (f) are combined in proposed § 156.150(f). Proposed § 156.150(f) requires that the vessel operator retain the declaration of inspection for all transfers, not just vessel to vessel transfers.

New § 156.150(e) is added to require the persons in charge to have signed copies of the declaration of inspection available for inspection by the COPT during the oil transfer operation.

61. Section 156.160(a) is reworded for clarity.

62. Section 156.170(a) is reworded for clarity. Proposed § 156.170(b) deletes the requirement that hose be tested in a straight and horizontal position, which will allow the hose to be tested in place and connections to be tested with the hose. Proposed § 156.170(c) changes the pressure to which equipment must be tested to 1½ times the maximum allowable working pressure (MAWP). This corresponds to 33 CFR 126.15(o) and is safer because it would prevent the present situation that allows testing of a hose at a low relief valve setting and use at a higher relief valve setting. New § 156.170(e) is added to allow the use of any liquid in testing of equipment.

This proposal has been reviewed for economic and inflationary impact under Department of Transportation "Policies to Improve Analysis and Review of Regulations" (41 FR 16200). The proposed regulation would affect approximately 6703 U.S. vessels and 3500–5500 foreign vessels. Cost for purchase and installation of the equipment would vary from $19,500 to $26,000 per vessel. Assuming that all U.S. vessel costs and one half foreign vessel costs would be passed to U.S. consumers dollar for dollar and the cost would be amortized over 10 years, the annual cost to the U.S. consumer would be $23.2 million. The increased cost for U.S. vessels would be divided among the different services as listed by the Merchant Vessel Documentation Division of the Coast Guard. The greatest cost, $65,364,000, would be to the towing service, over a two year period.

The proposed amendment would benefit the U.S. by reducing accidental discharges of oil or oily wastes during vessel operations and during the transfer of oil or oily wastes to or from vessels. Certain proposed changes would also facilitate enforcement of the regulations by the Coast Guard.

In consideration of the foregoing, the Coast Guard proposes to revise Parts 154, 155, and 156 of Title 33, Code of Federal Regulations to read as follows:

PART 154—OIL TRANSFER FACILITIES

Subpart A—General

Sec.
154.100 Applicability.
154.105 Definitions.
154.107 Alternatives.
154.108 Exemptions.
154.110 Letter of intent.
154.120 Facility inspection.

Subpart B—Operations Manual

154.300 Operations manual: General.
154.310 Operations manual: Contents.
154.320 Operations manual: Amendment.
154.325 Operations manual: Letter of adequacy.

Subpart C—Equipment Requirements

154.500 Hose assemblies.
154.510 Loading arms.
154.520 Closure devices.
154.525 Monitoring devices.
154.530 Small discharge containment.
154.540 Discharge removal.
154.545 Discharge containment equipment.
154.550 Emergency shutdown.
154.560 Communications.
154.570 Lighting.

Subpart D—Facility Operations

154.700 General.
154.710 Persons in charge: Designation and qualification.
154.730 Persons in charge: Evidence of designation.
154.740 Records.
154.750 Compliance with operational manual.

AUTHORITY: The provisions of this Part 154 issued under section 311(j)(1)(C) of the Federal Water Pollution Control Act (86 Stat. 816, 868); 33 U.S.C. 1321(j)(1)(C); E.O. 11735, 3 CFR, 1966–1970 COMP., p. 949; 49 CFR 1.46(m).

Subpart A—General

§ 154.100 Applicability.

(a) Except as provided in paragraphs (b) and (c), this part applies to each facility that transfers oil in bulk to or from any vessel or public vessel with a capacity of 250 or more barrels of that oil.

(b) This part does not apply to a facility in a caretaker status (one that is not operational or not capable of conducting transfer operations).

(c) This part does not apply to a marina (a facility that servicse primarily pleasure craft) unless it is transferring oil in bulk to or from any vessel or public vessel with a capacity of 250 or more barrels of that oil.

§ 154.105 Definitions.

As used in this part:

"Barrel" means the unit of liquid measure equivalent to 42 U.S. gallons at 60° Fahrenheit.

"Captain of the Port" (COTP) means the U.S. Coast Guard officer commanding a Captain of the Port Area described in Part 3 of this chapter, or his authorized representative, or where there is no Captain of the Port Area, a District Commander of a Coast Guard District described in Part 3 of this Chapter, or his authorized representative.

"Commandant" means the Commandant of the Coast Guard or his authorized representative.

"Discharge" includes but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

"District Commander" means the officer of the Coast Guard designated by the Commandant to command a Coast Guard District, as described in Part 3 of this chapter or his authorized representative.

"Facility" means either an onshore facility or an offshore facility and includes, but is not limited to, structures, equipment, and appurtenances thereto, used or capable of being used to transfer oil to or from a vessel or a public vessel. A facility includes federal, state, municipal, and private facilities.

"Facility operator" means the person who owns, operates, or is responsible for the operation of the facility.

"Incompatible products" means products that, when mixed, create a hazard, such as spontaneous combustion or energy release or form a product that is hazardous to health.

"Mobile facility" means any facility that can readily change location, such as a tank truck or tank car, other than a vessel or public vessel.

"Monitoring device" means any sensing device used to monitor the waters for a discharge of oil, within or around a facility, and designed to notify operating personnel of a discharge of oil.

"Officer in Charge, Marine Inspection" (OCMI) means the U.S. Coast Guard officer commanding a Marine Inspection Zone described in Part 3 of this chapter, or his authorized representative.

"Offshore facility" means any facility of any kind located in, on, or under any of the navigable waters of the United States other than a vessel or a public vessel.

"Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil. For the purposes of this part liquefied natural gas and liquefied petroleum gas (LNG and LPG) are excluded.

"Onshore facility" means any facility (including, but not limited to, mobile facilities) of any kind located in, on, or under any land within the United States, other than submerged land.

"Person" includes an individual, firm, corporation, association, and partnership.

"Person in charge" means an individual designated as a person in charge of oil transfer operations under § 154.710 or 155.700 of this chapter.

"Public vessel" means a vessel owned or bare-boat chartered and operated by the United States, or by a state or political subdivision thereof, or by a foreign nation, except when such a vessel is engaged in commerce.

"Tank vessel" means any vessel that carries or is capable of carrying liquid bulk cargo in tanks.

"Vessel" means every description of watercraft or other artificial contrivance, whether U.S. or foreign, used or capable of being used as a means of transportation on water, other than a public vessel.

§ 154.107 Alternatives.

(a) The COTP may consider and approve alternative procedures, methods, or equipment standards to be used by a facility operator in lieu of any requirements in this part if—

(1) The facility operator submits a written request for the alternative at least 30 days before operations under the alternative are proposed, unless the COTP authorizes a shorter time; and

(2) The alternative provides an equivalent level of protection from pollution by oil.

(b) The COTP approves or disapproves any alternative requested, either in writing, or orally followed up in writing.

§ 154.108 Exemptions.

(a) The Commandant may grant an exemption or partial exemption from compliance with any requirement in this part if—

(1) The facility operator submits an application for the exemption to the Commandant via the COTP at least 30 days before operations under the exemption are proposed, unless the COTP authorizes a shorter time; and

(2) The Commandant determines from the application that—

(i) Compliance with the requirement is economically or physically impractical;

(ii) No alternative procedures, methods, or equipment standards exist that would provide an equivalent level of protection from pollution by oil; and

(iii) The likelihood of oil being discharged as a result of the exemption is minimal.

(b) In making the determinations in paragraph (a), the Commandant may require—

(1) Any appropriate information, including an environmental and economic assessment of the effects of and reasons for the exemption; and

(2) Procedures, methods, or equipment standards, even though they may provide less than an equivalent level of protection from pollution by oil.

(c) The Commandant grants or denies an exemption in writing.

§ 154.110 Letter of intent.

(a) The facility operator of any facility to which this part applies must submit a letter of intent to operate a facility or to conduct mobile facility operations to the COTP not less than 60 days before the intended operations unless a shorter period is allowed by the COTP.

(b) The letter of intent required by paragraph (a) may be in any form but must contain—

(1) The name, address, and telephone number of the facility operator;

(2) The name, address, and telephone number of the facility or, in the case of a mobile facility, the dispatching office; and

(3) Except for a mobile facility, the geographical location of the facility in relation to the associated body of navigable waters.

(c) The facility operator of any facility for which a letter of intent has been submitted, shall immediately advise the COTP in writing of any changes of information that are different from the letter and shall cancel, in writing, the letter for any facility at which oil transfer operations are no longer conducted.

§ 154.120 Facility inspections.

(a) The facility operator shall allow the Commandant, at any time, to make any inspection and shall perform, upon request, any test to determine compliance with the Federal Water Pollution Control Act and this part. The facility operator shall conduct all required testing of facility equipment in a manner acceptable to the Commandant.

(b) The COTP provides the facility operator with a written report of the results of the inspection for the record required by §154.740(e) and lists the deficiencies in the report when the facility is not in compliance with the requirements in this part and Part 156 of this chapter.

Subpart B—Operations Manual

§ 154.300 Operations manual: general.

(a) The facility operator of each facility to which this part applies must submit, with his letter of intent, an operations manual that:

(1) Describes how the applicant meets the operating rules and equipment requirements prescribed by this part and Part 156 of this chapter;

(2) Describes the responsibilities of personnel under this part and Part 156 of this chapter in conducting oil transfer operations; and

(3) Includes translations into a language or languages understood by facility personnel on duty for transfer operations.

(b) The facility operator shall maintain the operations manual so that it is:

(1) Current; and

(2) Readily available for inspection by the COTP.

(c) The COTP reviews the operations manual when submitted and biennially thereafter.

(d) In determining whether the manual meets the requirements of this part and part 156 of this chapter the COTP considers the size, complexity, and capacity of the facility.

(e) If the manual meets the requirements of this part and part 156 of this chapter, the COTP issues a "letter of adequacy" as described in § 154.325.

(f) The facility operator shall ensure that a sufficient number of copies of the operations manual, including a sufficient number of the translations required by paragraph (a)(3), are available so that each person in charge has a copy when he is conducting an oil transfer operation.

NOTE.—The facility operator may request that the contents of the operations manual be considered commercial or financial information that is privileged or confidential. Under the Freedom of Information Act, the Coast Guard would withhold any part of the

contents of the operations manual from public disclosure upon determining that it is commercial or financial information that is privileged or confidential.

§ 154.310 Operations manual: contents.

(a) Each operations manual required by § 154.300 must contain, in the order listed:

(1) The geographic location of the facility;

(2) A physical description of the facility including a plan of the facility showing mooring areas, transfer locations, control stations, and locations of safety equipment;

(3) The hours of operation of the facility;

(4) The sizes, types, and number of vessels that the facility can transfer oil to or from simultaneously;

(5) The number and location of operations manuals for use by transfer personnel;

(6) For each product transferred at the facility:

(i) Grade and trade name; and

(ii) Cargo information as described in 46 CFR 151.45–2(e)(3);

(7) The grade and trade name of each product transferred at the facility that is incompatible with oil;

(8) The minimum number of persons on duty during transfer operations and their duties;

(9) The names and telephone numbers of facility, Coast Guard, and other personnel who may be called by the employees of the facility in an emergency;

(10) The duties of watchmen, required by § 155.810 of this chapter and 46 CFR 35.05–15, for unmanned vessels moored at the facility;

(11) A description of each communication system required by this part;

(12) The location and facilities of each personnel shelter, if any;

(13) A description and instructions for the use of drip and discharge collection and vessel slop reception facilities, if any;

(14) A description and the location of each emergency shutdown system;

(15) Quantity, types, locations, and instructions for use of monitoring devices required by § 154.525;

(16) Quantity, type, location, and instructions for use of the containment equipment required by § 154.545;

(17) Quantity, type, location, and instructions for use of fire extinguishing equipment required by § 126.15(j) of this chapter;

(18) The maximum relief valve setting (or maximum system pressure when relief valves are not provided) for each oil transfer system;

(19) Procedures for:

(i) Operating each loading arm including the limitations of each loading arm;

(ii) Transferring oil;

(iii) Completion of pumping; and

(iv) Emergencies;

(20) A contingency plan for reporting and containing oil discharges;

(21) A brief summary of applicable federal, state, and local oil pollution laws and regulations;

(22) The time limits for gaining access to containment material and equipment established by § 154.545; and

(23) Procedures for shielding portable lighting authorized by the COTP under § 154.570(c); and

(24) A description of the training and qualification program for persons in charge.

(b) The facility operator shall place the letter of adequacy when issued in the front of the operations manual and shall place exemptions or alternatives granted immediately after it.

(c) The facility operator shall incorporate each amendment to the operations manual under § 154.320 in the manual with the related existing requirement, or add the amendment at the end of the manual if not related to an existing requirement.

§ 154.320 Operations manual: amendment.

(a) The COTP requires the facility operator to amend the operations manual if the COTP finds that the operations manual does not meet the requirements in this part using the following procedures:

(1) The COTP notifies the facility operator in writing of the proposed amendment and a date not less than 14 days after the notification, on or before which the facility operator may submit written information, views, and arguments on the proposed amendment. After considering all relevent material presented, the COTP notifies the facility operator of any amendment required or of his decision to rescind the notice. The amendment becomes effective 30 days after the date of that notice unless the facility operator petitions the Commandant to reconsider the notice, in which case its effective date is stayed pending a decision by the Commandant. Petitions to the Commandant must be submitted in writing to the COTP.

(2) If the COTP finds that there is a condition requiring immediate action to prevent the discharge or risk of discharge of oil that makes the procedure in paragraph (a)(1) of this section impractical or contrary to the public interest, he may issue an amendment effective on the date the facility operator receives notice of it. In such a case, the COTP includes a brief statement of the reasons for his findings in the notice, and the owner or operator may petition the Commandant to reconsider the amendment. The petition does not stay the amendment.

(b) The facility operator may amend the operations manual by:

(1) Submitting proposed amendments and reasons for the amendments to the COTP not less than 30 days before the requested date of the proposed amendment; or

(2) If an immediate amendment is needed, requesting the COTP to approve the amendment immediately.

(c) The COTP responds to proposed amendments submitted under paragraph (b) of this section by:

(1) Approving or disapproving the proposed amendments;

(2) Advising the facility operator whether the request is approved in writing before the requested date of the amendments;

(3) Including any reasons in the written response if the request is disapproved; and

(4) If the request is made under paragraph (b)(2) of this section, immediately approving or rejecting the request.

§ 154.325 Operations manual: letter of adequacy.

(a) The letter of adequacy is a letter from the COTP to the facility operator, certifying that the operations manual meets the requirements of this part.

(b) No person may use an operations manual for oil transfer operations, as required by § 156.120(t)(2), (t)(3), and (u)(2) of this chapter, unless the facility operator has a valid letter of adequacy for the operations manual.

(c) The requirement in paragraph (b) for a valid letter of adequacy is effective on (date two years after effective date of the final rule) or upon issuance to a facility operator of his first letter of adequacy, whichever is earlier.

(d) The letter of adequacy is invalid if the facility operator:

(1) Amends the operations manual without following the procedures in § 154.320; or

(2) Fails to amend the operations manual when required by the COTP.

Subpart C—Equipment Requirements

§ 154.500 Hose assemblies.

Each hose assembly used for transferring oil must meet the following requirements:

(a) The minimum bursting pressure for each hose assembly must be:

(1) 600 pounds or more per square inch; and

(2) At least four times the pressure of the relief valve setting (or four times the maximum pump pressure when no relief valve is installed) plus the static head pressure of the oil transfer system at the point where the hose is installed.

(b) The maximum allowable working pressure for each hose assembly must be:

(1) 150 pounds or more per square inch; and

(2) More than the pressure of the relief valve setting (or the maximum pump pressure when no valve is installed) plus the static head pressure of the oil transfer system at the point where the hose is installed.

(c) Each nonmetallic hose must be usable for oil service.

(d) Each hose assembly must have:

(1) Full threated connections;

(2) Flanges that meet standard B16.5, *Steel Pipe Flanges and Flange Fittings*, or standard B16.24, *Brass or Bronze Pipe Flanges*, of the American National Standards Institute (ANSI) ', or

(3) Quick-connect couplings that are acceptable to the Commandant.

(e) Except as provided in paragraph (f) of this section, each hose must be marked with—

(1) Product and grade for which the hose may be used;

(2) Maximum allowable working pressure;

(3) Date of manufacture;

(4) Date of the latest test required by § 156.170 of this chapter; and

(5) The pressure used for that test.

(f) The information required by paragraphs (e)(3) through (e)(5) of this section need not be marked on the hose if it is recorded elsewhere at the facility and the hose is marked to idenify it with that information.

(g) The hose burst pressure may not be marked on the hose and must be recorded elsewhere at the facility as described in paragraph (f) of this section.

(h) Each hose used to transfer oil for fuel to a vessel that has a fill pipe for which containment can not practically be provided must be equipped with an automatic back-pressure shutoff nozzle.

NOTE.—American National Standards Institute (ANSI) standards are published by and may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, N.Y. 10017.

§ 154.510 Loading arms.

(a) Each mechanical loading arm used for transferring oil must meet the design, fabrication, material, inspection, and testing requirements in ANSI Standard B31.3, *Petroleum Refinery Piping* (see Note § 154.500).

(b) The manufacturer's certification that the standard in paragraph (a) of this section has been met must be permanently marked on the loading arm or recorded elsewhere at the facility with the loading arm marked to identify it with that information

(c) Each mechanical loading arm used for transferring oil must have a means of being drained or closed before disconnecting after transfer of oil.

§ 154.520 Closure devices.

The facility must have enough butterfly valves, wafer-type resilient seated valves, blank flanges, or other means acceptable to the COTP to blank off each end of each hose or loading arm that is not connected for the transfer of oil.

§ 154.525 Monitoring devices.

The COTP may require the facility to install monitoring devices if—

(a) The environmental sensitivity of the area requires added protection;

(b) The products transferred at the facility pose a significant threat to the environment;

(c) The size or complexity of the transfer operation poses a significant potential for a discharge of oil; or

(d) The installation of monitoring devices at the facility would significantly decrease the likelihood or the size of a discharge of oil.

§ 154.530 Small discharge containment.

(a) Except as provided in paragraphs (c) and (d) of this section, the facility must have fixed catchments, curbing, or other fixed means to contain oil discharged in at least—

(1) Each hose handling and loading arm area (that area on the facility that is within the area traversed by the free end of the hose or loading arm when moved from its normal stowed or idle position into a position for connection); and

(2) Each hose connection manifold area.

(b) The discharge containment means required by paragraph (a) of this section must hold at least—

(1) Two barrels if it serves one or more hoses of 6-inch inside diameter or smaller, or loading arms of 6-inch nominal pipe size diameter or smaller;

(2) Three barrels if it serves one or more hoses larger than 6-inch inside diameter, or loading arms larger than 6-inch nominal pipe size diameter, but less than 12-inch diameter; or

(3) Four barrels if it serves one or more hoses of 12-inch inside diameter or larger, or loading arms of 12-inch nominal pipe size diameter or larger.

(c) The facility may use portable means of not less than ½ barrel capacity each to meet the requirements of paragraph (a) of this section for part or all of the facility if the COTP finds that fixed means to contain oil discharges are not feasible.

(d) A mobile facility may have portable means of not less than five gallons capacity to meet the requirements of paragraph (a) of this section.

§ 154.540 Discharge removal.

The facility must have a means to safely and quickly remove discharged oil from the containment means required by § 154.530 without mixing incompatible products or discharging the oil into the water.

§ 154.545 Discharge containment equipment.

(a) Each facility must have ready access to enough oil containment material and equipment to contain any oil discharged on the water.

(b) For the purpose of this section, "access" may be by direct ownership, joint ownership, cooperative venture, or contractual agreement.

(c) Each facility must establish time limits, subject to approval by the COTP, for deployment of the containment material and equipment required by paragraph (a) of this section considering—

(1) Oil handling rates;

(2) Oil capacity susceptible to being spilled;

(3) Frequency of facility operations;

(4) Tidal and current conditions;

(5) Facility age, and configuration; and

(6) Past record of discharges.

(d) The COTP may require the facility to surround each vessel conducting an oil transfer operation with oil containment material before commencing the oil transfer operation if—

(1) The environmental sensitivity of the area requires the added protection;

(2) The products transferred at the facility pose a significant threat to the environment;

(3) The past record of discharges at the facility is poor;

(4) The size or complexity of the transfer operation poses a significant potential for a discharge of oil; or

(5) The current in the area is such that this action would provide the only chance of containing any oil discharged.

§ 154.550 Emergency shutdown.

(a) The facility must have an emergency means to enable the person-in-charge of the transfer of oil on board the vessel, at his usual operating station, to stop the flow of oil from the facility to the vessel. This means must be—

(1) An electrical, pneumatic, or mechanical linkage to the facility; or

(2) An electronic voice commuications system continuously manned by a person on the facility who can remotely stop the flow of oil immediately.

(b) The point in the oil transfer system at which the emergency means stops the flow of oil on the facility must be located near the dock manifold connection to minimize the loss of oil in the event of the rupture or failure of the—

(1) Hose;

(2) Loading arm; or

(3) Manifold valve.

(c) The means required by paragraph (a) of this section must be able to stop the flow of oil in—

(1) 60 seconds on a facility constructed before (date one day after effective date of the final rule); and

(2) 30 seconds on a facility constructed after (effective date of the final rule).

§ 154.560 Communications.

(a) Each facility must have a means that enables continuous two-way voice communication between the person in charge of the vessel transfer operation and the person in charge of the facility transfer operation.

(b) Each facility must have a means, which may be the communications system itself, that enables a person on board a vessel or on the facility to effectively indicate his desire to use the means of communication required by paragraph (a) of this section.

(c) The means required by paragraph (a) of this section must be usable and effective in all phases of the transfer operation and all conditions of weather at the facility.

(d) The facility may use the system in § 154.550(a)(2) to meet the requirement of paragraph (a) of this section.

(e) Portable radio devices used to comply with paragraph (a) of this section must meet U.L. Class I, Group D requirements or their equivalent (intrinsically safe, as defined in 46 CFR 111.80) during transfers of flammable liquids, as defined in 46 CFR 30.10.

§ 154.570 Lighting.

(a) Except as provided in paragraph (c) of this section, for operations between sunset and sunrise, the facility

must have fixed lighting that adequately illuminates—

(1) Each transfer connection point on the facility;

(2) Each transfer connection point in use on any barge moored at the facility to or from which oil is being transferred;

(3) Each oil transfer operations work area on the facility; and

(4) Each oil transfer operations work area on any barge moored at the facility to or from which oil is being transferred.

(b) Where the illumination is apparently inadequate, the COTP may require verification by instrument of the levels of illumination. On a horizontal plane 3 feet above the barge deck or walking surface, illumination must measure at least—

(1) 2.5 foot candles at transfer connection points; and

(2) 0.5 foot candles in oil transfer operations work areas.

(c) For small or remote facilities, the COTP may authorize operations with an adequate level of illumination provided by the vessel or by portable means.

(d) Lighting must be located or shielded so as not to interfere with navigation on the adjacent waterways.

Subpart D—Facility Operations

§ 154.700 General.

No person may operate a facility unless the equipment, personnel, and operating procedures of that facility meet the requirements of this part.

§ 154.710 Persons in charge: designation and qualification.

No person may serve, and no facility operator may use the services of a person, as person in charge of any facility oil transfer operation unless—

(a) The facility operator has designated that person as a person in charge and has advised the COTP in writing of his designation;

(b) The person has had at least 48 hours of experience at a facility in oil transfer operations to which this part applies;

(c) The person has enough experience at the facility for which qualification is desired to enable the facility operator to determine that this experience is adequate and that he can operate the oil transfer equipment of the facility, except that, for new facilities, the COTP may authorize alternative experience requirements; and

(d) The facility operator has determined that the person knows—

(1) The hazards of each product transferred;

(2) The rules in this part and in Part 156 of this chapter;

(3) The facility operating procedures as described in the operations manual;

(4) Vessel oil transfer systems; in general;

(5) Vessel oil transfer control systems, in general;

(6) Each facility oil transfer control system used;

(7) Local discharge reporting procedures; and

(8) The facility's contingency plan for discharge reporting and containment.

§ 154.730 Person in charge: evidence of designation.

Each person in charge must carry evidence of his designation as a person in charge when he is engaged in transfer operations unless such evidence is immediately available at the facility.

§ 154.740 Records.

Each facility operator must keep at the facility and make available for inspection by the COTP—

(a) A copy of the letter of intent for the facility;

(b) The name of each person currently designated as a person in charge of oil transfer operations at the facility;

(c) The date and result of the most recent test or inspection of each item tested or inspected under § 156.170 of this chapter;

(d) The hose information required by § 154.500 (e) and (g) except that marked on the hose;

(e) The record of each inspection of the facility by the COTP; and

(f) The Declaration of Inspection required by § 156.150(f) of this chapter.

§ 154.750 Compliance with operations manual.

The facility operator must use and require facility personnel to use the procedures in the operations manual prescribed by § 154.300 for operations under this part.

PART 155—VESSEL DESIGN AND OPERATIONS

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APPENDIX A—Specifications for shore connection.

AUTHORITY: The provisions of this Part 155 issued under section 311(j)(1) (C) and (D) of the Federal Water Pollution Control Act (86 Stat. 816,868); 33 U.S.C. 1321(j)(1) (C) and (D); E.O. 11735, 3 CFR, 1966–1970 COMP., p. 949; 49 CFR 1.46(m).

Subpart A—General

§ 155.100 Applicability.

This part prescribes rules that apply to the operation of vessels on the navigable waters and contiguous zone of the United States for the purpose of preventing the discharge of oil into or upon the navigable waters or contiguous zone of the United States. U.S. vessels must meet the vessel design and equipment requirements in this part to be eligible for the issuance of a Certificate of Inspection under 46 CFR Ch. I.

§ 155.105 Definitions.

As used in this part:

"Barrel" means the unit of liquid measure equivalent to 42 U.S. gallons at 60° Fahrenheit.

"Captain of the Port" (COTP) means the U.S. Coast Guard officer commanding a Captain of the Port area described in Part 3 of this chapter, or his authorized representative or, where there is no Captain of the Port area, a District Commander of a Coast Guard District described in Part 3 of this chapter, or his authorized representative.

"Commandant" means the Commandant of the U.S. Coast Guard or his authorized representative.

"Contiguous zone" means the entire zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone, but not extending beyond 12 miles from the baseline from which the breadth of the territorial sea is measured.

"Discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

"District Commander" means the officer of the Coast Guard designated by the Commandant to command a Coast Guard District as described in Part 3, of this chapter or his authorized representative.

"Facility" means either an onshore facility or an offshore facility and includes, but is not limited to, structures, equipment and appurtenances thereto, used or capable of being used to transfer oil to or from a vessel or a public vessel. A facility includes federal, state, municipal, and private facilities.

"Incompatible products" means products that, when mixed, create a hazard such as spontaneous combustion or energy release or form a product that is hazardous to health.

"Mobile facility" means any facility that can readily change location, such as a tank car or tank truck, other than a vessel or public vessel.

"Officer in Charge, Marine Inspection" (OCMI) means the U.S. Coast Guard officer commanding a Marine Inspection Zone described in Part 3 of this chapter, or his authorized representative.

"Offshore facility" means any facility of ayn kind located in, on, or under any of the navigable waters of the United States other than a vessel or a public vessel.

"Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil. For the purpose of this part liquefied natural gas and liquefied petroleum gas (LNG and LPG) are excluded.

"Onshore facility" means any facility (including but not limited to, a mobile facility) of any kind located in, on, or under any land within the United States other than submerged land.

"Person" includes an individual, firm, corporation, association, and partnership.

"Person in Charge" means an individual designated as a person in charge of oil transfer operation under §§ 154.710 or 155.700 of this chapter.

"Public vessel" means a vessel owned or bare-boat chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such a vessel is engaged in commerce.

"Tank vessel" means any vessel that carries or is capable of carrying liquid bulk cargo in tanks.

"Tank barge" means any tank vessel not equipped with a means of self-propulsion.

"U.S. vessel" means a vessel that is owned, documented, or registered in the United States and that is not a public vessel.

"Vessel" means every description of watercraft or other artificial contrivance, whether U.S. or foreign, used or capable of being used as a means of transportation on water, other than a public vessel.

"Vessel operator" means a person who owns, operates, or is responsible for the operation of a vessel.

§ 155.107 Alternatives.

(a) The COTP or OCMI may consider and approve alternative procedures, methods, or equipment standards to be used by a vessel operator in lieu of any requirements in this part if—

(1) The vessel operator submits a written request for the alternative to be considered at least 30 days before operations under the alternative are proposed, unless the COTP authorizes a shorter time; and

(2) The alternative provides an equivalent level of protection from pollution by oil.

(b) The COTP or OCMI approves or disapproves any alternative requested, either in writing, or orally followed up in writing.

§ 155.110 Exemptions.

(a) The Commandant may grant an exemption or partial exemption from compliance with any requirement in this part if—

(1) The vessel operator submits an application for exemption to the Commandant via the COTP or OCMI 30 days before operations under the exemption are proposed unless the COTP or OCMI authorizes a shorter time; and

(2) The Commandant determines from the application that—

(i) Compliance with a specific requirement is economically or physically impractical;

(ii) No alternative procedures, methods, or equipment standards exist that would provide an equivalent level of protection from pollution by oil; and

(iii) The likelihood of oil being discharged as a result of the exemption is minimal.

(b) In making the determinations in paragraph (a) of this section, the Commandant may require—

(1) Any appropriate information, including an environmental and economic assessment of the effects of and reasons for the exemption; and

(2) Procedures, methods, or equipment standards, even though they may provide less than an equivalent level of protection from pollution by oil.

(c) The Commandant grants or denies an exemption in writing.

Subpart B—Vessel Design and Equipment

§ 155.310 Cargo oil discharge containment.

(a) No person may operate a tank vessel with a capacity of 250 or more barrels of oil as cargo that is carrying oil unless the vessel has—

(1) Under or around each oil loading manifold and each oil transfer connection point, a fixed container or enclosed deck area that holds, in all conditions of vessel list or trim encountered during the loading operation, at least—

(i) One half barrel if it serves one or more hoses of 2-inch inside diameter or smaller, or loading arms of 2-inch nominal pipe size diameter or smaller;

(ii) One barrel if it serves one or more hoses larger than 2-inch inside diameter, or loading arms larger than 2-inch nominal pipe size diameter, but less than 4-inch diameter;

(iii) Two barrels if it serves one or more hoses of 4-inch inside diameter or larger, or loading arms of 4-inch nominal pipe size diameter or larger, but less than 6-inch diameter;

(iv) Three barrels if it serves one or mores hoses of 6-inch inside diameter or larger, or loading arms of 6-inch nominal pipe size diameter or larger, but less than 12-inch diameter; or

(v) Four barrels if it serves one or more hoses of 12-inch inside diameter or larger or loading arms of 12-inch nominal pipe size diameter or larger.

(2) A means of draining or removing discharged oil from each container or enclosed deck area without mixing incompatible products or discharging the oil into the water; and

(3) A mechanical means of closing each drain and scupper in the container or enclosed deck area required by this section.

(b) No person may operate a tank barge with a capacity of 250 or more barrels of oil as cargo that is carrying oil unless the vessel meets paragraph (a) of this section or is equipped with—

(1) A coaming, at least 4 inches high but not more than 8 inches high, enclosing the immediate area of the cargo hatches, oil loading manifolds, and transfer connections, that holds at least one-half barrel per hatch, manifold, and connection within the enclosed area; and

(2) A container, under each oil loading manifold and each oil transfer connection within the coaming, that holds at least one-half barrel.

§ 155.320 Fuel oil discharge containment.

No person on a vessel of 100 or more gross tons may transfer oil for fuel to that vessel unless—

(a) For a vessel of 300 gross tons or more constructed after June 30, 1974, the vessel has a fixed container or enclosed deck area under or around each fuel tank vent, overflow, and fill pipe, that holds at least—

(1) One-half barrel for a vessel of 300 gross tons but less than 1600 gross tons; or

(2) One barrel for a vessel of 1600 gross tons or more.

(b) For a vessel of 100 gross tons but less than 300 gross tons constructed after June 30, 1974, and for any vessel of 100 or more gross tons constructed before July 1, 1974—

(1) The vessel meets paragraph (a)(1) of this section;

(2) Each fuel tank vent, overflow, and fill pipe is equipped with a container that has at least a 5 U.S. gallon capacity; or

(3) If the vessel has a fill fitting for which containment can not practically be provided, an automatic back pressure shut-off nozzle is used.

§ 155.330 Bilge and fuel ballast pumping, piping, separation and discharge arrangements: Vessels of 100 or more gross tons.

(a) No person may operate a vessel of 100 or more gross tons that has main or auxiliary machinery spaces or that ballasts fuel oil tanks unless the vessel has a fixed piping system.

(b) The fixed piping system must have the following:

(1) Piping through which oily residues, from the separation of oily mixtures from machinery space bilges and fuel and lubricating oil tanks, can be

transferred to the oil residue tank required by § 155.340.

(2) Discharge points through which oily residues can be discharged to a facility. These discharge points must—

(i) Be on each side of the weather deck;

(ii) Each have a shore connection or portable adapter meeting the specifications in appendix A to this part;

(iii) Each have a stop valve; and

(iv) Each have a means on the weather deck adjacent to them to stop the pump required by paragraph (b)(3) of this section.

(3) An installed pump and piping that can transfer oily residues from the oil residue tank required by § 155.340 to the discharge points required by paragraph (b)(2) of this section.

(4) For each bilge pump, the means to discharge to the oil residue tank required by § 155.340.

(5) For each discharge point through which oily mixtures are discharged overboard—

(i) A sample point as described in 46 CFR 162.050-17(e) that is located in a vertical section of piping inboard of the discharge point; and

(ii) A stop valve.

(6) An installed 15 parts per million (p.p.m.) oil-water separator, approved under paragraph (d) of this section, that has its separated oil outlet connected to the oil residue tank required by § 155.340, except as otherwise provided by paragraph (c) of this section.

(7) An installed bilge alarm or bilge monitor, approved under paragraph (d) of this section, that can actuate the stop valve required by paragraph (b)(5)(ii) of this section, to prevent an oily mixture from the oil-water separator exceeding 15 p.p.m. from being discharged overboard.

(8) For each pump that supplies influent to an oil-water separator in the piping system, a maximum delivery capacity equal to or less than the maximum design throughput of the separator, except that the maximum delivery capacity may be one-and-one-half times the maximum design throughput of the separator if the pump has an orifice plate that permanently restricts its flow rate to the maximum design throughput of the separator.

(c) A person may operate a vessel of 100 or more gross tons equipped with an installed oily mixture settling system instead of the 15 p.p.m. oil-water separator required by paragraph (b)(6) of this section if—

(1) The vessel has a tank that can receive all oily mixtures from machinery space bilges and fuel and lubricating oil tanks;

(2) The tank is equipped with an oil-water interface detector; and

(3) The system is acceptable to the Commandant (procedures to be proposed).

(d) Each separator, bilge alarm and bilge monitor installed on a vessel after April 1, 1980, must be approved by the Coast Guard under 46 CFR 162.050.

(e) Paragraphs (b)(1) and (b)(4) through (b)(8) of this section are effective on (date 2 years after effective date of the final rule), or at the vessel's first shipyard maintenance and repair availability after (date 6 months after effective date of the final rule), whichever is earlier.

§ 155.340 Oil residue tank: vessels of 100 or more gross tons.

No person may operate a vessel of 100 or more gross tons that has main or auxiliary machinery spaces or that ballasts fuel oil tanks unless the vessel has a tank that can receive and hold all oily residues resulting from separation of oily mixtures from machinery space bilges and fuel and lubricating oil tanks.

§ 155.350 Bilge and ballast pumping arrangements: vessels of less than 100 gross tons.

(a) No person may operate a vessel of less than 100 gross tons that has main or auxiliary machinery spaces or that ballasts fuel oil tanks unless it can transfer oily bilge slops and oily ballast to a reception facility.

(b) Paragraph (a) of this section does not prohibit the discharge of an oily mixture in accordance with § 155.410.

§ 155.360 Exception for vessels of less than 1600 gross tons.

Paragraph 155.330(b)(2)(i) does not apply to a vessel of less than 1600 gross tons that has at least one discharge point accessible from the weather deck.

§ 155.370 Exception for uninspected U.S. vessels and all other vessels not in ocean or coastwise service.

Paragraph 155.330(b)(2)(ii) does not apply to a vessel that has shore connections or portable adapters that fit the connections at any facility to which the vessel transfers oily residues if the vessel is—

(a) An uninspected U.S. vessel; or

(b) A vessel not in ocean or coastwise service.

§ 155.380 Exception for vessels that have a means onboard to consume all oily residues.

Paragraphs 155.330 (b)(2) and (b)(3) do not apply to a vessel that has an installed means to consume all oily residues and that can transfer oily residues to a facility by any means.

§ 155.390 Exception for tank vessels: oily waste transfer equipment.

Section 155.330 does not apply to tank vessels that combine all other oily mixtures with oily cargo residues for transfer and discharge in accordance with the requirements of Part 157 of this chapter.

§ 155.400 Fixed piping system information.

(a) No person may operate a vessel unless the instruction manual for the automatic and manual operation of the fixed piping system required by § 155.330 and the instruction manual for each oil-water separator, oily mixture settling system, bilge alarm and bilge monitor are on board the vessel.

(b) Each oil-water separator, oily mixture settling system, bilge monitor, and bilge alarm on board a vessel must be maintained and operated in accordance with its instruction manual.

§ 155.410 Discharge of oily mixtures.

(a) No vessel operator may discharge an oily mixture, from a machinery space bilge or a fuel oil tank that carries ballast, into the water unless—

(1) The discharge is through a properly operating—

(i) 15 p.p.m. oil-water separator and bilge alarm;

(ii) 15 p.p.m. oil-water separator and bilge monitor; or

(iii) Oily mixture settling system acceptable to the Commandant under § 155.330(c) with bilge alarm or bilge monitor; and

(2) The discharge meets the requirements of 40 CFR 110.3 and 110.4.

(b) No vessel operator of a U.S. vessel may discharge an oily mixture, from a machinery space bilge or a fuel oil tank that carries ballast, into any waters more than 12 miles from the nearest land unless—

(1) The discharge is through a properly operating—

(i) 100 p.p.m. oil-water separator and bilge monitor;

(ii) 15 p.p.m. oil-water separator and bilge alarm;

(iii) 15 p.p.m. oil-water separator and bilge monitor; or

(iv) Oily mixture settling system acceptable to the Commandant under § 155.330(c) with bilge alarm or bilge monitor;

(2) The vessel is proceeding en route; and

(3) The discharge has an oil content of 100 p.p.m. or less.

(c) No vessel operator may discharge an oily mixture, from a cargo pump room bilge or a cargo tank, into the water except as permitted under Part 157 of this chapter.

(d) Paragraphs (a) and (b) of this section become effective on (date two years after effective date of the final rule), or upon compliance with § 155.330 (b)(1) and (b)(4) through (b)(8), whichever is earlier.

§ 155.440 Placard.

(a) No person may operate a vessel, except a vessel less than 26 feet in length, unless it has a placard at least 5 by 8 inches, made of durable material, fixed in a conspicuous place in each machinery space, or at the bilge and ballast pump control station, stating the following:

DISCHARGE OF OIL PROHIBITED

The Federal Water Pollution Control Act prohibits the discharge of oil or oily waste into or upon the navigable waters of the United States or the waters of the contiguous zone if such discharge causes a film or sheen upon or discoloration of the surface of the water or causes a sludge or emulsion beneath the surface of the water. Violators are subject to a penalty of $5,000.

(b) The placard required by paragraph (a) of this section must be printed in a language or languages understood by the crew.

§ 155.470 Prohibited oil spaces.

(a) Except as provided in paragraphs (b) and (c) of this section, no person may operate a self-propelled vessel of 300 or more gross tons carrying bulk oil or oily waste in any space forward of a collision bulkhead.

(b) Fuel for use on a vessel constructed after June 30, 1974, may be carried in tanks forward of a collision bulkhead if such tanks are at least 24 inches inboard of the hull structure.

(c) Fuel for use on a vessel constructed before July 1, 1974, may be carried in tanks forward of a collision bulkhead if those tanks were designated, installed, or constructed for fuel oil carriage before July 1, 1974.

Subpart C—Oil Transfer Personnel Procedures, Equipment, and Records

§ 155.700 Designation of person in charge.

The vessel operator, or his agent, of each vessel that has a capacity for 250 or more barrels of oil shall designate the person or persons in charge of each transfer of oil to or from the vessel, and of each tank cleaning operation.

§ 155.710 Qualifications of person in charge.

(a) The person in charge of oil transfer operations on a tank ship, as defined in 46 CFR 30.10–67, must—

(1) Be designated as person in charge by the master;

(2) Hold a license authorizing service as a deck officer aboard the tankship;

(3) Hold the appropriate endorsement under 46 CFR 10.11 for the grade of product being transferred; and

(4) Have served during the preceding 12 months aboard the tankship or another tankship built to the same basic plans and having the same cargo containment, control, and monitoring systems.

(b) The service required in paragraph (a)(4) includes—

(1) Assisting the person in charge of the cargo transfer operation during at least two transfers of cargo; or

(2) Equivalent experience acceptable to the Officer in Charge, Marine Inspection.

(c) The person in charge of tank cleaning operations conducted at a tank cleaning facility must be a tankerman certificated for the grade of cargo last carried.

(d) The person in charge of oil transfer operations on a tank barge must be—

(1) A properly certified tankerman for the cargo being transferred; or

(2) A licensed officer with a tankerman endorsement for the cargo being transferred.

(e) The person in charge of oil transfer operations on a cargo and miscellaneous or passenger vessel must—

(1) Be designated as person in charge by the master;

(2) Hold a license authorizing service as an officer aboard the vessel; and

(3) Hold any tankerman endorsement including the "tankerman—flam. (restricted)" endorsement.

(f) The person in charge of bunker fuel oil transfer operations on cargo and miscellaneous, tank, and passenger vessels must have a valid license authorizing service as master, mate, or engineer on the vessel.

(g) The operator of an uninspected vessel of 100 gross tons or more shall instruct the person in charge of oil transfer operations in—

(1) The duties of the person in charge; and

(2) The federal water pollution laws and regulations that apply to the vessel.

(h) The person in charge of oil transfer operations on a foreign flag tankship, tank barge, cargo and miscellaneous vessel, or passenger vessel must have a license or certificate authorizing service as a master, mate, pilot, engineer, or operator on the vessel.

§ 155.720 Oil transfer procedures.

No person may operate a vessel that has a capacity for 250 or more barrels of oil unless the vessel has oil transfer procedures that meet the requirements of this part and Part 156 for—

(a) Transfers of oil to or from the vessel; and

(b) Transfers of oil from tank to tank within the vessel.

§ 155.730 Compliance with oil transfer procedures.

The vessel operator of each vessel required by § 155.720 to have oil transfer procedures shall maintain them current and shall use and require vessel personnel to use the oil transfer procedures for each oil transfer operation.

§ 155.740 Availability of oil transfer procedures.

The oil transfer procedures required by § 155.720 must be—

(a) Legibly printed in a language or languages understood by the crew;

(b) Permanently posted or available at a place where the procedures can be easily seen and used by members of the crew when engaged in oil transfer operations; and

(c) Available for inspection by the COTP or OCMI.

§ 155.750 Contents of oil transfer procedures.

(a) The oil transfer procedures required by § 155.720 must contain, in the order listed—

(1) A list of any incompatible products carried;

(2) A list of the products carried to which the oil transfer procedures apply, unless the procedures apply to all the products;

(3) A description of each oil transfer system on the vessel including—

(i) A line diagram of the vessel's oil transfer piping, including the location of each valve, pump, control device, vent, and overflow; and

(ii) The location of the shutoff valve or other isolation device that separates any bilge or ballast system from the oil transfer system;

(4) The number of persons required to be on duty during oil transfer operations;

(5) The duties by title of each officer, person in charge, tankerman, deckhand, and any other person required for each oil transfer operation;

(6) Procedures and duty assignments for tending the vessel's moorings during the transfer of oil;

(7) Procedures for operating the emergency shutdown and communications means required by §§ 155.780 and 155.785, respectively;

(8) Procedures for topping off tanks;

(9) Procedures for ensuring that all valves used during the oil transfer operations are closed upon completion of transfer;

(10) A description of the discharge containment system required by §§ 155.310 and 155.320;

(11) Procedures for emptying the discharge containment system required by §§ 155.310 and 155.320;

(12) Procedures for reporting oil discharges into the water;

(13) Procedures for shielding of portable lighting permitted by § 154.570(c) of this chapter;

(14) Procedures for securing the vessel openings required to be secured by § 155.815; and

(15) For each product transferred to or from the vessel:

(i) Grade and trade name; and

(ii) Cargo information as described in 46 CFR 151.45–2(e)(3).

(b) The vessel operator shall place exemptions or alternatives granted in the front of the oil transfer procedures.

(c) The vessel operator shall incorporate each amendment to the oil transfer procedures under § 155.760 in the procedures with the related existing requirement, or at the end of the procedures if not related to an existing requirement.

§ 155.760 Amendment of oil transfer procedures.

(a) The COTP or OCMI requires the vessel operator of any vessel that is required to have oil transfer procedures under § 155.720 to amend those procedures if the COTP or OCMI finds that the oil transfer procedures do not meet the requirements of this part.

(b) To require an amendment of an oil transfer procedure, the COTP or OCMI notifies the vessel operator in writing, of the proposed amendment and of a date not less than 14 days after the notification on or before which the vessel operator may submit written information, views, and arguments on the proposed amendment. After considering all relevant material presented, the COTP or OCMI notifies the operator of any amendment required or of his decision to rescind the notice. The amendment becomes effective 30 days after the date of that notice unless the operator petitions the Commandant to reconsider the notice, in which case its effective date is stayed pending a decision by the Commandant. Petitions to the Commandant must be submitted in writing to the COTP or OCMI.

(c) If the COTP or OCMI finds that there is a condition requiring immediate action to prevent the discharge or risk

of discharge of oil that makes the procedure in paragraph (b) of this section impractical or contrary to the public interest, he may issue an amendment effective on the date the vessel operator receives notice of it. In such a case, the COTP or OCMI includes a brief statement of the reasons for his finding in the notice, and the vessel operator may petition the Commandant, in any manner, to reconsider the amendment. The petition does not stay the amendment.

§ 155.770 Draining of oil.

No person may drain oil or oily waste from any source into the bilge of any vessel.

§ 155.780 Emergency shutdown.

(a) No person may operate a tank vessel with a capacity of 250 or more barrels of cargo oil that is carrying oil unless it has on board an emergency means to enable a person in charge of an oil transfer operation to stop the flow of oil to a facility, other vessel, or within the vessel.

(b) The means required in paragraph (a) of this section must be a pump control or a quick-acting, power actuated valve. If an emergency pump control is used, it must stop the flow of oil if oil could siphon through the stopped pump.

(c) The means required in paragraph (a) must be operable from the cargo deck, cargo control room, or the usual operating station of the person in charge of the oil transfer operation.

§ 155.785 Communications.

(a) During vessel to vessel oil transfers, each tank vessel with a capacity of 250 or more barrels of cargo oil that is carrying oil must have a means that enables continuous two-way voice communication between the persons in charge of the transfer operations on both vessels.

(b) Each vessel must have a means, which may be the communication system itself, that enables a person on board each vessel to effectively indicate his desire to use the means of communication required by paragraph (a) of this section.

(c) The means required by paragraph (a) of this section must be usable and effective in all phases of the transfer operation and all conditions of weather.

(d) Portable radio devices used to comply with paragraph (a) of this section must meet U.L. Class I, Group D requirements or their equivalent (intrinsically safe, as defined in 46 CFR 111.80) during transfers of flammable liquids, as defined in 46 CFR 30.10.

§ 155.790 Deck lighting.

(a) No person may operate a self-propelled vessel with a capacity of 250 or more barrels of oil that is transferring oil between sunset and sunrise unless the self-propelled vessel has installed deck lighting that adequately illuminates—

(1) Each transfer connection point on the vessel;

(2) Each transfer connection point in use on any barge moored to the vessel to or from which oil is being transferred;

(3) Each oil transfer operations work area on the vessel; and

(4) Each oil transfer operations work area on any barge moored to the vessel to or from which oil is being transferred.

(b) Where the illumination is apparently inadequate the OCMI or COTP may require verification by instrument of the levels of illumination. On a horizontal plane 3 feet above the deck the illumination must measure at least—

(1) 2.5 foot candles at transfer connection points; and

(2) 0.5 foot candle in oil transfer operations work areas.

(c) Lighting must be located or shielded so as not to interfere with navigation on the adjacent waterways.

§ 155.800 Oil transfer hoses.

No person may operate a U.S. vessel that carries hose used to transfer oil unless the hose meets the requirements of § 154.500 of this chapter.

§ 155.805 Closure devices.

Each vessel must have enough butterfly valves, wafer-type resilient seated valves, blank flanges, or other means acceptable to the COTP or the OCMI to blank off each end of each oil transfer hose that is not connected for the transfer of oil.

§ 155.810 Tank vessel security.

The vessel operator of each tank vessel that contains more oil than the normal clingage and unpumpable bilge or sump residues in any cargo tank shall maintain surveillance of that vessel by using a person who is responsible for the security of the vessel and for keeping unauthorized persons off the vessel.

§ 155.815 Vessel integrity.

No person may operate a vessel underway unless all closure mechanisms on the following openings are properly secured:

(a) Cargo hatches.

(b) Ullage openings.

(c) Sounding ports.

(d) Tank cleaning openings.

(e) Any other vessel openings that should be closed to maintain a seaworthy condition and to prevent the inadvertent release of oil in the event of a vessel accident.

§ 155.820 Records.

The vessel operator shall keep a written record available for inspection by the COTP or OCMI of—

(a) The name of each person currently designated as a person in charge of oil transfer operations as required by § 155.700;

(b) The date and result of the most recent test and inspection of each item tested or inspected as required by § 156.170 of this chapter;

(c) The hose information required by § 154.500 (e) and (g) of this chapter unless that information is marked on the hose; and

(d) The Declaration of Inspection as required by § 156.150(f) of this chapter.

APPENDIX A

SPECIFICATIONS FOR SHORE CONNECTION

[See § 155.330]

Item, Description, and Dimension

1—Outside diameter: 215 mm. (8½ in.).
2—Inside diameter: According to pipe outside diameter.
3—Bolt circle diameter: 183 mm. (7 1/16 in.).
4—Slots in flange: 6 holes 22 mm. (⅞ in.) in diameter shall be equidistantly placed on a bolt circle of the above diameter, slotted to the flange periphery. The slot width is to be 22 mm. (⅞ in.).
5—Flange thickness: 20 mm. (¾ in.).
6—Bolts and nuts: 6, each of 20 mm. (¾ in.) in diameter and of suitable length.

The flange must be of steel having a flat face, with a gasket of oilproof material, and must be suitable for a service pressure of 6 kg./cm.2 (85 p.s.i.).

The steel materials used must meet the material specifications of standard B16.5, Steel Pipe Flanges and Flanged Fittings of the American National Standards Institute. (see NOTE § 154.500 of this chapter).

PART 156—OIL TRANSFER OPERATIONS

SEC.

156.100 Applicability.
156.105 Definitions.
156.107 Alternatives.
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156.115 Person in charge: Limitations.
156.120 Requirements for oil transfer.
156.125 Oil discharge cleanup.
156.130 Connections.
156.150 Declaration of inspection.
156.160 Supervision by person in charge.
156.170 Equipment tests and inspections.

AUTHORITY: The provisions of this Part 156 issued under section 311(j)(1)(C) and (D) of the Federal Water Pollution Control Act (86 Stat. 816, 868); 33 U.S.C. 1321(j)(1)(C) and (D); E.O. 11735, 3 CFR 1966–1970 COMP., p. 949; 49 CFR 1.46(m).

§ 156.170 Applicability.

This part applies to the transfer of oil on the navigable waters or contiguous zone of the U.S. to or from any vessel or public vessel with a capacity of 250 or more barrels of that oil except that this part does not apply to the transfer operation on a public vessel.

§ 156.105 Definitions.

As used in this part:

"Barrel" means the unit of fluid measure equivalent to 42 U.S. gallons at 60° F.

"Captain of the Port" (COTP) means the U.S. Coast Guard Officer commanding a Captain of the Port area described in Part 3 of this chapter or his authorized representative or, where there is no Captain of the Port area, a District Commander of a Coast Guard district described in Part 3 of this chapter or his authorized representative.

"Commandant" means the Commandant of the Coast Guard or his authorized representative.

"District Commander" means the officer of the Coast Guard designated by the

Commandant to command a Coast Guard District as described in Part 3 of this chapter or his authorized representative.

"Facility" means either an onshore facility or an offshore facility and includes, but is not limited to, structures, equipment and appurtenances thereto, used or capable of being used to transfer oil to or from a vessel or public vessel. A facility includes federal, state, municipal, and private facilities.

"Facility operator" means the person who owns, operates, or is responsible for the operation of the facility.

"Mobile facility" means any facility that can readily change locations, such as a tank truck or tank car, other than a vessel or public vessel.

"Monitoring device" means any fixed or portable sensing device used to monitor the waters within or around a facility and designed to notify operating personnel of a discharge of oil.

"Officer in Charge, Marine Inspection" (OCMI) means the U.S. Coast Guard officer commanding a Marine Inspection Zone described in Part 3 of this chapter, or his authorized representative.

"Offshore facility" means any facility of any kind located in, on, or under any of the navigable waters of the United States other than a vessel or a public vessel.

"Oil" means oil of any kind or in any form including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil. For the purpose of this part liquefied natural gas and liquefied petroleum gas (LNG and LPG) are excluded.

"Onshore facility" means any facility (including, but not limited to, a mobile facility) of any kind located in, on or under any land within the United States other than submerged land.

"Person" includes an individual, firm, corporation, association, and partnership.

"Person in charge" means an individual designated as a person in charge of oil transfer operations under § 154.710 or § 155.700 of this chapter.

"Public vessel" means a vessel owned or bare-boat chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such a vessel is engaged in commerce.

"Tank vessel" means any vessel that carries or is capable of carrying liquid bulk cargo in tanks.

"Tank barge" means any tank vessel not equipped with a means of self propulsion.

"Vessel" means every description of watercraft or other artificial contrivance, whether U.S. or foreign, used or capable of being used as a means of transportation on water, other than a public vessel.

"Vessel operator" means the person who owns, operates, or is responsible for the operation of the vessel.

§ 156.107 Alternatives.

(a) The COTP may consider and approve alternative procedures, methods or equipment standards to be used by a vessel or facility operator in lieu of any requirements in this part if—

(1) The vessel or facility operator submits a written request for the alternative at least 30 days before operations under the alternative are proposed, unless the COTP authorizes a shorter time; and

(2) The alternative provides an equivalent level of protection from pollution by oil.

(b) The COTP approves or disapproves any alternative requested, either in writing, or orally followed up in writing.

§ 156.110 Exemptions.

(a) The Commandant may grant an exemption or partial exemption from compliance with any requirement in this part if—

(1) The vessel or facility operator submits an application for exemption to the Commandant via the COTP at least 30 days before operations under the exemption are proposed, unless the COTP authorizes a shorter time; and

(2) The Commandant determines from the application that—

(i) Compliance with the requirement is economically or physically impractical;

(ii) No alternative procedures, methods, or equipment standards exist that would provide an equivalent level of protection from pollution by oil; and

(iii) The likelihood of oil being discharged as a result of the exemption is minimal.

(b) In making the determinations in paragraph (a) of this section, the Commandant may require—

(1) Any appropriate information, including an environmental and economic assessment of the effects of and reasons for the exemption; and

(2) Procedures, methods, and equipment, even though they may provide less than an equivalent level of protection from pollution by oil.

(c) The Commandant grants or denies an exemption in writing.

§ 156.112 Suspension order.

The COTP or OCMI may issue a suspension order to suspend oil transfer operations to the vessel or facility operator when the COTP or OCMI finds there is a condition requiring action to prevent the discharge or threat of discharge of oil. A suspension order—

(a) May be effective immediately;

(b) Is issued in writing unless it is effective immediately and then it may be issued orally and followed up in writing;

(c) Includes a statement of each condition requiring action to prevent the discharge of oil; and

(d) Is withdrawn when the COTP, OCMI, or District Commander determines that the condition requiring action to prevent the discharge or threat of discharge of oil has been corrected or no longer exists.

§ 156.113 Compliance with suspension order.

(a) No vessel or facility operator to whom a suspension order has been issued may conduct oil transfer operations until that order is withdrawn by the COTP, OCMI, or District Commander.

(b) The vessel or facility operator may petition the District Commander in writing, or in any manner when the order is effective immediately, to withdraw the suspension order. The petition does not stay the order. The decision of the District Commander is the final administrative decision.

§ 156.115 Person in charge: limitations.

(a) No person may serve as the person in charge of oil transfer operations on more than one vessel at a time during oil transfers between vessels or between two or more vessels and a facility unless authorized by the COTP.

(b) No person may serve as the person in charge of both a vessel and a facility during oil transfer operations except when agreed upon by both the vessel and facility operators and authorized by the COTP.

§ 156.120 Requirements for oil transfer.

No person may conduct an oil transfer operation unless—

(a) The facility operator or, in the case of a vessel to vessel transfer, the vessel operator of the lightering or the fueling vessel notifies the COTP of the time and place of each oil transfer operation at least 4 hours before it begins;

NOTE: The notification may be accomplished by submitting a written schedule, periodically updated to be current.

(b) The vessel's moorings are strong enough to hold during all expected conditions of surge, current, and weather and are long enough to allow adjustment for changes in draft, drift, and tide during the transfer operation;

(c) Oil transfer hoses and loading arms are long enough to allow the vessel to move to the limits of its moorings without placing strain on the hose, loading arm, or oil transfer piping system;

(d) Each hose is supported to prevent kinking and strain on its coupling;

(e) Each part of the oil transfer system is aligned to allow the flow of oil;

(f) Each part of the oil transfer system not necessary for the transfer operation is securely blanked or shut off;

(g) The end of each hose and loading arm that is not connected for the transfer of oil is blanked off using the closure devices required by §§ 154.520 and 155.805 of this chapter;

(h) The transfer system is attached to a fixed connection on the vessel and the facility except that—

(1) When a vessel is receiving fuel, an automatic back pressure shutoff nozzle may be use; or

(2) When a vessel is loading or unloading deep tanks in a cargo hold where there is no access to the water for any oil that might be discharged into the cargo hold, a loose hose may be used at the deep tank opening for combustible liquids only (as defined in 46 CFR 30.10).

(i) Each overboard discharge or sea suction valve that is connected to the

vessel's oil transfer or cargo tank system is sealed or lashed in the closed position;

(j) Each oil transfer hose has no loose covers, kinks, bulges, soft spots, and no gouges, cuts, or slashes that penetrate the first layer of hose reinforcement ("reinforcement" means the strength members, consisting of fabric, cord and/or metal, of the hose);

(k) Each hose or loading arm in use meeets § 154.500 of this chapter;

(l) Each connection meets § 156.130;

(m) Any monitoring devices required by § 154.525 of this chapter are installed and operating properly;

(n) The discharge containment required by §§ 154.530, 155.310, and 155.320 of this chapter, as applicable, is in place and completely drained of any liquid;

(o) Each scupper and drain required by § 155.310 of this chapter is closed;

(p) All connections in the oil transfer system are leak free except that a component in an oil transfer system, such as the packing glands of a pump, may leak at a rate that does not exceed the capacity of the discharge containment provided;

(q) The communications required by §§ 154.560 and 155.785 of this chapter are operable for the transfer operation;

(r) The emergency means of shutdown required by §§ 154.550 and 155.780 of this chapter, as applicable, is in position and operable;

(s) There is a person in charge on the transferring vessel or facility and the receiving vessel or facility except as otherwise authorized under § 156.115;

(t) Each person in charge required by paragraph (s) of this section—

(1) Is at the site of the oil transfer operation;

(2) Has in his possession a copy of the facility operations manual or vessel transfer procedures, as appropriate; and

(3) Conducts the transfer operation in accordance with the facility operations manual or vessel oil transfer procedures, as appropriate;

(u) The personnel required, under the facility operations manual and the vessel oil transfer procedures, to conduct the oil transfer operation—

(1) Are on duty; and

(2) Conduct the transfer operation in accordance with the facility operations manual or vessel oil transfer procedures, as appropriate;

(v) At least one person is present who fluently speaks the language or languages spoken by both persons in charge;

(w) The person in charge of oil transfer operations on the transferring vessel or facility and the person in charge of oil transfer operations on the receiving vessel or facility have held a conference, to ensure that each person in charge understands the following details of the transfer operation:

(1) The identity of the product to be transferred.

(2) The sequence of transfer operations.

(3) The transfer rate.

(4) The name or title and location of each person participating in the transfer operation.

(5) Details of the transferring and receiving systems.

(6) Critical stages of the transfer operation.

(7) Federal, state, and local rules that apply to the transfer of oil.

(8) Emergency procedures.

(9) Discharge containment procedures.

(10) Discharge reporting procedures.

(11) Watch or shift arrangement.

(12) Transfer shutdown procedures.

(x) The person in charge of oil transfer operations on the transferring vessel or facility and the person in charge of oil transfer operations on the receiving vessel or facility agree to begin the transfer operation;

(y) Between sunset and sunrise the lighting required by §§ 154.570 and 155.790 of this chapter is provided; and

(z) For transfer operations between tank barges from sunset to sunrise, lighting is provided as described in § 155.790 of this chapter.

§ 156.125 Oil discharge clean-up.

(a) Each person conducting an oil transfer operation shall stop the transfer operation whenever any oil is discharged—

(1) In the transfer operation work area; or

(2) Into the water or upon the adjoining shoreline.

(b) Except as permitted under paragraph (c) of this section, no person may resume an oil transfer operation after it has been stopped under paragraph (a) of this section, unless—

(1) Oil discharged in the oil transfer operation work area is cleaned up; and

(2) Oil discharged into the water or upon the adjoining shoreline is cleaned up, or is contained and being cleaned up.

(c) The COTP may authorize resuming the oil transfer operation if he determines that it will decrease the likelihood of the further discharge of oil.

§ 156.130 Connections.

(a) Each person who makes a connection for oil transfer operations shall—

(1) Use suitable material in joints and couplings to ensure a leak-free seal;

(2) Use a bolt in at least every other hole, and in no case less than four bolts, in each temporary bolted connection that uses a flange that meets American National Standards Institute (ANSI) standard flange requirements under § 154.500(d)(2) of this chapter;

(3) Use a bolt in each hol in each

(3) Use a bolt in each hole in each temporary bolted connection that uses a flange other than one that meets ANSI standards;

(4) Use a bolt in each hole of each permanently connected flange;

(5) Use bolts of the correct size in each bolted connection; and

(6) Tighten each bolt and nut uniformly to distribute the load and sufficiently to ensure a leak free seal.

(b) No person who makes a connection for oil transfer operations may use any bolt that shows signs of strain or is elongated or deteriorated.

(c) Except as provided in paragraph (d) of this section, no person may use a connection for oil transfer operations unless it is—

(1) A bolted or full threaded connection; or (2) a quick-connect coupling acceptable to the Commandant.

(d) No person may transfer oil to a vessel that has a fill pipe for which containment can not practically be provided unless an automatic back pressure shutoff nozzle is used.

§ 156.150 Declaration of inspection.

(a) No person may transfer oil to or from a vessel unless each person in charge, designated under §§ 154.710 and 155.700 of this chapter, has filled out and signed the declaration of inspection form described in paragraph (c) of this section.

(b) No person in charge may sign the declaration of inspection unless he has determined by inspection, and indicated by initialling in the appropriate space on the declaration of inpection form, that the facility or vessel, as appropriate, meets § 156.120.

(c) The declaration of inspection may be in any form but must contain at least—

(1) The name or other identificaion of the transferring vessel or facility and the receiving vessel or facility;

(2) The address of the facility or location of the transfer operation if not at a facility;

(3) The date the transfer operation is started;

(4) A list of the requirements in § 156.120 with spaces on the form following each requirement for the person in charge of the vessel or facility to indicate by initialling that the requirement is met for the transfer operation; and

(5) A space for the date, time of signing, signature, and title of each person in charge during oil transfer operations on the transferring vessel or facility and space for the date, time of signing, signature, and title of each person in charge during oil transfer operations on the receiving facility or vessel.

(d) The form for the declaration of inspection may incorporate the declaration-of-inspection requirements under 46 CFR 35.35–30.

(e) The vessel and facility persons in charge shall each have a signed copy of the declaration of inspection available for inspection by the COTP during the oil transfer operation.

(f) The operators of each vessel and facility engaged in an oil transfer operation shall retain, for at least 1 month from the date of signature, a signed copy of the declaration of inspection.

§ 156.160 Supervision by person in charge.

(a) No person may connect or disconnect a hose, top off a tank, or engage in any other critical procedures during an oil transfer operation unless the person

in charge, required by § 156.120(s), supervises that procedure.

(b) No person may start the flow of oil to or from a vessel unless instructed to do so by either person in charge.

(c) No person may transfer oil to or from a vessel unless each person in charge is in the immediate vicinity and immediately available to the oil transfer personnel.

§ 156.170 Equipment tests and inspections.

(a) Except as provided in paragraph (d) of this section, no person may use any equipment listed in paragraph (c) of this section for oil transfer operations unless the vessel or facility operator, as appropriate, tests and insects the equipment annually in accordance with paragraphs (b) and (c) of this section and the equipment is in the condition specified in paragraph (c) of this section.

(b) During any test or inspection required by this section, the entire external surface of the hose must be accessible.

(c) For the purpose of paragraph (a) of this section—

(1) Each nonmetallic oil transfer hose must—

(i) Have no loose covers, kinks, bulges, soft spots, and no gouges, cuts, or slashes that penetrate the first layer of hose reinforcement, as defined in § 156.120(j).

(ii) Have no external deterioration and, to the extent internal inspection is possible wih both ends of the hose open, no internal deterioration; and

(iii) Not burst, bulge, leak, or abnormally distort under static liquid pressure at least 1½ times the maximum allowable working pressure;

(2) Each transfer system relief valve must open at or below the pressure at which it is set to open;

(3) Each pressure gauge must show pressure within 10 percent of the actual pressure;

(4) Each loading arm and each oil transfer pipe system, including each metallic hose, must not leak under static liquid pressure at least 1½ times the maximum allowable working pressure; and

(5) Each item of remote operating or indicating equipment, such as a remotely operated valve, tank level alarm, or emergency shutdown device, must perform its intended function.

(d) No person may use any hose in underwater service for oil transfer operations unless the operator of the vessel or facility has tested and inspected it biennially in accordance with paragraph (c)(1) or (c)(4) of this section, as applicable.

(e) Any liquid may be used for the testing required by this section.

(Sec. 311(j)(1)(C) and (D), Pub. L 92-500, as amended, § 2, 86 Stat. 868, as amended, (33 U.S.C. 1321(j)(1)(C) and (D); E.O. 11735, 3 CFR, 1966—1970 COMP., p. 949; (49 CFR 1.46(m).))

NOTE: The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended; and OMB Circular A-107

Dated: June 17, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77-18087 Filed 6-24-77;8:45 am]

[33 CFR, Part 157]

[CGD 76-088b]

TANK VESSELS CARRYING OIL IN BULK

Miscellaneous Rules Providing for Protection of the Marine Environment

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard proposes requirements for installation and use of approved cargo monitors on board tank vessels carrying oil in bulk, both U.S. and foreign that are of 150 gross tons or more and call at U.S. ports. Specifications for this equipment have been developed by the Marine Environment Protection Committee of the Intergovernmental Maritime Consultative Organization, and approval regulations based upon them have been proposed elsewhere in this issue of the FEDERAL REGISTER. Editorial revisions and clarifications to the intent of the existing regulations for tank vessels carrying oil in bulk are also proposed. The intended effect of these amendments is to reduce pollution from operational oil discharges.

DATES: Comments must be received on or before August 11, 1977.

ADDRESSES: (a) *Written comments.* Written comments on this proposed rule making should be submitted to and will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

(b) *Economic evaluation.* A copy of the economic evaluation from which the economic summary in this document is taken is available for examination at the address listed in paragraph (a).

(c) *Environmental impact declaration.* A copy of the negative declaration of environmental impact, which has been prepared for this proposal, is available for examination at the address listed in paragraph (a).

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 25090 (202-426-1477).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written data, views, or arguments. Each person submitting a comment should include his name and address, identify this notice (CGD 76-088b), and give reasons for his comment. The proposal may be changed in the light of comments received. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

Part 157 of Title 33 contains regulations for the protection of the marine environment that pertain to tank vessels carrying oil in bulk. These regulations were issued in the FEDERAL REGISTER of October 14, 1975, (40 FR 48280-48290), and have been subsequently amended in the FEDERAL REGISTER of December 13, 1976 (41 FR 54180). These regulations require in part that fixed piping systems on most tank vessels meet the design requirements prescribed in Part 157 and that oil-water separating and monitoring equipment used on tank vessels be approved by the Coast Guard in accordance with approval specifications to be proposed at a later date. This notice proposes to amend these regulations.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Lowell F. Martin, Project Manager, Office of Merchant Marine Safety, and William R. Register, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

1. Proposed § 157.11(b) requires in part that each fixed piping system used for transferring and discharging cargo residues and other oily mixtures combined with cargo residues have one or more cargo monitors and that each monitor be equipped with a recording device meeting the requirements of 46 CFR 162.050-25(j). See FR Doc. 77-18089 in this issue of the FEDERAL REGISTER which proposes 46 CFR 162.050-25(j) as a requirement.) A recording device provides a means for determining the amount of oil in a discharge being measured by a cargo monitor and for detecting any malfunction of the signaling device on a monitor used to actuate stop valves in a vessel's fixed piping system. The requirement to have a recording device is essentially the same as the requirement for recording devices in Regulation 15 of Annex I to the International Convention for the Prevention of Pollution from Ships, 1973. The requirement to have a cargo monitor is contained in the current regulations in Part 157.

2. Proposed § 157.11(c) requires that cargo monitors installed on board tank vessels on and after April 1, 1980, meet the applicable Coast Guard approval specifications for the equipment. (The applicable specifications are proposed elsewhere in this issue of the FEDERAL REGISTER.) These specifications are similar to the specifications for monitoring equipment that have been prepared by the Marine Environment Protection Committee of the Intergovernmental Maritime Consultative Organization. The April 1, 1980, compliance date for this

requirement is proposed to allow enough time for approval testing of monitoring equipment.

Proposed § 157.11(c) does not apply to cargo monitors installed on tank vessels before April 1, 1980. The question of whether monitors installed before April 1, 1980, should be required to meet the Coast Guard's applicable approval specifications or other equivalent specifications is currently under study. Related questions of whether existing monitor installations should be allowed to continue in service and, if so, under what conditions are the subject of current discussion by the IMCO Marine Environment Protection Committee. The Coast Guard intends to issue regulations concerning existing installations after completion of its studies and the current IMCO discussions.

3. Proposed § 157.11(d)(3)(ii) contains design requirements for sample points. These requirements are also contained in the IMCO specifications for monitoring equipment. The April 1, 1980, compliance date for these requirements is proposed to allow sufficient time for accomplishing necessary alterations to pumping, piping, and discharge arrangements on tank vessels.

4. Proposed § 157.11(a), § 157.11(d), and § 157.17(a), with the exception of § 157.11(d)(3)(ii), clarify the current provisions in § 157.11 and § 157.17. These clarifications are necessary since experience gained in using the regulations has shown that their intent is somewhat unclear.

5. The proposed revision to paragraph (d) of § 157.19 would allow the valves currently required by that paragraph for piping branch lines that have openings into certain cargo tanks to be located either inside or immediately outside the tanks. The current § 157.19(d) requires the valves to be located inside the tanks. The purpose of a branch line valve is to prevent spillage of oil from a tank into which the branch line opens if the piping outside the tank breaks. A branch line valve that is located immediately outside a tank into which the line opens can perform its function of preventing spillage from the tank as effectively as a valve that is located inside the tank.

6. Proposed § 157.37(c) requires that each cargo monitor be maintained and operated in accordance with the instructions manual required by proposed § 157.23(a). Compliance with this requirement is necessary to ensure proper functioning of the monitor.

7. Proposed § 157.37(d) requires that all discharge data recorded by a cargo monitor be kept on board for three years. This provision is contained in Regulation 15 of Annex I to the International Convention for the Prevention of Pollution from Ships, 1973.

8. The proposed amendment to § 157.39(b) transfers the substance of the requirements for separators and bilge monitors in the current paragraph 157.39(b) to § 155.410(b) of Title 33. The proposed amendments to § 155.410(b) appear elsewhere in this issue of the FEDERAL REGISTER.

9. Proposed § 157.43(a) adds a requirement that clean ballast be discharged in accordance with the requirement in proposed § 157.37(a)(5). Proposed § 157.37(a)(5) in effect provides that oily mixtures may not be discharged overboard, except above the waterline through a discharge point of the type described in proposed § 157.11(d)(3). The proposed addition to § 157.43(a) was originally contained in § 157.43 of the Coast Guard notice of proposed rule making published on June 28, 1974 (39 FR 24152–24157), which proposed to adopt the regulations now contained in Part 157. However, the requirement was inadvertently omitted from the final regulations published on October 14, 1975 (40 FR 48280–48287). Section 157.43(a) is proposed again in this notice to correct the prior omission.

Proposed § 157.43(a), as it was first proposed in 1974, applied only to seagoing U.S. tank vessels of 150 gross tons or more engaged in domestic trade. However, the current § 157.43 applies additionally to U.S. vessels of 150 gross tons or more engaged in foreign trade and to foreign flag vessels of 150 gross tons or more that enter the navigable waters of the United States to engage in commercial service at a U.S. port. Accordingly, the applicability statement in § 157.25 has been revised to make the proposed addition to § 157.43(a) likewise applicable to these additional vessels.

10. The proposed rules would apply to both new and existing vessels, both of which terms are defined in the current Part 157 regulations.

11. The rules in this proposal would become effective 90 days after their promulgation as final rules, except that compliance with §§ 157.11(c) and 157.11(d)(3)(ii) would not be required before April 1, 1980.

This proposal has been reviewed for economic effects under Department of Transportation "Policies to Improve Analysis and Review of Regulations" (41 FR 16200). If all vessels that would be subject to the requirements proposed in this notice installed approved cargo monitors and sample points before April 1, 1980, the annual cost during this period would be approximately six million dollars. The incremental annual cost to obtain Coast Guard approval of this equipment would be approximately $89,000. Additional costs, which have been determined to be minimal in amount, would include those associated with operation and maintenance of monitors. Economic benefits resulting from use of the equipment would be reduced economic losses associated with oil pollution damage to the marine environment and savings from increased conservation of oil.

In consideration of the foregoing, the Coast Guard proposes to amend Part 157 of Title 33, Code of Federal Regulations, as follows:

1. By revising § 157.11 to read as follows:

§ 157.11 Fixed piping systems: cargo residues and other oily mixtures combined with cargo residues.

(a) Each tank vessel must have a fixed piping system for transferring cargo residues and other oily mixtures combined with cargo residues from cargo tanks to slop tanks and for discharging these oily mixtures overboard and to reception facilities.

(b) Each fixed piping system required by paragraph (a) of this section must have one or more cargo monitors. Each monitor must have its own recording device that meets the requirements of 46 CFR 162.050–25(j). For each type of oil that a vessel is designed to carry, at least one of the monitors must be designed for use with that oil.

(c) Each cargo monitor installed on a tank vessel on and after April 1, 1980, must be approved under 46 CFR 162.050.

(d) Each fixed piping system required by paragraph (a) of this section must be designed so that—

(1) It has piping to transfer dirty ballast residues and tank washings from each cargo tank on the vessel to a slop tank;

(2) It has a manifold on the weather deck that connects the piping required by paragraph (d)(1) of this section with at least two discharge points—

(i) Through which oily mixtures can be discharged to reception facilities; and

(ii) One of which is on the port side of the weather deck and one of which is on the starboard side of the weather deck;

(3) Each discharge point through which oily mixtures are discharged overboard from a slop tank, cargo tank, or a cargo pump room bilge—

(i) Is located on the port or starboard side of the vessel above the waterline when it is in its deepest ballast condition;

(ii) Has a sample point that is located in a vertical section of piping inboard of the dischrge point and that is of the type described in Figure 162.050–17(e) of 46 CFR 162.050–17(e); and

(iii) Has a stop valve that is actuated by each of the system's cargo monitors; and

(4) When valves in the system are actuated by one of the system's cargo monitors none of the oily mixture causing actuation can be discharged overboard.

NOTE.—Effective date of § 157.11. (a) Each existing vessel that is a U.S. vessel in domestic trade must comply with §§ 157.11 (a), (b), (d)(1), (d)(2), (d)(3) (i) and (iii), and (d)(4) before December 31, 1977.

(b) Each existing vessel that is a foreign vessel or a U.S. vessel in foreign trade must comply with §§ 157.11 (a), (b), (d)(1), (d)(2), (d)(3) (i) and (iii), and (d)(4) before December 31, 1979.

(c) Each vessel to which this subpart applies must comply with § 157.11(d)(3)(ii) before April 1, 1980. Compliance with § 157.11(c) is required on and after April 1, 1980.

2. By amending § 157.13 to read as follows:

§ 157.13 Designated observation area.

Each new vessel must have a designated observation area on the weather deck or above that is—

(a) Located where the effluent from each discharge point and manifold described in § 157.11 can be visually observed; and

* * * * *

3. By adding a sentence to the end of paragraph (a) of § 157.17 to read as follows:

§ 157.17 Oily residue tank.

(a) * * * The oily residue tank must have piping that connects it with the discharge point of each machinery space bilge pump.

* * * * *

4. By revising § 157.19(d) to read as follows:

§ 157.19 Cargo tank arrangement and size.

* * * * *

(d) If a line of piping that runs through a cargo tank in a position less than t from the vessel's side or less than v from the vessel's bottom, as defined in Appendix A of this part, has a branch, that branch must have a valve—

(1) Within each cargo tank into which the branch opens; or

(2) Outside each tank into which the branch opens in a location that is immediately adjacent to the point at which the branch enters the tank.

* * * * *

5. By revising § 157.23 to read as follows:

§ 157.23 Cargo and ballast system information.

(a) Each tank vessel must have on board an instructions manual that describes the automatic and manual operation of the cargo and ballast system on the vessel and an instructions manual for each cargo monitor on the vessel.

(b) The format and information contained in the instructions manual for operation of the cargo and ballast system must be similar to the manual entitled "Clean Seas Guide for Oil Tankers" which can be obtained from the International Chamber of Shipping, 30–32 St. Mary Axe, London, United Kingdom EC3A 8ET.

6. By revising § 157.25 to read as follows:

§ 157.25 Exceptions to applicability.

(a) Sections 157.29, 157.31, 157.37(a)(5), 157.37(a)(6), and 157.43 apply to foreign vessels when they discharge into the navigable waters of the United States.

(b) Sections 157.35, 157.37, except paragraphs (a)(5) and (a)(6), 157.39, 157.45, and 157.47 do not apply to foreign vessels.

7. By amending § 157.37 to read as follows:

§ 157.37 Discharge of cargo residue.

(a) * * *

(5) Discharges above the waterline through a discharge point described in §157.11(d)(3); and

(6) Has in operation a cargo monitor required by § 157.11(b) that is designed for use with the oil mixture being discharged, except that the system may be operated manually if—

* * * * *

(c) Each cargo monitor must be maintained and operated in accordance with its instructions manual.

(d) All discharge data recorded by a cargo monitor must be retained on board the vessel for three years.

8. By revising § 157.39(b) to read as follows:

§ 157.39 Machinery space bilges.

* * * * *

(b) Each tank vessel must comply with the requirements in § 155.410(b) concerning the use of oil-water separating and monitoring equipment in discharging oily mixtures that are not combined with cargo residues.

9. By revising § 157.43(a) to read as follows:

§ 157.43 Discharges: clean and segregated ballast.

(a) Clean ballast may not be discharged except in accordance with §§ 157.37(a)(5) and 157.37(a)(6).

* * * * *

(46 U.S.C. 391a; 49 U.S.C. 1655(b); 49 CFR 1.46.)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: June 17, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[Doc.77-18088 Filed 6-24-77;8:45 am]

[46 CFR, Part 162]

[CGD 76-088a]

OIL POLLUTION PREVENTION EQUIPMENT

Approval Requirements

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to add approval procedures and specifications for oil-water separators, cargo monitors, bilge monitors, and bilge alarms to the existing approval requirements for engineering equipment used on merchant vessels. International design and test specifications for this equipment were recently adopted by the Marine Environment Protection Committee (MEPC) of the Intergovernmental Maritime Consultative Organization (IMCO). This action incorporates the MEPC specifications, and the effect of this action will be to ensure use of pollution prevention equipment that is representative of the best technology presently available.

DATES: Comments must be received on or before: August 11, 1977.

ADDRESSES: (a) *Written comments.* Written comments on this proposed rule making should be submitted to and will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

(b) *Economic Evaluation.* A copy of the economic evaluation from which the economic summary in this document is taken is available for examination at the address listed in paragraph (a).

(c) *Environmental Impact Declaration.* Copies of the negative declaration of environmental impact, which has been prepared for this proposal, is available upon request to the Marine Safety Council at the address listed in paragraph (a).

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rule making by submitting written data, views, or arguments. Each person submitting a comment should include his name and address, identity this notice (CGD 76-088a) and the specific section of the proposal to which his comment refers, and give reasons for his comment. The proposal may be changed in the light of comments received. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Lowell F. Martin, Project Manager, Office of Merchant Marine Safety, and William R. Register, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

In November 1973, the International Conference on Marine Pollution convened by IMCO adopted the International Convention for the Prevention of Pollution from Ships, 1973. Annex I to this convention sets forth several pollution requirements applicable to vessels including requirements.

Coast Guard regulations in §§ 155.400, 157.37, and 157.39 of Title 33 of the Code of Federal Regulations currently

allow the use of Coast Guard approved pollution equipment under operating conditions prescribed in those regulations. The regulations proposed in this notice contain the procedures for obtaining Coast Guard approval of the equipment and the design and testing specification applicable to the equipment. A notice of proposed rule making appears elsewhere in this issue of the FEDERAL REGISTER proposing to revise Part 155 of Title 33 to require use of bilge alarms, bilge monitors, and separators approved under the regulations proposed in this notice. A notice of proposed rule making appears elsewhere in this issue of the FEDERAL REGISTER that proposes to revise § 157.37 to require the use of cargo monitors approved under the regulations proposed in this notice.

The technology pertaining to shipboard oil-water separation and to monitoring of overboard discharges of oily mixtures is in a state of continuing development. Accordingly, technology advancements occurring after adoption of the design and testing specifications in this proposal would be reviewed on an ongoing basis to determine the need for any revision of the specifications.

A discussion of the proposed regulations is contained in the following paragraphs:

Section 162.050–5 lists the information that must be contained in an application for approval of an item of equipment. The section in effect provides that each item for which approval is sought must be the subject of a separate application. However, paragraph 162.050–5(b) provides that an application may reference information contained in a previously submitted application so that excess paperwork can be avoided.

Section 162.050–7 describes the procedures for obtaining approval of an item of pollution equipment. Paragraph 162.050–7(b) of these procedures describes the initial processing of an application. When the application—is received, it is examined to determine whether the item complies with the applicable requirements of the Coast Guard marine engineering regulations (Subchapter F) and electrical engineering regulations (Subchapter J) and with the other design requirements proposed in this notice. Examination is also made to determine the probability that the item will pass the approval tests. Paragraphs 162.050–7 (c) through (g) prescribe the procedures for submitting an item for testing, conducting the tests, preparing and reviewing test reports, and issuing approval certificates. Paragraphs 162.050–7 (h), (i), (j), and (k) contain the approval criteria for each item of equipment.

The approval criteria in paragraph 162.050–7 (h) and (k) for a bilge alarm and 15 p.p.m. separator adopt the IMCO standard on oil content of overboard discharges through a 15 p.p.m. separator. This standard is contained in Annex I to the International Convention for the Prevention of Pollution from Ships, 1973. The standard prescribes a concentration limit of 15 parts per million (p.p.m.) of oil in water for overboard discharges through a 15 p.p.m. separator that has an alarm to indicate when this concentration is exceeded. The current overboard discharge limit prescribed by the Environmental Protection Agency in Part 110 of Title 40, Code of Federal Regulations, in pertinent part essentially provides that oil discharges into the navigable waters or contiguous zone must not create a sludge or emulsion or produce visible traces of oil in water or along adjoining shorelines. The Coast Guard is currently having discussions with EPA on the question of whether a discharge concentration of less than 15 p.p.m. oil in water is within the discharge limit prescribed by EPA regulations. Changes to the regulations in Part 157 of Title 33 that prescribe discharge limitations for separating and monitoring equipment may be proposed after resolution of this question.

Section 162.050–9 prescribes the contents of the test report to be submitted by a testing facility upon completion of approval testing. Sections 162.050–11 and 162.050–13 contain marking requirements for approved equipment and Coast Guard factory inspection procedures.

Section 162.050–15 prescribes procedures for obtaining designation as a facility authorized to perform approval tests. The Coast Guard is making an inquiry to determine what commercial facilities have an interest in conducting approval tests. Facilities that are considering submitting requests to be designated as testing facilities are specifically requested to comment on this notice of proposed rule making.

Sections 162.050–17 and 162.050–19 describe the test rigs that must be used in conducting approval tests on separators, monitors, and alarms.

Sections 162.050–21, 162.050–25, 162.050–29, and 162.050–33 propose design requirements for oil-water separators, cargo monitors, bilge monitors, and bilge alarms. The requirements are based upon those contained in the MEPC specifications. They also incorporate the applicable safety requirements in the Coast Guard marine and electrical engineering regulations published in Subchapters F and J of Title 46, Code of Federal Regulations. The requirements in paragraphs 162.050–25(j) and 162.050–29(d) for each cargo monitor and each bilge monitor to have a recording device are also contained in the International Convention for the Prevention of Pollution from Ships, 1973.

Section 162.050–23 contains approval tests for separators. The tests assess the performance capability of a separator using both low and high concentrations of oil in the influent to the separator as well as with a pure oil influent. The tests also evaluate performance when influent suction is lost and when the separator is operated for an extended period in the automatic mode.

Section 162.050–27 contains approval tests for cargo monitors. The tests assess the performance capability of a cargo monitor using a variety of crude oils or refined products, or both, depending upon which oils the monitor is designed to use. The tests also determine cargo monitor response time and assess performance under variable operating conditions and after an extended shutdown period.

Section 162.050–31 contains approval tests for bilge monitors. These tests are similar to those for cargo monitors, except that the oils specified for separator tests are used in lieu of the cargo oils specified for cargo monitor tests. Section 162.050–31 contains, in addition, tests that assess the capability of the devices required by §§ 162.050–20 (c)(1) and (c)(2) to produce the signals prescribed by those regulations.

Section 162.050–35 contains approval tests for bilge alarms. These tests assess the capability of an alarm to actuate at an oil concentration of 15 parts per million of oil in water when the power supply to the alarm is higher or lower than design ratings. The tests also assess the alarm's capability to operate properly for extended periods and after extended shutdown periods.

Section 162.050–37 requires that a vibration test be conducted for each monitor and bilge alarm and each separator control component submitted for approval. This test must be performed for an applicant by an independent laboratory. A laboratory report describing the results of the testing must be submitted with the application for approval.

Section 162.050–39 prescribes the method for measuring oil content of samples taken during approval testing of separators. The method consists of carbon tetrachloride solvent extraction and infrared spectrophotometry. This method has been developed by the Environmental Protection Agency after extensive consideration of alternative methods. The EPA method is specified in detail in this proposal to ensure that a high level of accuracy is maintained in measuring the oil content of the samples taken during testing. This method was selected for inclusion in the MEPC specifications.

This proposal has been reviewed for economic effects under Department of Transportation "Policies to Improve Analysis and Review of Regulations" (41 FR 16200). The costs to pollution equipment manufacturers will be those related to obtaining Coast Guard approval. It is estimated that approximately sixty devices may require approval at a cost per approval of $5,000 resulting in total industry costs of $300,000. The impact of administering the proposed approval program would be absorbed with existing Coast Guard resources; and, therefore, there would be no significant costs to the Coast Guard. The proposed approval program provides for the availability of equipment that has been developed on the basis of the best technology presently available and will, thus, reduce economic losses associated with oil pollution damage to the marine environment.

These regulations are proposed under the authority of 33 U.S.C. 1321(j), 46 U.S.C. 391a, 49 U.S.C. 1655(b)(1), and 49 CFR 1.46.

In consideration of the foregoing, the Coast Guard proposes to amend Part 162 of Title 46, Code of Federal Regulations, by adding a new Subpart 162.050 to read as follows:

Subpart 162.050—Pollution Prevention Equipment

Sec.

162.050-1 Scope.
162.050-3 Definitions.
162.050-5 Contents of application.
162.050-7 Approval procedures.
162.050-9 Test report.
162.050-11 Marking.
162.050-13 Factory inspection.
162.050-15 Designation of facilities.
162.050-17 Separator test rig.
162.050-19 Monitor and bilge alarm test rig.
162.050-21 Separator: design specification.
162.050-23 Separator: approval tests.
162.050-25 Cargo monitor: design specification.
162.050-27 Cargo monitor: approval test.
162.050-29 Bilge monitor: design specification.
162.050-31 Bilge monitor: approval tests.
162.050-33 Bilge alarm: design specification.
162.050-35 Bilge alarm: approval tests.
162.050-37 Vibration test.
162.050-39 Measurement of oil content.

AUTHORITY: This subpart is issued under the authority of 33 U.S.C. 1321(j), 46 U.S.C. 391a, 49 U.S.C. 1655(b)(1), and 49 CFR 1.46.

§ 162.050-1 Scope.

This subpart contains—

(a) Procedures for approval of 100 p.p.m. separators, 15 p.p.m. separators, cargo monitors, bilge monitors, and bilge alarms;

(b) Design specifications for this equipment;

(c) Tests required for approval;

(d) Procedures for obtaining designation as a facility authorized to conduct approval tests; and

(e) Marking requirements and factory inspection procedures.

§ 162.050-3 Definitions.

As used in this subpart—

(a) "p.p.m." means parts per million of oil in water;

(b) "100 p.p.m. separator" means a separator that is designed to produce an effluent to be discharged overboard containing an oil concentration in water of 100 p.p.m. or less; and

(c) "15 p.p.m. separator" means a separator that is designed to produce an effluent to be discharged overboard containing an oil concentration in water of 15 p.p.m. or less.

§ 162.050-5 Contents of application.

(a) An application for approval of an item of equipment under this subpart must contain the following information:

(1) The type of item including, if the item is a separator, a statement of what effluent oil content the separator is designed to produce.

(2) The name and address of the applicant and manufacturing facility.

(3) A detailed description of the quality control procedures, the in-process and final inspections and tests followed in manufacturing the item, and the construction and sales record keeping systems maintained.

(4) Arrangement drawings and piping diagrams of the item that give the information prescribed by § 56.01-10(d) of this chapter.

(5) Detailed electrical plans of the type described in § 111.05-5(d) of this chapter.

(6) An instructions manual containing detailed installation, operation calibration and zeroing, and maintenance instructions for the item.

(7) For each monitor and bilge alarm and each control on a separator, the vibration test report described in § 162.050-37 of this subpart.

(8) For each cargo monitor, a statement of whether it is to be used with crude oils, refined products, or both.

(9) A list of the substances used in operating the item that require certification under Part 147 of this chapter as articles of ships' stores and supplies.

(10) The name of the facility at which approval testing is planned.

(b) An applicant may incorporate by reference in his application information that he has submitted in a previous application.

§ 162.050-7 Approval procedures.

(a) An application for approval of an item of equipment under this subpart must be sent to the Commandant (G-MNT-3/83), U.S. Coast Guard, Washington, D.C. 20590.

(b) The application is examined by the Coast Guard to determine whether the item complies with the design requirements and vibration standard prescribed in this subpart and to determine the probability that the item will pass the approval tests. If the application is incomplete it is returned to the applicant with a statement of reasons why it is incomplete.

(c) The Coast Guard notifies the applicant of the results of the examination. The applicant must make arrangements for approval testing directly with the facility at which testing is planned.

(d) Each item submitted to a facility for approval testing must be accompanied by a copy of its instructions manual.

(e) If the item to be tested is a separator that is manufactured in more than one size and applications for approval have been made for each size, the applicant, in lieu of submitting each size for testing, may submit each size that has a capacity exceeding fifty (50) cubic meters per hour throughput, if any, and two additional sizes that have a capacity of fifty (50) cubic meters per hour throughput or less. One of the additional sizes must have a capacity that is in the highest quartile of capacities manufactured in the 0–50 cubic meters per hour throughput range and the other must be from the lowest quartile.

(f) Each approval test must be performed by one of the facilities designated by the Commandant. The facility must perform each test in accordance with the test conditions prescribed in this subpart for the test, prepare a test report for the item if it completes all of the tests, and send the report with four copies to the Commandant (G-MMT). The applicant may observe the tests. If an item does not complete testing, a new application must be submitted before retesting.

(g) The Commandant (G-MMT) sends a copy of the test report to the applicant and advises him whether the item is approved. If the item is approved, an approval certificate is sent to the applicant.

(h) A separator is approved under this subpart if—

(1) It meets the design requirements in § 162.050-21;

(2) In the case of a 100 p.p.m. separator, the oil content of each sample taken during approval testing is 100 p.p.m. or less;

(3) In the case of a 15 p.p.m. separator, the oil content of each sample taken during approval testing is 15 p.p.m. or less;

(4) During Test No. 4S an oily mixture is not detected at the separated water outlet of the separator;

(5) During Test No. 6S its operation is continuous; and

(6) Any substance used in operating the separator that requires certification under Part 147 of this chapter as an article of ships' stores or supplies has been certified.

(i) A cargo monitor is approved under this subpart if—

(1) It meets the design requirements in § 162.050-25;

(2) Each oil content reading recorded during approval testing is within ±10 p.p.m. or ±20 percent of the oil content of the mixture used in the testing;

(3) Its response time is twenty (20) seconds or less in Test No. 3CM;

(4) The time intervals between successive readings recorded in Test No. 4CM are twenty (20) seconds or less; and

(5) Any substance used in operating the monitor that requires certification under Part 147 of this chapter as an article of ships' stores or supplies has been certified.

(j) A bilge monitor is approved under this subpart if—

(1) It meets the design requirements in § 162.050-29;

(2) Except as provided in § 162.050-7(j)(5), each oil content reading recorded during approval testing is within ±10 p.p.m. or ±20 percent of the oil content of the mixture used in testing;

(3) The time intervals between successive readings recorded in test No. 3BM are twenty (20) seconds or less;

(4) The time intervals between successive readings recorded in Test No. 4BM are twenty (20) seconds or less;

(5) Each oil content that is recorded during the testing when the device required by § 162.050-29(c)(1) actuates is 15 p.p.m. ±5 p.p.m.;

(6) Each oil content that is recorded during testing when the device required by § 162.050-29(c)(2) actuates is 100 p.p.m. ±20 p.p.m.; and

(7) Any substance used in operating the monitor that requires certification under Part 147 of this chapter as an

article of ships' stores or supplies has been certified.

(k) A bilge alarm is approved under this subpart if—

(1) It meets the design requirements in § 162.050-33;

(2) Each oil content recorded during approval testing is 15 p.p.m. ±5 p.p.m.; and

(3) Any substance used in operating the alarm that requires certification under Part 147 of this chapter as an article of ships' stores or supplies has been certified.

§ 162.050-9 Test report.

A test report of approval testing must contain the following:

(a) Name of the testing facility.

(b) Name of the applicant.

(c) Date of receiving the item for testing and the dates of the tests conducted.

(d) Trade name and brief description of the item.

(e) A listing of the following properties of the test oils used:

(1) Relative density at 15°C.

(2) Viscosity in centistokes at 37.8°C.

(3) Flashpoint.

(4) Weight of ash content.

(5) Weight of water content.

(f) Relative density at 15°C. of the water used during testing and the weight of solid content in the water.

(g) The data recorded during each test.

§ 162.050-11 Marking.

(a) Each separator, monitor, or bilge alarm manufactured in accordance with the provisions of a certificate of approval must be plainly marked by the manufacturer with the information listed in paragraph (b) of this section. The marking must be securely fastened to the item.

(b) Each marking must include the following information:

(1) Name of the manufacturer.

(2) Name or model number of the item.

(3) If the item is a separator, the maximum throughput at which the separator is designed to operate.

(4) The month and year of completion of manufacture.

(5) The manufacturer's serial number for the item.

(6) The Coast Guard approval number assigned to the item in the certificate of approval.

(7) Each restriction, if any, on the use of bilge cleaners, solvents, and other chemical compounds that could impair operation of the equipment.

(8) If the item is a cargo monitor, the oils with which it is approved for use.

§ 162.050-13 Factory inspection.

The Coast Guard does not inspect equipment approved under this subpart on a regular schedule at the place of manufacture. However, the Commandant may detail Coast Guard personnel at any time to visit a factory where the equipment is manufactured to conduct an inspection of the manufacturing procedures. The manufacturer is advised in advance of any planned factory inspection.

§ 162.050-15 Designation of facilities.

(a) Each request for designation as a facility authorized to perform approval tests must be submitted to the Commandant (G-MMT-3/83), U.S. Coast Guard, Washington, D.C. 20590.

(b) Each request must include the following:

(1) Name and address of the facility.

(2) The type of equipment the facility proposes to test.

(3) A description of the facility's capability to perform approval tests including detailed information on the following:

(i) Management organization including personnel qualifications.

(ii) Equipment available for measuring oil content of samples.

(iii) Materials available for use in approval testing.

(iv) Each test rig to be used.

(c) To obtain authorization to conduct approval tests—

(1) A facility must have the management organization, equipment for measuring the oil content of samples, and material necessary to perform the tests;

(2) Each of its test rigs must be of a type described in §§ 162.050-17 or 162.050-19 of this subpart;

(3) The loss or award of a specific contract to test equipment must not be a substantial factor in the facility's financial well being; and

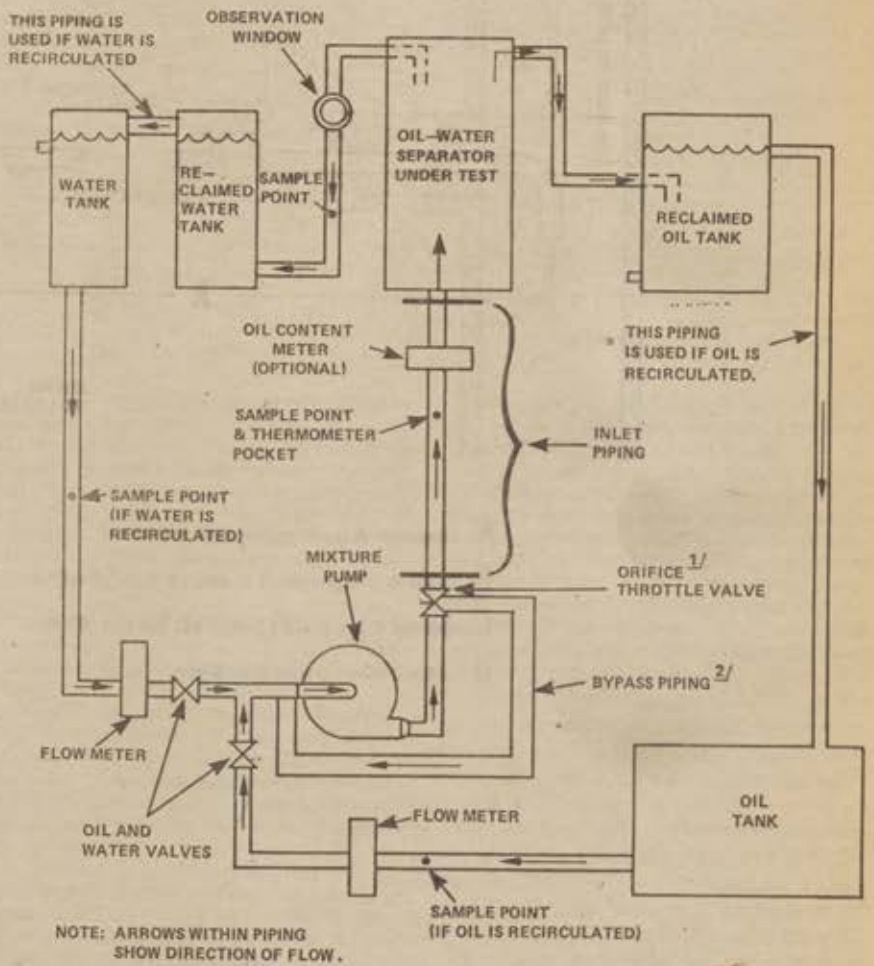
(4) The facility must be free of influence and control of the manufacturers, suppliers, and vendors of the equipment.

(d) A facility may not subcontract for approval testing unless previously authorized by the Coast Guard. A request for authorization to subcontract must be sent to the Commandant (G-MMT-3/83), U.S. Coast Guard, Washington, D.C. 20590.

§ 162.050-17 Separator test rig.

(a) This section describes the test rig to be used in approval testing of separators. A diagram of the test rig is shown in figure 162.050-17(a).

FIGURE 162.050-17(a) - SEPARATOR TEST RIG



1/ NOT REQUIRED IF MIXTURE PUMP HAS BYPASS PIPING. SEE § 162.050-23(a)(4).

2/ NOT REQUIRED IF MIXTURE PUMP PIPING HAS ORIFICE. SEE § 162.050-23(a)(4).

(b) The mixture pump shown in figure 162.050–17(a) is used if a separator does not have a supply pump. (Section 162.050–23(a)(4) of this subpart contains requirements for a mixture pump.)

(c) The inlet piping of the test rig is sized so that—

(1) Influent water flows at a Reynolds Number of at least ten thousand;

(2) The influent flow rate is between one and three meters per second; and

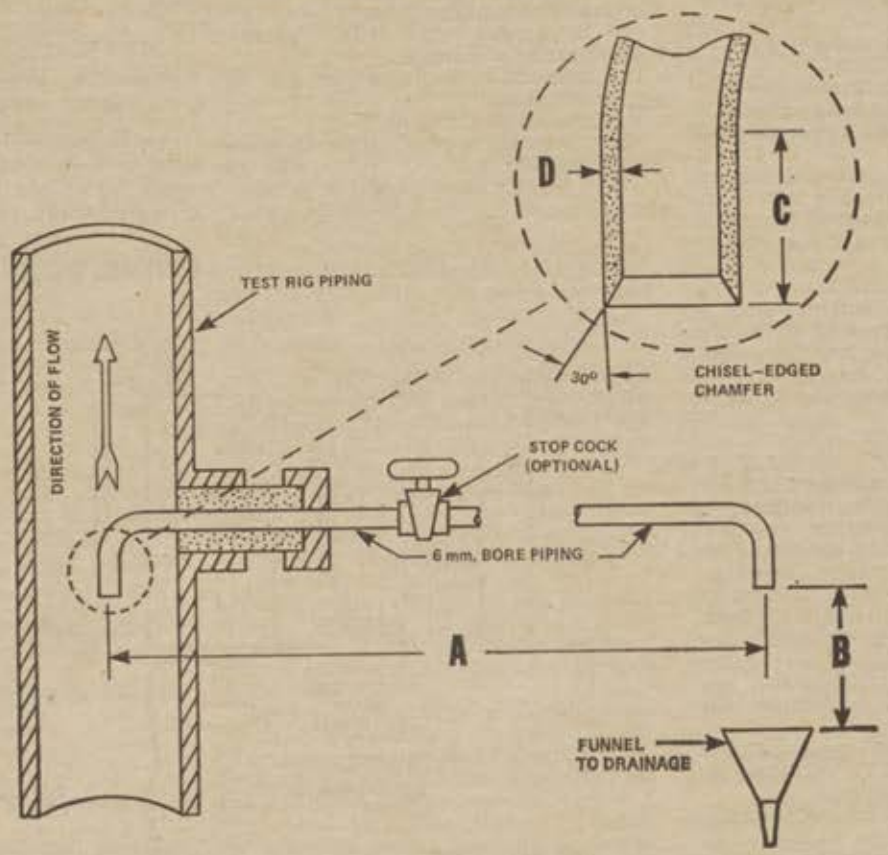
(3) Its length is at least twenty (20) times its inside diameter.

(d) Each sample point on a test rig is of the type described in figure 162.050–17(e). Each sample point is in a vertical portion of the test rig piping.

§ 162.050–19 Monitor and bilge alarm test rig.

The test rig to be used in approval testing of monitors and bilge alarms is described in figure 162.050–19. Each sample point on the test rig is of the type described in figure 162.050–17(e). Each sample point is in a vertical portion of the test rig piping.

FIGURE 162.050—17(e) - SAMPLE POINT



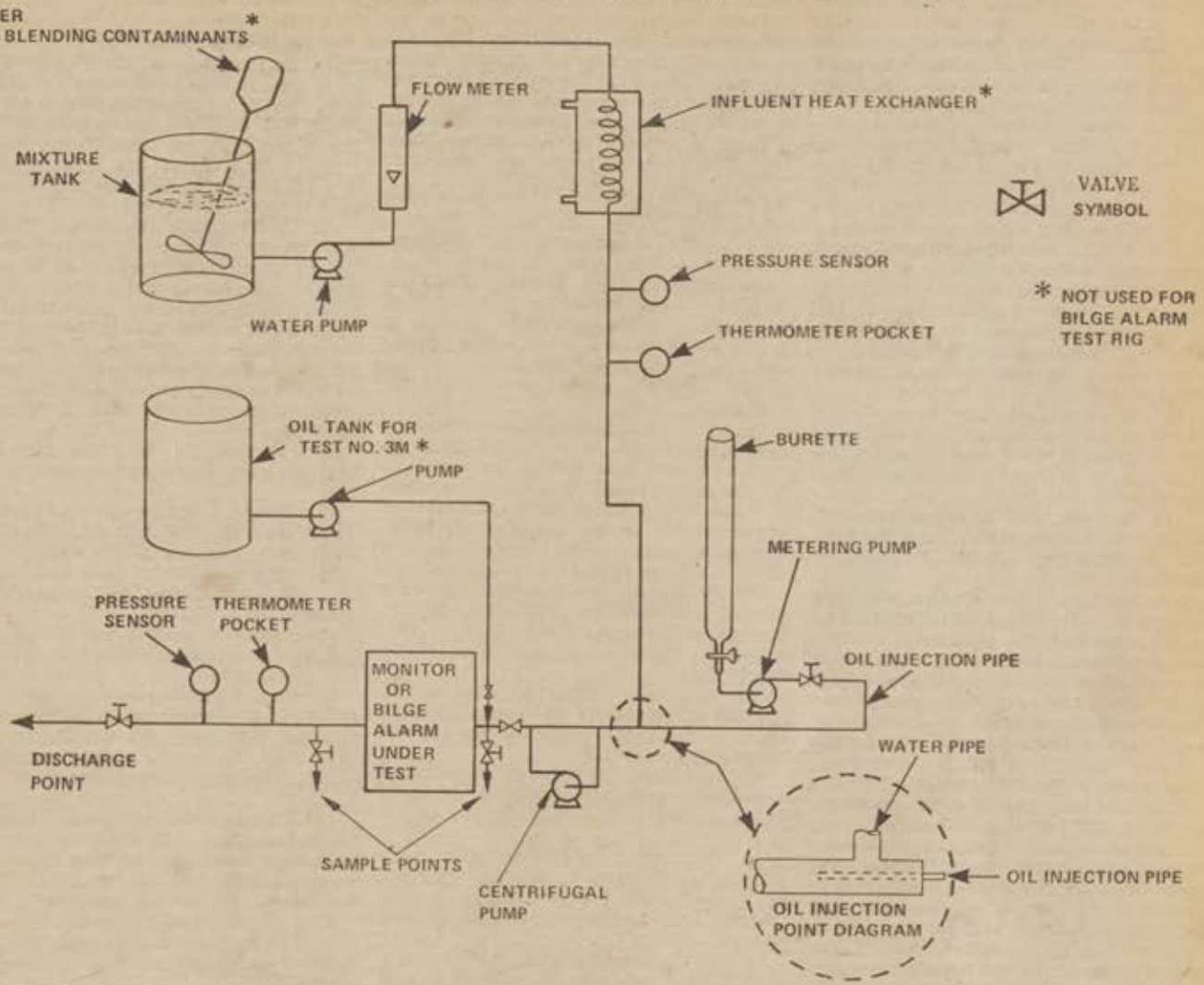
A dimension A is not greater than 400 mm.

B height B is large enough to insert a sample bottle.

C distance C is a straight line of not less than 60 mm.

D width D is not greater than 2 mm.

FIGURE 162.050—19 - MONITOR AND BILGE ALARM TEST RIG



§ 162.050–21 **Separator design specification.**

(a) A separator must be designed to operate in each plane that forms an angle of 22.5° with the plane of its normal operating position.

(b) The electrical components of a separator that are to be installed in an explosive atmosphere must be approved by an independent laboratory as components that Underwriters Laboratories Standard 913 (dated January 20, 1976) defines as intrinsically safe for use in a Class I, Group D hazardous location.

(c) Each separator component that is a moving part must be designed so that its movement during operation of the separator does not cause formation of static electricity.

(d) Each separator must be designed in accordance with the applicable requirements in subchapters F and J of this chapter.

(e) Each separator must be designed to be operated both automatically and manually. Each separator to be installed in an unattended machinery space must be capable of operating automatically for at least twenty-four (24) hours.

(f) Each separator must be designed so that adjustments to valves or other equipment are not necessary to start it.

(g) Each part of a separator that is susceptible to wear and tear must be readily accessible for maintenance in its installed position.

§ 162.050–23 **Separator: approval tests.**

(a) *Test Conditions.* (1) Each test described in this section must be performed at a throughput equal to the maximum throughput at which the separator being tested is designed to operate. The tests and each of the steps in the tests must be carried out in the order described in this section. Each test must be performed without time delay between steps in the test.

(2) Except as provided in Test No. 3S, the influent oil used in each test must be a heavy fuel oil that has a relative density of approximately 0.94 at 15° C and a viscosity of at least 220 centistokes (approximately 900 seconds Redwood No. 1) at 37.8° C.

(3) A test rig of the type described in § 162.050–17 of this subpart must be used in performing each of the tests.

(4) If a separator has a supply pump, it must be tested using that pump. If a separator does not have a supply pump, it must be tested using a mixture pump provided by the facility. The mixture pump must be a centrifugal pump capable of operating at one thousand (1,000) revolutions per minute or more. The pump must have a delivery capacity of at least one and one half (1.5) times the maximum throughput at which the separator being tested is designed to operate. The pump must have either bypass piping to its suction side or a throttle valve or orifice on its discharge side.

(5) The influent water used in each test must be clean and have a relative density at 15° C that is equal to or less than 0.085 plus the relative density of the heavy fuel oil used in the testing.

(6) Each test must be conducted at an ambient temperature that is between 10° C and 30° C.

(7) The oil content of each sample must be measured using the method described in § 162.050-39 of this subpart.

(8) Each sample must be approximately one (1) liter in volume and must be collected in a narrow-necked glass bottle that has a pressure sealing cap.

(9) Influent oil content must be determined during testing by measuring the flow rates of the oil and water that are mixed to form the influent or by use of an oil content meter on the inlet piping of the test rig. If an oil content meter is used, a sample of influent and a meter reading must be taken at the beginning of each test. If the meter reading is not within ±10 percent of the measurement of oil content of the sample, the meter readings subsequently taken during the test are unacceptable test results.

(10) When collecting a sample at a sample point that has a stop cock, the first minute of fluid flow through the stop cock must not be included in the sample collected.

(11) In each test, the separator must be operated in accordance with the procedures described in its instructions manual.

(b) *Test No. 1S.* The separator is filled with water and started. It is fed with oil for at least five (5) minutes and then with an oil-water influent containing an oil content of between 5,000 and 10,000 p.p.m. until a steady flow rate occurs. After the flow rate is steady, the influent is fed to the separator for thirty (30) minutes. Samples of influent and separated water effluent are taken after the first ten (10) and twenty (20) minutes. At thirty (30) minutes the air cock on the test rig is opened and, if necessary, the oil and water supply valves are closed to stop the flow of influent. A sample is then taken of the separated water effluent as the effluent flow ceases.

(c) *Test No. 2S.* Test No. 1S is repeated using an influent containing approximately 25 percent oil and 75 percent water.

(d) *Test No. 3S.* Tests No. 1S and 2S are repeated using, in lieu of a heavy fuel oil in the influent, a light distillate fuel oil having a relative density of approximately 0.83 at 15° C.

(e) *Test No. 4S.* The separator is fed with oil until oil is discharged at the oil discharge outlet of the separator at essentially the same rate that oil is being fed to the separator. The separator is then fed with oil for five (5) additional minutes. If any oily mixture is discharged from the separated water outlet on the separator during the test, that observation is recorded.

(f) *Test No. 5S.* The separator is fed with water for fifteen (15) minutes. Samples of the separated water effluent are taken at the beginning of the test and after the first ten (10) minutes.

(g) *Test No. 6S.* The separator is operated automatically for three (3) hours. During the test the separator is continuously fed with an influent varying from water to a mixture of 25 percent oil in water and back to water every fifteen (15) minutes. The oil concentration in the influent is varied in at least five (5) equal increments during each fifteen (15) minute period and the time intervals between the incremental changes are equal. During the last period in which the unit is fed a 25 percent oil mixture, a sample of the separated water effluent is taken. If operation of the separator is not continuous during this test, that observation is recorded.

§ 162.050-25 Cargo monitor: design specification.

(a) This section contains requirements that apply to cargo monitors.

(b) Each monitor must be designed so that it is calibrated by a means that does not involve manually mixing a known quantity of oil and a known quantity of water to form a mixture and manually feeding the mixture into the monitor.

(c) The electrical components of a monitor that are to be installed in an explosive atmosphere must be approved by an independent laboratory as components that Underwriters Laboratories Standard 913 (dated January 20, 1976) defines as intrinsically safe for use in a Class I, Group D hazardous location.

(d) Each monitor component that is a moving part must be designed so that its movement during operation of the monitor does not cause formation of static electricity.

(e) A monitor must be designed to operate in each plane that forms an angle of 22.5° with the plane of its normal operating position.

(f) Each monitor must be designed in accordance with the applicable requirements contained in subchapters F and J of this chapter.

(g) Each monitor must be designed so that it records each change in oil content of the mixture it is measuring within twenty (20) seconds after the change occurs.

(h) Each cargo monitor must have a device that produces a warning signal and a signal that can be used to actuate valves in a vessel's fixed piping system, if—

(1) The oil content of the mixture being measured exceeds the concentration limit set by the operator of the monitor; or

(2) Malfunction, breakdown, or other failure of the monitor occurs.

(i) Each monitor must have a means to determine whether it is accurately calibrated.

(j) Each cargo monitor must have a device that has a means to record continuously the amount of oil (in liters) of any oily cargo residue or other oily mixture combined with an oily cargo residue discharged overboard from the vessel on which the monitor is installed and the amount of oil in the discharge per nautical mile of vessel travel. The device must also have a means to record the date and time of discharge. The record must be durable enough to be kept for three (3) years. If the device has more than one scale, it must have a means to show on the record the scale in use at the time of the reading.

§ 162.050-27 Cargo monitor: approval tests.

(a) This section contains requirements that apply to cargo monitors.

(b) *Test conditions.* (1) The tests and each step in the tests must be carried out in the order described in this section. Each test must be performed without time delay between steps in the test.

(2) A test rig of the type described in § 162.050-19 of this subpart must be used in performing each of the tests.

(3) Each mixture used during the tests must be prepared by combining a known flow of oil supplied from the oil injection pipe of the test rig and a known flow of water supplied from the mixture tank of the test rig, except that if the flow of oil through the oil injection pipe becomes intermittent a known quantity of oil and a known quantity of water must be combined in the mixture tank to form the mixture.

(4) A mixture may be circulated through a monitor only once during testing.

(5) Except as otherwise provided, the water used in each test must be clean, fresh water (in lieu of salt water).

(6) The oil used in each test, except Test No. 2CM, must be Arabian light crude oil.

(7) Each test must be performed at an ambient temperature that is between 10° C. and 30° C.

(8) Except as otherwise provided, each test must be performed at the maximum mixture pressure, the maximum flow rate, and the power supply ratings at which the monitor is designed to operate.

(9) The particulate contaminant described in Table 162.050-27(g) must be of a type that does not lose more than three (3) percent of its weight after ignition and must be insoluble.

(10) In each test the monitor must be operated in accordance with the procedures described in its instructions manual.

(c) *Test No. 1CM.* The cargo monitor is calibrated and zeroed. It is then fed with mixtures in concentrations of 0 p.p.m., 15 p.p.m., 50 p.p.m., and 100 p.p.m., followed by concentrations that increase incrementally in size by 50 p.p.m. per concentration up to the highest concentration that can be read on the monitor. Each incremental concentration is fed to the monitor for fifteen (15) minutes and the oil content reading is then recorded. After each concentration is fed to the monitor, the equipment is fed with water for fifteen (15) minutes and the oil content reading then recorded.

(d) *Test No. 2CM.* (1) If the applicant states in his application that the cargo monitor is to be used with crude oils, the monitor is fed with a mixture containing the first oil listed in Table 162.050-27(d) at a concentration of 15 p.p.m. and then at a 100 p.p.m. concentration and at a concentration that is ninety (90) percent of the highest oil concentration in water that can be read on the monitor. Each concentration is fed to the monitor until a steady reading occurs and is recorded. After each steady

reading is recorded, the monitor is fed with water for fifteen (15) minutes. The reading of oil content at the end of each fifteen (15) minute period is also recorded.

(2) The steps described in paragraph (d)(1) of this section are repeated using each of the other oils listed in Table 162.050–27(d).

TABLE 162.050–27(d).—OIL TYPE AND CHARACTERISTICS

Oil type:	Characteristics
1. Sahara blend crude oil.	Density—low; viscosity—low; pour point—very low; producing country—Algeria; general description—mixed base.
2. Arabian light crude oil.	Density — medium; viscosity — medium; pour point—low; producing country — Saudi Arabia; general description—mixed base.
3. Nigerian medium crude oil.	Density—high; viscosity — medium; pour point—low; producing country—Nigeria; general description—napthenic base.
4. Bachaquero 17 crude oil.	Density—very high; viscosity — very high; pour point—low; producing country — Venezuela; general description — asphaltic base.
5. Minas crude.	Density — medium; viscosity — high; pour point—very high; producing country — Indonesia; general description — paraffinic base.
6. Residual fuel.	Bunker C or No. 6 fuel oil.

(3) If any oil listed in Table 162.050–27(d) is unavailable, an oil with similar properties is substituted in testing.

(4) If the applicant states in his application that the monitor is to be used with refined products, the steps described in paragraph (d)(1) of this section are performed using each of the following in lieu of an oil listed in Table 162.050–27(d):

(1) Leaded regular grade automotive gasoline.

(2) Unleaded automotive gasoline.

(3) Kerosene.

(4) Light diesel or no. 2 fuel oil.

(e) *Test No. 3CM.* (1) The cargo monitor is fed with water, zeroed, and then fed with a 100 p.p.m. mixture. The time of turning on the metering pump of the test rig, the time at which the monitor first detects oil in the mixture, the tmes of readng 63 p.p.m. and 90 p.p.m., and the time of reading the highest steady reading of oil content are recorded. The value of the highest steady reading is also recorded.

(2) The metering pump is turned off and the time at which the highest reading starts to decrease, the times of reading 37 p.p.m. and 10 p.p.m., and the time of reading the lowest steady reading are recorded. The value of the lowest steady reading is also recorded.

(3) The time interval between starting oil injection and reading 63 p.p.m. and the time interval between turning the metering pump off and reading 37 p.p.m. are averaged and recorded as the response time for the monitor.

(f) *Test No. 4CM.* (1) The cargo monitor is fed with water, zeroed, and then fed with a mixture containing ten (10) percent oil for one (1) minute. The following times occurring during this procedure are recorded:

(i) Time of turning on the metering pump of the test rig.

(ii) Time at which the monitor first detects oil.

(iii) Time of reading 100 p.p.m.

(iv) Time of exceeding the highest oil concentration that can be read on the monitor.

(v) Time of returning to the highest oil concentration that can be read on the monitor.

(vi) Time of returning to a reading of 100 p.p.m.

(vii) Time of returning to the lowest steady oil content reading.

(2) The value of the lowest steady oil content reading described in paragraph (f)(1)(vii) of this section is recorded.

(3) The monitor is fed with water, zeroed, and then fed with oil for one (1) minute after which the flow of water is resumed. The times described in paragraph (f)(1) of this section are recorded.

(4) The monitor is fed with a 100 p.p.m. mixture until a steady oil content reading is obtained and recorded.

(g) *Test No. 5CM.* (1) The cargo monitor is fed with a 500 p.p.m. mixture until a steady reading is obtained and recorded.

(2) The monitor is fed with a 500 p.p.m. mixture to which sodium chloride has been added to provide a concentration of 60,000 parts per million of sodium chloride in water. The oil content reading, when steady, is recorded.

(3) The monitor is fed with a 500 p.p.m. mixture to which the insoluble particulate contaminant described in Table 162.050–27(g) has been added to provide a concentration of 100 parts per million of particulate contaminant in water. The oil content reading, when steady, is recorded.

TABLE 162.050–27(g)—INSOLUBLE PARTICULATE CONTMINANT

PHYSICAL DESCRIPTION

Particle sizes, microns:	*Percentage by weight of particle size in contaminant*
0–5	39+2
5–10	18+3
10–20	16+3
20–40	18+3
40–80	9+3

(h) *Test No. 6CM.* (1) The cargo monitor is fed with a 100 p.p.m. mixture until a steady oil content reading occurs and is recorded.

(2) The monitor is fed with a 100 p.p.m. mixture that has first passed through the centrifugal pump of the test rig. The pump is run at one fourth (¼) of its design speed. The oil content reading, when steady, is recorded.

(3) The steps described in paragraph (h)(2) of this section are repeated with the pump running at one-half (½) of its design speed and then repeated at its design speed.

(i) *Test No. 7CM.* (1) The steps described in paragraph (h)(1) of this section are repeated.

(2) The temperature of the mixture is adjusted to 10° C. and the flow continued until a steady oil content reading is obtained and recorded.

(3) The steps described in paragraph (i)(2) of this section are repeated with the temperature of the mixture 65° C. or the mixture temperature at which the cargo monitor is designed to operate, whichever is lower.

(j) *Test No. 8CM.* (1) The steps described in paragraph (h)(1) of this section are repeated.

(2) If the cargo monitor has a positive displacement mixture pump, the mixture pressure is lowered to one half of the monitor's maximum design pressure. If the monitor has a centrifugal mixture pump or is not equipped with a mixture pump the mixture flow rate is reduced to one-half of the monitor's design flow rate. The reduced flow rate or mixture pressure is maintained until a steady oil content reading is obtained and recorded.

(3) If the cargo monitor has a positive displacement mixture pump, the mixture pressure is increased to twice the monitor's maximum design pressure. If the monitor has a centrifugal mixture pump or does not have a mixture pump, the mixture flow rate is increased to twice the monitor's maximum design flow rate. The increased flow rate or mixture pressure is maintained until a steady oil content reading is obtained and recorded.

(k) *Test No. 9CM.* (1) The steps described in paragraph (h)(1) of this section are repeated.

(2) The water and metering pumps on the test rig are stopped for eight (8) hours after which the steps described in paragraph (h)(1) of this section are repeated.

(l) *Test No. 10CM.* (1) The supply voltage to the cargo monitor is increased to one hundred and ten (110) percent of its design supply voltage. The monitor is then fed a 100 p.p.m. mixture for one (1) hour. At one (1) hour the oil content reading is recorded.

(2) The steps described in paragraph (1)(1) of this section are repeated with the supply voltage to the monitor lowered to ninety (90) percent of its design supply voltage.

(3) Upon completion of the steps described in paragraph (1)(2) of this section, the supply voltage to the monitor is returned to the design rating.

(4) The steps described in paragraph (1)(1), (1)(2), and (1)(3) of this section are repeated varying each other power supply to the monitor in the man-

ner prescribed in those steps for supply voltage.

(m) *Test No. 11CM.* (1) The monitor is calibrated and zeroed.

(2) The steps described in paragraph (h)(1) of this section are repeated.

(3) A 100 p.p.m. mixture is fed to the monitor for eight (8) hours. At eight (8) hours the oil content reading is recorded.

(4) The monitor is fed with water until a steady oil content reading is obtained and recorded.

(n) *Test No. 12CM.* (1) All power to the monitor is shut off for one (1) week. After one week the monitor is started, zeroed, and calibrated.

(2) The monitor is fed with a 100 p.p.m. mixture for one (1) hour. The oil content reading is then recorded.

(3) The monitor is fed with water for one (1) hour. The oil content reading is then recorded.

(4) The steps described in paragraphs (n)(2) and (n)(3) of this section are repeated three (3) additional times.

§ 162.050–29 Bilge monitor: design specification.

(a) This section contains requirements that apply to bilge monitors.

(b) Each bilge monitor must be designed to meet the requirements of this section and the requirements for a cargo monitor in §§ 162.050–25 (b) through (g) and 162.050–25(i) of this subpart.

(c) Each bilge monitor must have—

(1) A device that produces a warning signal, and a signal that can be used to actuate stop valves in a vessel's fixed piping system, when the oil content of the mixture being measured exceeds 15 p.p.m. ±5 p.p.m.;

(2) A device that produces a warning signal, and a signal that can be used to actuate stop valves in a vessel's fixed piping system, when the oil content of the mixture being measured exceeds 100 p.p.m. ±20 p.p.m.; and

(3) A device that produces a warning signal, and a signal that can be used to actuate stop valves in a vessel's fixed piping system, when malfunction, breakdown, or other failure of the bilge monitor occurs.

(d) Each bilge monitor must have a device that has a means to record continuously the concentration of oil in p.p.m. that the monitor measures. The device must also have a means to record the date and time of the measurement. The record must be durable enough to be kept for three (3) years. If the device has more than one scale, it must have a means to show on the record the scale in use at the time of the reading.

§ 162.050–31 Bilge monitor: approval tests.

(a) This section contains requirements that apply to bilge monitors.

(b) *Test conditions.* (1) Each test must be conducted under the conditions prescribed in this section and under the conditions prescribed for cargo monitors in § 162.050–27 (b)(1) through (b)(4) and § 162.050–27 (b)(7) through (b)(10).

(2) Except as provided in test No. *2BM*, the oil used in each test must be a heavy fuel oil that has a relative density of approximately 0.94 at 15° C and a viscosity of at least 220 centistokes (approximately 900 seconds Redwood No. 1) at 37.8° C.

(3) The water used in each test must be clean and have a relative density at 15° C that is equal to or less than 0.085 plus the relative density of the heavy fuel oil used in the testing.

(c) *Test No. 1BM.* (1) The bilge monitor is calibrated and zeroed. It is then fed with mixtures in concentrations of 0 p.p.m., 15 p.p.m., 50 p.p.m., 75 p.p.m., and 100 p.p.m., followed by concentrations that increase incrementally in size by 25 p.p.m. per concentration up to the highest concentration that can be read on the monitor. Each incremental concentration is fed to the monitor for fifteen (15) minutes and the oil content reading is then recorded. After each concentration is fed to the bilge monitor, the equipment is fed with water for fifteen (15) minutes and the oil content reading then recorded.

(2) The metering and water pumps of the test rig are started and the oil content of the mixture is increased until the device required by § 162.050–29(c)(1) actuates. The oil content of the mixture causing actuation is recorded.

(3) The oil content of the mixture is then increased until the device required by § 162.050–29(c)(2) actuates. The oil content of the mixture causing actuation is recorded.

(d) *Test No. 2BM.* Test No. 1BM is repeated using, in lieu of a heavy fuel oil in the influent, a light distillate fuel oil having a relative density of approximately 0.83 to 15° C.

(e) *Test No. 3BM.* (1) The bilge monitor is fed with water, zeroed, and then fed with a 15 p.p.m. mixture until a steady reading is obtained and recorded. The time of turning on the metering pump of the test rig and the time of obtaining the highest steady reading of oil content are also recorded.

(2) The metering pump is turned off and the time at which the highest steady reading starts to decrease and the time of reading the lowest steady reading are recorded. The value of the lowest steady reading is also recorded.

(3) The steps in paragraphs (1) and (2) of this section are repeated using a 100 p.p.m. mixture.

(f) *Test No. 4BM.* (1) The bilge monitor is fed with water, zeroed, and then fed with a mixture containing (10) percent oil for one (1) minute. The following times occurring during this procedure are recorded:

(i) Time of turning on the metering pump of the test rig.

(ii) Time at which the bilge monitor first detects oil.

(iii) Time of actuation of the device required by § 162.050–29(c)(1).

(iv) Time of actuation of the device required by § 162.050–29(c)(2).

(v) Time of exceeding the highest oil concentration that can be read on the bilge monitor.

(vi) Time of returning to the highest oil concentration that can be read on the bilge monitor.

(vii) Time of returning to the lowest steady oil content reading.

(2) The value of the lowest steady oil content reading described in paragraph (f)(1)(vii) of this section is recorded.

(3) The monitor is fed with water, zeroed, and then fed with oil for one (1) minute after which the flow of water is resumed. The times described in paragraph (f)(1) of this section are recorded.

(4) The monitor is fed with a 15 p.p.m. mixture until a steady oil content reading is obtained and recorded.

(5) The monitor is fed with a 100 p.p.m. mixture until a steady oil content reading is obtained and recorded.

(g) *Test No. 5BM.* (1) The bilge monitor is fed with an 80 p.p.m. mixture until a steady reading is obtained and recorded.

(2) The monitor is fed with an 80 p.p.m. mixture to which sodium chloride has been added to provide a concentration of 60,000 parts per million of sodium chloride in water. The oil content reading, when steady, is recorded.

(3) The monitor is fed with an 80 p.p.m. mixture to which the insoluble particulate contaminant described in Table 162.050–27(g) has been added to provide a concentration of 20 parts per million of particulate contaminant in water. The oil content reading, when steady, is recorded.

(h) *Test No. 6BM.* (1) The bilge monitor is fed a 10 p.p.m. mixture until a steady reading is obtained and recorded.

(2) If the monitor has a positive displacement mixture pump, the mixture pressure is lowered to one half of the monitor's maximum design pressure. If the monitor has a centrifugal mixture pump or is not equipped with a mixture pump, the mixture flow rate is reduced to one half of the monitor's maximum design flow rate. After reduction of the pressure or flow rate, the oil content of the mixture is increased until the device required by § 162.050–29(c)(1) actuates. The oil content causing actuation is recorded.

(3) The bilge monitor is fed with an 80 p.p.m. mixture until a steady reading is obtained and recorded. The oil content of the mixture is then increased until the device required by § 162.050–29(c)(2) actuates. The oil content causing actuation is recorded.

(4) If the monitor has a positive displacement mixture pump, the mixture pressure is increased to twice the monitor's maximum design pressure. If the monitor has a centrifugal mixture pump or if the monitor is not equipped with a mixture pump, the mixture flow rate is increased to twice the monitor's maximum design flow rate. After increasing the pressure or flow rate, the oil content of the mixture is increased until the device required by § 162.050–29(c)(1) actuates. The oil content causing actuation is recorded.

(5) The steps described in paragraph (h)(3) of this section are repeated.

(i) *Test No. 7BM.* (1) The steps described in paragraphs (c)(2) and (c)(3) of this section are repeated.

(2) The water and metering pumps on the test rig are stopped for eight (8) hours after which the steps described in paragraphs (c)(2) and (c)(3) of this section are repeated.

(j) *Test No. 8BM.* (1) The supply voltage to the bilge monitor is increased to one hundred and ten (110) percent of its design supply voltage. The monitor is then fed at 10 p.p.m. mixture for one (1) hour. At one (1) hour the oil content reading is recorded.

(2) The oil content of the mixture is increased until the device required by § 162.050-29(c)(1) actuates. The oil content causing actuation is recorded.

(3) The bilge monitor is fed with an 80 p.p.m. mixture for one (1) hour. At one (1) hour the oil content reading is recorded.

(4) The oil content of the mixture is increased until the device required by § 162.050-29(c)(2) actuates. The oil content causing actuation is recorded.

(5) The steps described in paragraphs (j)(1) through (j)(4) of this section are repeated with the supply voltage to the bilge monitor lowered to ninety (90) percent of its design voltage.

(6) Upon completion of the steps described in paragraph (j)(5) of this section, the supply voltage to the monitor is returned to the design rating.

(7) The steps described in paragraphs (j)(1), (j)(2), (j)(3), and (j)(4) of this section are repeated varying each other power supply to the monitor in the manner prescribed in those steps for supply voltage.

(k) *Test No. 9BM.* (1) The steps described in paragraphs (c)(2) and (c)(3) of this section are repeated.

(2) An 80 p.p.m. mixture is fed to the bilge monitor for eight (8) hours. At eight (8) hours the oil content reading is recorded.

(3) The steps described in paragraphs (c)(2) and (c)(3) of this section are repeated.

(4) The monitor is fed with water until a steady reading is obtained and recorded.

(l) *Test No. 10BM.* (1) All power to the bilge monitor is shut off for one (1) week. After one week the monitor is started, zeroed, and calibrated.

(2) The monitor is fed with an 80 p.p.m. mixture for one (1) hour. The oil content reading is then recorded.

(3) The steps described in paragraphs (c)(2) and (c)(3) of this section are repeated.

(4) The monitor is fed with water for one (1) hour. The oil content reading is then recorded.

(5) The steps described in paragraphs (l)(2), (l)(3), and (l)(4) of this section are repeated three (3) additional times.

§ 162.050-33 Bilge alarm: design specification.

(a) This section contains requirements that apply to bilge alarms.

(b) Each bilge alarm must be designed to meet the requirements for a cargo monitor in §§ 162.050-25 (b) through (g) and 162.050-25(l) of this subpart and the requirements in this section.

(c) Each bilge alarm must have a device that produces a warning signal, and a signal that can be used to actuate stop valves in a vessel's fixed piping system, if—

(1) The oil content of the mixture being measured by the bilge alarm exceeds 15 p.p.m. ±5 p.p.m.; or

(2) Malfunction, breakdown, or other failure of the bilge alarm occurs.

§ 162.050-35 Bilge alarm: approval tests.

(a) This section contains requirements that apply to bilge alarms.

(b) *Test Conditions.* (1) Each test must be conducted under the conditions prescribed for cargo monitors in § 162.050-27(b)(1) through (b)(5) and § 162.050-27(b)(7), (b)(8), and (b)(10) of this subpart.

(2) Each test must be performed using a light distillate fuel oil having a relative density of approximately 0.83 at 15° C.

(c) *Test No. 1A.* The bilge alarm is calibrated and zeroed. The metering and water pumps of the test rig are started and the oil content of the mixture is increased until the alarm actuates. The oil content of the mixture causing actuation of the alarm is recorded. The alarm is then fed with water for fifteen (15) minutes.

(d) *Test No. 2A.* (1) The metering and water pumps of the test rig are started and the oil content of the mixture is increased until the bilge alarm actuates. The oil content of the mixture causing actuation of the alarm is recorded.

(2) If the alarm has a positive displacement mixture pump, the mixture pressure is reduced to one-half (½) of the alarm's maximum design pressure. If the alarm has a centrifugal mixture pump or is not equipped with a mixture pump, the mixture flow rate is reduced to one-half (½) of the alarm's maximum design flow rate. After reduction of pressure or flow rate, the oil content in the mixture is increased until the alarm actuates. The oil content of the mixture causing actuation of the alarm is recorded.

(3) If the alarm has a positive displacement mixture pump, the influent pressure is increased to twice the alarm's maximum design pressure. If the alarm has a centrifugal mixture pump or if the alarm is not equipped with a mixture pump, the influent flow rate is increased to twice the alarm's maximum design flow rate. After increasing the pressure or flow rate, the oil content in the mixture is increased until the alarm actuates. The oil content of the mixture causing actuation is recorded.

(e) *Test No. 3A.* (1) The steps described in paragraph (d)(1) of this section are repeated.

(2) The metering and water pumps of the test rig are stopped for eight (8) hours.

(3) The metering and water pumps are started and the oil content of the mixture is increased until the bilge alarm actuates. The oil content of the mixture causing actuation is recorded.

(f) *Test No. 4A.* (1) The steps described in paragraph (d)(1) of this section are repeated.

(2) The supply voltage to the bilge alarm is raised to one hundred ten (110) percent of its design supply voltage. The oil content of the mixture is then increased until the alarm actuates. The oil content of the mixture causing actuation is recorded.

(3) The supply voltage to the alarm is lowered to ninety (90) percent of its design supply voltage. The oil content of the mixture is then increased until the alarm actuates. The oil content of the mixture causing actuation is recorded.

(4) Upon completion of the steps described in paragraph (f)(3) of this section, the supply voltage to the alarm is returned to its design value.

(5) The steps described in paragraphs (f)(2), (f)(3), and (f)(4) of this section are repeated varying each other power supply to the alarm in the manner prescribed in those steps for supply voltage.

(g) *Test No. 5A.* (1) The steps described in paragraph (d)(1) of this section are repeated.

(2) The bilge alarm is fed with a 5 p.p.m. mixture for eight (8) hours. After eight (8) hours the oil content of the mixture is then increased until the alarm actuates. The oil content of the mixture causing actuation is recorded.

(h) *Test No. 6A.* (1) All power to the bilge alarm is shut off for one (1) week. After one (1) week the alarm is then started, zeroed, and calibrated.

(2) The steps described in paragraph (d)(1) of this section are repeated. Water is then fed to the alarm for one (1) hour.

(3) The steps described in paragraph (h)(2) are repeated seven (7) additional times.

§ 162.050-37 Vibration test.

(a) Equipment submitted for Coast Guard approval must first be tested under the conditions prescribed in paragraph (b) of this section. The test must be performed at an independent laboratory that has the equipment to subject the item under test to the vibrating frequencies and amplitudes prescribed in paragraph (b) of this section. The test report submitted with the application for Coast Guard approval must be prepared by the laboratory and must contain the test results.

(b) Each bilge alarm and monitor and each control of a separator must be subjected to continuous sinusoidal vibration in each of the following directions for a 4 hour period in each direction:

(1) Vertically up and down.

(2) Horizontally from side to side.

(3) Horizontally from end to end.

The vibrating frequency must be 80Hz, except that the vibrating frequency of equipment that has a resonant frequency between 2Hz and 80Hz must be the resonant frequency. If the vibrating frequency is between 2Hz and 13.2Hz, the displacement amplitude must be ±1 mm.

If the vibrating frequency is between 13.2Hz and 80Hz, the acceleration amplitude must be ±.7g.

§ 162.050–39 Measurement of oil content.

(a) *Scope.* This section describes the method and apparatus to be used in measuring the oil content of a sample taken in approval testing of a separator. Light oil fractions in the sample, with the exception of volatile components lost during extractions, are included in each measurement.

(b) *Summary of method.* Each sample is acidified to a low pH and extracted with two volumes of carbon tetrachloride. The oil content of the sample is determined by comparison of the infrared absorbance of the sample extract against the absorbance of known concentrations of a reference oil in carbon tetrachloride.

(c) *Apparatus.* The following apparatus is used in each measurement:

(1) A separatory funnel of 1000 ml. volume that has a Teflon stopcock.

(2) An infrared spectrophotometer.

(3) A cell of 5 mm. pathlength that has sodium chloride or infrared grade quartz with a minimum of 80 percent transmittance at 2930 cm^{-1}. (This cell should be used if the oil content of the sample to be measured is expected to have a concentration of between 2 p.p.m. and 80 p.p.m.).

(4) A cell of pathlength longer than 5 mm. that has sodium chloride or infrared grade quartz with a minimum of 80 percent transmittance at 2930 cm^{-1}. (This cell should be used if the oil content of the sample to be measured is expected to have a concentration of between 0.1 p.p.m. and 2 p.p.m.).

(5) Filter paper that is medium grade and 12.5 cm. in diameter.

(6) 100 ml. volumetric flasks.

(d) *Storage of sample.* Unless a sample is to be measured on the day of collection, it is preserved by the addition of 5 ml. of hydrochloric acid.

(e) *Reagents.* The following reagents are used in each measurement:

(1) Hydrochloric acid prepared by mixing equal amounts of concentrated hydrochloric acid and distilled water.

(2) Reagent grade sodium chloride.

(3) Reagent grade carbon tetrachloride.

(4) Reference oil, which is a sample of the oil used in the portion of the test during which the sample is collected.

(5) Stock reference standard prepared by weighing 0.30 g. of reference oil in a tared 100 ml., volumetric flask and diluting to 100 ml. volume with carbon tetrachloride.

(f) *Preparation of calibration standards.* A series of dilutions are prepared by pipetting volumes of stock reference standard into 100 ml. volumetric flasks and diluting to volume with carbon tetrachloride. A convenient series of volumes of the stock reference standard is 5, 10, 15, 20, and 25 ml. The exact concentrations of the dilutions in milligrams of oil per 100 milliliters of diluted stock reference standard are calculated. The calibration standards are the dilutions.

(g) *Extraction.* (1) A reagent blank is carried through each step described in this paragraph and paragraph (h) of this section.

(2) If a sample was not acidified at time it was taken, 5 ml. of hydrochloric acid are added to the sample bottle. After mixing hydrochloric acid with the sample, the pH is checked by touching pH-sensitive paper to the bottle cap to ensure that the pH is 2 or lower. More acid is added if necessary until the pH is 2 or lower.

(3) The sample is poured into a separatory funnel and 5 g. of sodium chloride are added.

(4) Fifty (50) ml. of carbon tetrachloride are added to the sample bottle. The bottle is capped tightly and shaken thoroughly to rinse its inside. The contents of the bottle are then transferred to the separatory funnel containing the sample and extracted by shaking vigorously for 2 minutes. The layers are allowed to separate.

(5) The solvent layer is drained through a funnel containing carbon tetrachloride moistened filter paper into a 100 ml. volumetric flask.

(6) Fifty (50) ml. of carbon tetrachloride are added to the sample bottle. The bottle is capped tightly and shaken thoroughly to rinse its inside surface. The contents of the bottle are then transferred to the separatory funnel containing the water layer of the sample. The contents of the separatory funnel are then extracted by shaking vigorously for 2 minutes. The layers are allowed to separate. The solvent layer is then drained through a funnel containing carbon tetrachloride moistened filter paper into the volumetric flask containing the solvent layer of the sample.

(7) The tips of the separatory funnel, filter paper, and funnel are rinsed with small portions of carbon tetrachloride and the rinsings are collected in the volumetric flask containing the solvent layer of the sample. The volume is adjusted with carbon tetrachloride up to 100 ml. The flask is then stoppered and mixed well.

(8) The water layer remaining in the separtory funnel is drained into a 1000 ml. graduated cylinder and the water volume estimated to the nearest 5 ml.

(h) *Infrared spectroscopy.* (1) The infrared spectrophotometer is prepared according to manufacturer instructions.

(2) A cell is rinsed with two volumes of the solvent layer contained in the volumetric flask. The cell is then completely filled with the solvent layer. A matched cell containing carbon tetrachloride is placed in the reference beam.

(3) If a scanning spectrophotometer is used, the solvent layer in the cell and the calibration standards are scanned from 3200 cm^{-1} to 2700 cm^{-1}. If a single beam or non-scanning spectrophotometer is used, the manufacturer's instructions are followed and the absorbance is measured at or near 2930 cm^{-1}.

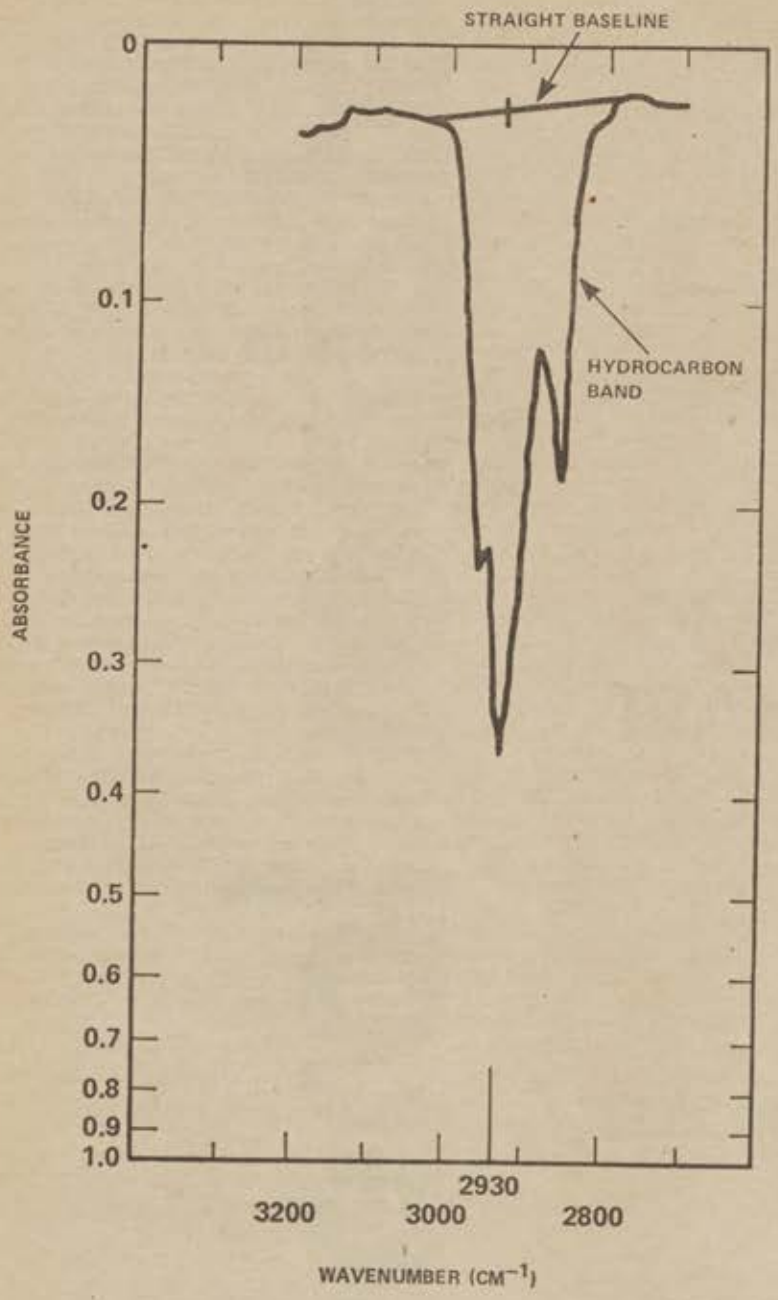
(4) If the scan is recorded on absorbance paper, a straight baseline of the type described in figure 162.050–39(h) is constructed. To obtain the net absorbance, the absorbance of the baseline at 2930 cm^{-1} is subtracted from the absorbance of the maximum peak on the curve at 2930 cm^{-1}.

(5) If the scan is recorded on transmittance paper, a straight baseline is constructed on the hydrocarbon band plotted on the paper. The net absorbance is:

$$\log_{10} \frac{\text{percent } T \text{ (baseline)}}{\text{percent } T \text{ (peak maximum)}}$$

(6) A plot is prepared for net absorbance vs. oil content of the calibration standards or of the percentages of stock reference standard contained in the calibration standards.

FIGURE 162.050—39(h) - SPECTRUM ILLUSTRATING BASELINE CONSTRUCTION



(7) If the net absorbence of a sample determined by the calibration plot exceeds 0.8 or the linear range of the spectrophotometer, a dilution of the solvent layer contained in the volumetric flask after completing the step described in paragraph (g) of the section is prepared by pipetting an appropriate volume of the solvent layer into a second volumetric flask and diluting to volume with carbon tetrachloride. If the net absorbance is less than 0.1 when determined in accordance with the procedures in this paragraph, it is recalculated using a longer pathlength cell.

(i) *Calculations.* (1) The plot described in paragraph (h)(6) of this section is used to determine the milligrams of oil in each 100 ml. of solvent layer contained in the volumetric flask after completing the steps described in paragraph (g) or paragraph (h)(7) of this section.

(2) The oil content of the sample is calculated using the following formula:

$$\text{oil content of sample} = \frac{R \times D \times 1{,}000}{V}$$

R = milligram of oil in 100 ml of solvent layer determined from plot.
D = 1 or, if the step described in paragraph (h)(7) of this section is performed, the ratio of the volume of the 2d volumetric flask described in that paragraph to the volume of solvent layer pipetted into the 2d volumetric flask.
V = The volume of water in milliliters drained into the graduated cylinder at the step described in paragraph (g)(8) of this section.

(3) The results are reported to two significant figures for oil contents below 100 mg/l and to three significant figures for oil contents above 100 mg/l.

NOTE: The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: June 17, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.77-18089 Filed 6-24-77;8:45 am]

federal register

MONDAY, JUNE 27, 1977

PART IV



DEPARTMENT OF TRANSPORTATION

Coast Guard

■

ELECTRICAL ENGINEERING

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 32, 33, 35, 37, 72, 75, 77, 78, 79, 92, 94, 96, 97, 99, 100–139, 190, 192, 195, 196]

[CGD 74–125]

ELECTRICAL ENGINEERING

Revision of Subchapter J

AGENCY: Coast Guard, DOT.

ACTION: Proposed rules.

SUMMARY: The Coast Guard is considering amendments to its Electrical Engineering regulations. The purpose of the proposed amendments is to clarify the Electrical Engineering regulations, bring them up-to-date, and delete unnecessary requirements. To accomplish this the proposal incorporates recommendations for electrical installations of the Inter-Governmental Maritime Consultative Organization's (IMCO) Resolution A.325 (IX) "Recommendation Concerning Regulations for Machinery and Electrical Installations in Passenger and Cargo Ships" adopted by the IMCO Assembly on November 12, 1975. Additionally, the proposal replaces many requirements by similar requirements of the National Electrical Code, the Institute of Electrical and Electronics Engineers Standard No. 45 "Recommended Practice for Electric Installations on Shipboard", and the American Bureau of Shipping "Rules for Building and Classing Steel Vessels". The proposal will bring the Electrical Engineering regulations up-to-date, clarify these regulations, and delete unnecessary requirements from the regulations. Additionally, the proposal would result in a fifty percent decrease in the volume of the Electrical Engineering regulations.

DATES: Comments must be received on or before August 11, 1977.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81) U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, 202–426–1477.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data or arguments. Each person submitting a comment should include his name and address, identify this notice (CGD 74–125) and the specific section of the proposal to which his comment applies, and give the reasons for his comment. The proposal may be changed in light of comments received. All comments received will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Lieutenant Commander John W. Reiter, Project Manager for the Office of Merchant Marine Safety and Lieutenant William R. Kerivan, Project Counsel for the Office of Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

The most significant proposed revisions are discussed below. Other revisions would also be made; these are incorporated in the proposed rules. The entire subchapter is contained in the notice to provide the reader with a complete picture of what the total subchapter would look like. Comments need not be limited to a proposed change; rather, comments are invited on any part of the subchapter.

Applicability dates and requirements for existing installations would be deleted throughout the subbchapter since the requirements in the proposed revised subchapter would apply only to installations after the effective date.

In the subparts listed below, references to National Electrical Code requirements would replace similar requirements in the existing regulations. The purpose of this proposal is to bring these requirements in line with the generally accepted safety provisions of the National Electrical Code. These proposed subparts are:

111.20	Transformer Construction, Installation, and Protection (existing §§ 111.20 and 111.75–3).
111.40	Panelboards.
111.50	Overcurrent Protection (existing § 111.50–1 through § 111.50–10).
111.53	Fuses (existing § 111.50–15(a)–(d)).
111.54	Circuit Breakers (existing § 111.50–15(e)).
111.55	Switches.
111.70	Motor Circuits, Motor Controllers, and Protection.
111.79	Receptacles (existing § 111.75–35).
111.89	Motion Pictures Projectors (existing § 111.80–30).
111.105	Hazardous Locations (existing § 111.80–5, § 111.80–8, § 111.85).

It is proposed to amend Parts 32, 33, 35, 37, 72, 75, 77, 78, 79, 92, 94, 96, 97, 99, 190, 192, 195, and 196 by deleting specific references to Subchapter J. Also, material that is contained both in these parts and in Subchapter J would be deleted from these parts. Each vessel subchapter would then simply contain a requirement that electrical installations meet Subchapter J. The purpose of this proposal is to avoid the possibility of future erroneous references and inconsistent regulations.

It is proposed to revise § 35.30–30 to prohibit the use of most portable electrical equipment in all hazardous locations, except under specified conditions. The purpose of this proposal is to prevent explosions on tank vessels.

Proposed Subpart 110.01—*Application* would replace Subparts 110.01, 110.05, and 110.25. Proposed new § 110.01–1 describes the scope of the proposed regulations. The proposed regulations would apply to electrical equipment and systems installed after the effective date of these proposed regulations (new installations). Electrical equipment and systems installed before that date (existing installations) would be required to meet the specifications in effect at the time of the installation. Repairs to existing installations would have to meet the specifications in effect on the date of the original installation or the specifications in effect on the date of the repair (proposed § 110.01–5).

Subpart 111.10—*Reference Specifications, Standards, and Codes* would be up-dated for current references and changes in addresses of referenced organizations.

It is proposed to change Subpart 110.15 by replacing technical definitions of electrical and electronics terms with a reference to the Institute of Electrical and Electronics Engineers' IEEE Standard Dictionary of Electrical and Electronics Terms (IEEE Standard No. 100) in order to be consistent with the definitions used in the electrical industry.

Proposed Subpart 110.25—*Plan Submittal* would replace § 111.05–5 and amend the requirements as follows:

a. The requirements for submission of drawings of switchboard front, rear, end, and section views, generators and propulsion motors, and motor starters would be deleted. Only one copy of isometric or deck wiring plans of power and lighting systems would be required to be submitted for information to the Officer in Charge, Marine Inspection. Technical review of the information on these plans is not necessary because the suitability of the items depicted on these plans can be adequately determined during vessel inspection.

b. The plans requiring technical review would be submitted to the appropriate field technical office. Present regulations permit submittal of these plans to the Commandant (G-MMT) or the Officer in Charge, Marine Inspection. In actual practice, the Commandant or the Officer in Charge, Marine Inspection forwards these plans to the appropriate field technical office for review. The proposed change in the regulations should reduce delays in plan approval.

c. The requirements of existing § 111.50–20(c) for submission of detailed short circut current calculations would be incorporated in this subpart. Additionally, to ensure coordination, an overcurrent protective device coordination study would be required when detailed short circuit current calculations are required.

d. Proposed § 110.25–1(j) would require that plans be submitted for technical review showing each item of elec-

trical equipment that is in a hazardous location on a tank vessel or a mobile offshore drilling unit. This should ensure, at the earliest possible time, that the equipment in hazardous locations meets the requirements of the regulations for such equipment. This is necessary because of the long lead times associated with procurring such equipment.

e. Procedures for providing copies of approved plans to the American Bureau of Shipping would be added.

Section 111.50–10 concerning tests and inspections would be made a new Subpart 110.30 to make these requirements easier to read. As an aid to the inspector, reference to specific subparts would be added for each item to be inspected.

Inspection requirements for installations in hazardous locations, fire screen doors, watertight doors, boat winches, steering gear circuits, emergency fire pump circuits, and specified operation of motor controllers would be added in proposed 110.30–5.

Existing § 111.05–15(d) (proposed § 111.01–9) would be amended by permitting motors to be waterproof instead of watertight. This is proposed because waterproof motors provide an adequate level of safety since such motors have automatic drains to remove any water that may enter the motor housing.

Existing § 111.05–15(e) (proposed § 111.05–11) would be amended to prohibit the use of aluminum alloys with a copper content exceeding 0.4 percent for corrosion resistant parts since the corrosion resistance of these alloys in a marine atmosphere is poor. This proposal is consistent with the requirements of Underwriters' Laboratories, Inc. "Standard for Marine Lighting Fixtures".

The requirement in existing § 111.05–20(a) (proposed § 111.01–15) that the assumed ambient temperature for enginerooms and boiler rooms be 50° C would be delted. Experience has shown that 40° C is adequate for the majority of installations in these spaces.

Proposed Subpart 111.05 would be added to consolidate the requirements for grounding, ground detection, and grounded systems. The proposed subpart would also clarify several existing requirements. Additionally, the subpart would, in § 111.05–11, adopt the requirements of Regulation 23(d)(i) of IMCO Resolution A.325(IX) by limiting the use of grounded distribution systems on tank vessels.

Existing § 111.10–1—*Power requirements* would be amended by proposed Subpart 111.10 by:

a. Making the requirement that a vessel have at least two generating sets applicable to all self-propelled vessels because the ability of a vessel to operate with a single electrical malfunction is considered necessary for the safety of self-propelled vessel;

b. Deleting the alternative presently contained in paragraph (b)(2) that a smaller automatically started diesel generator may be substituted for a larger required steam turbogenerator, because this alternative does not comply with SOLAS 1960, SOLAS 1974, or IMCO Resolution A.325(IX);

c. Requiring the generating plant to have the capability to start the main propulsion plant from a dead ship condition to adopt the requirement of Regulation 19 of IMCO Resolution A.325(IX); and

d. Requiring that transformers be installed in duplicate to meet the requirement of Regulation 19 of IMCO Resolution A.325(IX).

Proposed § 111.12–1(b) would require that each diesel generator have an overspeed device. These devices were generally fitted on all generators in the past, but in recent years they have not been fitted on some generators. Overspeed devices should be fitted on all generators to prevent dangerous overspeeding of generator prime movers which may occur when a generator drops the load.

Proposed § 111.12–3 would provide that static exciters not be used for emergency generators. This is necessary to ensure emergency generator operation since an emergency generator may not have sufficient residual magnetism to activate a static exciter.

A new requirement that voltage regulator supply circuits must be taken from the generator side of the generator circuit breaker would be added in § 111.12–7(b). This is proposed to ensure that each generator is self-sustaining and not dependent on external sources to maintain operation.

The requirements for generator protection would be contained in §§ 111.12–11 and 111.12–13. The requirements have been rewritten for clarity and would be the same as those in existing Subpart 111.65 except:

a. It would be made clear that overcurrent protection is required for all generators; and

b. Proposed § 111.12–11(b) would require that the protection for ship's service generators on self-propelled vessels and all emergency generators be an open frame air circuit breaker, to prevent the use of molded case circuit breakers because they are not as reliable as open frame circuit breakers.

Section 111.15–1 now requires that a battery be constructed to prevent spillage at a 40° angle. The proposed amendment in § 111.15–2(b) would change that angle to 30° for consistency with similar requirements for other equipment.

A new § 111.15–30—*Battery Chargers* would require battery chargers to be dripproof and to meet Underwriters' Laboratories, Inc. Standard 1236. This section would make the Coast Guard battery charger requirements consistent with the generally accepted safety standards of Underwriters' Laboratories, Inc.

Section 111.25–5 would be amended to require motor markings in accordance with the National Electrical Code. The present regulations and the National Electrical Code requirements are very similar and there is no need for Coast Guard regulations to differ from the National Electrical Code.

Proposed § 111.30–1(e) would require the main switchboard to be in a machinery space that has a ship's service generator. The proposal is in conformance with IMCO Resolution A.325(IX).

Proposed § 111.30–1(d) would be added to require that each switchboard be protected by its location or by a shield from machinery and piping having steam or pressurized liquid. This proposed regulation was recommended by the National Transportation Safety Board following a recent marine casualty.

Existing § 111.30–1(e), requires switchboards with a voltage, between poles or to ground, greater than 55 volts, alternating-current or greater than 250 volts direct-current to be a dead front type. The substance of this requirement is proposed in § 111.30–7. The new section would require all switchboards to have a dead front because there is no reason to exclude lower voltage switchboards.

Proposed § 111.30–19(f) would require switchboard wire to be No. 18 AWG or larger. Existing regulations require that switchboard wire be No. 14 AWG or larger. The proposal to permit smaller sizes for switchboard wire would be consistent with wire sizes permitted for other vital equipment, such as steering control systems.

Proposed § 111.30–23 would add a new requirement for medium voltage switchboards, which are occasionally used on vessels. The proposed regulation would require switchboards having a root mean square (RMS) voltage of 1000 volts or more to meet ANSI C 37.25.

Proposed § 111.30–25(h) would add a new requirement that each self-propelled vessel that has a total capacity of the main generators greater than 3,000 kw must have the main bus subdivided into at least two parts connected by a sectionalizing device. This requirement would comply with IMCO Resolution A.325(IX).

A new Subpart 111.33—*Semiconductor Controlled Rectifiers (SCR)* would be added to prescribe safety requirements for these installations.

Subpart 111.50—*Overcurrent Protection* would be revised by including references to requirements for overcurrent protection of equipment in proposed § 111.50–1. Additionally, proposed § 111.50–3(b) would include a listing of circuits where general overcurrent protection requirements do not apply.

The requirement in existing § 111.50–1(d) that a branch switch or circuit breaker must open each conductor of the circuit, including grounded conductors, would be changed. Proposed § 111.50–3(g) would not require opening a grounded conductor. The existing regulation was intended to ensure that improper installation of overcurrent protective devices did not lead to an improperly protected ungrounded conductor. Proper quality control during installation will provide the necessary assurance.

Proposed Subpart 111.51—*Coordination of Overcurrent Protective Devices* would replace existing § 111.50–25 and would make it clear that selective operation of overcurrent protective devices is required only for vital equipment.

Proposed Subpart 111.52—*Calculation of Short-Circuit Current* would clarify the information in existing § 111.50–20 (c).

Proposed Subpart 111.53—*Fuses* would contain, in § 111.53–3 (b), (c), and (d), the method for determining the adequacy of a current limiting fuse used for protecting equipment. This proposal is derived from basic electrical formulas and is made to prevent confusion that has occurred in the past.

Proposed Subpart 111.54–*Circuit Breakers* would up-date the required standards and would add the following new requirements:

a. Section 111.54–1(d)(1) would require that no circuit breaker be dependent upon mechanical cooling means to operate within its rating. This is proposed because these installations are not generally accepted in standards and are not as reliable as installations not requiring cooling.

b. Section 111.54–1(d)(2) would prohibit a circuit breaker from having a trip element that is set above the continuous current rating of the trip element or of the circuit breaker frame. This is proposed because, although it is good engineering practice, there have been occasions when it has not been followed.

A new Subpart 111.59—*Busways* would be added to recognize busway installations.

Subpart 111.60—*Wiring Materials and Methods* would be revised as follows:

a. By substituting reference to IEEE Standard No. 45 requirements for similar requirements in the regulations.

b. By incorporating a cable construction that contains National Electrical Code Type THWN conductors. This type cable has been used extensively and successfully in marine applications since 1970.

c. By deleting § 111.60–10 which requires that cables be of a certain minimum size. Subpart 111.50 requires that cable be protected against overcurrent. If a cable is of insufficient size to safely carry its connected load, the overurrent device will operate and protect the cable. It is the responsibility of the designer to provide cables of adequate size to handle the connected loads. No safety hazard would result from undersized cables because they would be discovered by the overcurrent devices tripping before a vessel began operating. Should such a condition exist, the cable and overcurrent device would require replacement in order for the vessel to operate.

Existing § 111.75–15(g)(3)(i) requires navigation light indicator panels on vessels of 1600 or more gross tons. This requirement would be § 111.75–17(b)(2), and would be amended to apply to all self-propelled vessels because the panels which show that navigation lights are out are as necessary on vessels that are smaller than 1600 gross tons as on those vessels that are of 1600 or more gross tons.

Section 111.75–15(g)(7), containing intensity standards and recommended lamp wattages for navigation lights, would become § 111.75–17(d). The requirement would be changed to meet the navigation light and intensity standards required by the Convention on the International Regulations for Preventing Collisions at Sea, 1972.

Existing § 111.75–15(g)(6) containing requirements for light screens would become § 111.75–17(f). Light screens would be required to be painted with a matte black finish instead of the presently required glossy black finish to meet the Convention on International Regulations for Preventing Collisions at Sea, 1972.

Existing § 111.75–15(b)(2) is a signaling light requirement. This requirement would be renumbered as § 111.75–18 and would be amended to apply to all vessels to which the subchapter applies, including Great Lakes vessels and tank vessels, because the same safety considerations apply to all vessels. Section 33.50–1, which is a signaling light requirement for tank vessels, would be deleted.

Section 111.75–20(c) would delete the requirement for guards for lighting fixture globes made of high strength material. The use of high strength material makes the guards unnecessary.

Sections 111.75–25 *Appliance Circuits* and 111.80–65 *Electric Cooking Equipment and Motor Driven Commissary Equipment* would be deleted and replaced by a new Subpart 111.77—*Appliances and Appliance Circuits*. This proposed subpart would require that electric motor operated appliances, dishwashers, refrigerators, and refrigerated drinking water coolers meet Underwriters' Laboratories, Inc. standards. This amendment would update these requirements by adopting the safety provisions of the Underwriters' Laboratories standards.

A requirement for disconnect switches near receptacles for refrigerated containers would be added as § 111.79–15. This requirement is intended to ensure safe disconnection of a cable that is to be removed from a container.

Sections 111.80–5 *Wiring methods and materials for hazardous locations*, 111.80–8 *Intrinsically safe systems*, 111.80–20 *Hospital operating rooms*, and 111.80–25 *Locations where gasoline or other highly volatile motor fuel is carried in vehicles*, and Subpart 111.85—*Special Requirements for Tank Vessels*, would be combined in one new Subpart 111.105—*Hazardous Locations*.

The proposed changes in requirements in new Subpart 111.105 would make the regulations for installations in hazardous locations consistent with present practice.

Section 111.105–5 would require that electrical installations in hazardous locations meet Articles 500 through 503 of the National Electrical Code, with certain exceptions indicated. These exceptions are necessitated by the nature of shipboard installations and are currently contained in existing § 111.80–5.

Section 111.105–7 would require that, where the National Electrical Code requires approved equipment, the equipment be listed by Underwriters' Laboratories, Inc. or Factory Mutual Engineering Corporation for the hazardous location in which it is, except purged and pressurized equipment that meets NFPA No. 496. Laboratory testing of purged and pressurized equipment is unnecessary because the Coast Guard can determine if that equipment meets the NFPA standard by plan review or inspection.

Section 111.105–11 would require that intrinsically safe equipment be listed by Underwriters' Laboratories, Inc. or Factory Mutual Engineering Corp. and that cables for this equipment be shielded or separated by 2 in. (50mm) or more from other electric cables. Existing § 111.80–5(f)(2) requires the separation of these cables from other cables so that the intrinsically safe circuit is not compromised. The proposed regulation would state how to do this.

Existing § 111.80–5 has general requirements for hazardous locations. The Coast Guard has had to interpret these requirements for certain locations on vessels when these general requirements are not specific enough for practical application. The following proposed sections would establish specific requirements for those locations so that interpretation would be unnecessary:

a. Section 111.105–23 would contain requirements for electric motors for fans that ventilate hazardous locations.

b. Section 111.105–27 would allow belt drives in hazardous locations if a conductive belt is used and components are grounded to meet NFPA Recommend Practice No. 77.

c. Section 111.105–31 would apply the requirements for tank vessels carrying flammable cargo to vessels carrying liquid sulphur, ammonia, and inorganic acids.

d. Section 111.105–31(g)(1) would require that lenses for cargo handling room through-bulkhead lighting fixtures be wire inserted glass that is at least 0.25 in. (6.35 mm) thick to meet the recommendation for "A Class" pumproom boundaries of IMCO Resolution A.271 (VIII).

e. Section 111.105–33 would contain specific requirements for mobile offshore drilling units.

f. Section 111.105–35 would contain specific requirements for vessels that carry coal.

A new Subpart 111.85—*Electric Oil Immersion Heaters* would be added in this proposal. The purpose of this proposed subpart is to codify existing Coast Guard policy and to present uniform safety requirements for the installation of electric oil immersion heaters.

Existing § 111.80–70 *Electric steering gear* would be revised for clarity and would become Subpart 111.93—*Electric Steering Gear*. The following proposed amendments to the steering gear requirements would be made to incorporate the provisions of IMCO Resolution A.325 (IX) in the regulations:

a. Proposed § 111.93–5(c) would require that each ocean, Great Lakes, and coastwise vessel that has more than one steering power system have a feeder circuit from the emergency switchboard to one steering power system.

b. Proposed § 111.93–7(b) would require that each steering control system be capable of being operated from the pilothouse.

c. Proposed § 111.93–11(a) would require that a pilot light for each steering gear motor be in the pilothouse. Existing § 111.80–70(f)(1) requires such lights only at the propulsion control station.

d. Proposed § 111.93–11(b) would require that an alarm to indicate the opening of a steering gear feeder circuit breaker be in the pilothouse and at the main machinery control station. Existing § 111.80–70(f)(2) requires an alarm only at the propulsion control station.

e. Proposed § 111.93–9(c) would require motor overload alarms in the pilothouse and at the main machinery control station. Existing § 111.80–70(c)(2) requires motor overload alarms only at the propulsion control station.

f. Proposed § 111.93–11(c) would add the requirement that failure of any phase of a three phase supply be indicated by an audible and visual alarm in the pilothouse.

Existing § 111.80–55 would be redesignated Subpart 111.95—*Electric Power-Operated Boat Winches*. The application in existing § 111.80–55(a), proposed § 111.95–1, would be expanded from lifeboat winches to all boat winches. This proposal is made because the hazards are the same for all boat winches. Additionally, the last sentence of existing §111.80–55(e)(2), proposed §111.95–7(b), would be revised to clarify the position of the main line emergency switch, and existing § 111.80–55(f) and § 111.80–55(g), concerning approval and inspection of lifeboat winches, would be deleted since the provisions of existing § 111.05–10, proposed Subpart 110.30, are adequate.

Section 111.97–5(b) would require power supplies for watertight door systems be capable of operating all the doors simultaneously. At present, § 111.80–45(c)(2) permits sequential operation. This is proposed to comply with Regulation 13 (i)(ii) of Chapter II of SOLAS 1960 and SOLAS 1974.

A new Subpart 111.03—*Remote Stopping Systems* would be added. This subpart would incorporate the present regulations in §§ 111.80–10 and 111.80–13 for remote stopping requirments for ventilation systems and certain machinery. In addition, § 111.103–9 would clarify that the requlations apply to blowers for inert gas systems.

A new Subpart 111.107—*Mobile Offshore Drilling Unit Industrial Systems* would be added. A system used only for the industrial function of the unit and meeting the National Electrical Code would not be required to meet Subchapter J except for equipment standards, plan review, general considerations, grounding, and hazardous location requirements.

The following amendments concerning emergency systems are proposed to incorporate the provisions of Regulations 20, 21, and 22 of IMCO Resolution A.325 (IX) in the Coast Guard Electrical Engineering regulations:

a. Section 112.05–1(b) would be amended to state that no loads may be supplied from the emergency source except the loads required by Part 112 and a bus-tie to the main switchboard.

b. A new § 112.05–3—*Main-emergency bus-tie* would be added to describe how such a bus-tie must function.

c. Section 112.05–5(a) would be amended to state that the emergency source must have a capacity to supply all loads, except loads on a bus-tie to the main switchboard, that can be simultaneously connected to it.

d. Table 112.05–5(a) would be amended to require each ocean, Great Lakes, and coastwise vessel to have an automatic emergency source of power with an 18 hour period of operation. The present requirement permits a manually operated emergency source and requires only a 12 hour period of operation.

e. Section 112.05–5(d) would be amended to require that the emergency source be located above the uppermost continuous deck. The present requirement states that the emergency source must be above the bulkhead deck or freeboard deck, whichever is higher, on a passenger vessel, and above the freeboard deck or uppermost continuous deck, whichever is higher, on a cargo vessel.

f. Section 112.05–5(e) would be amended to require that the space containing the emergency source of power not adjoin a Category A machinery space.

g. Section 112.05–5(g) would be amended to require that the emergency switchboard not be in the same space as a battery emergency source.

h. Section 112.15–1(a) would be amended to require all navigation lights to be supplied from the emergency source of power. The present requirement is that only the navigation light indicator panel be supplied from the emergency source.

i. Section 112.15–1 would be amended in proposed paragraphs (m), (n), and (o) to require that daylight signaling lights, smoke detector systems, and ship's whistles be supplied from the temporary source of emergency power. The present regulations in § 112.15–5 (h) and (i) require only that daylight signaling lights and smoke detector systems be powered from the final source of emergency power and only recommend, in § 112.15–5(p), that electric whistle control be powered from the final emergency source of emergency power.

k. Section 112.15–5 would be amended to require each elevator in a passenger vessel, the rudder angle indicator, the radio, radio direction finder, loran, radar, gyro compass, depth sounder, and on an ocean, Great Lakes or coastwise vessel, a steering gear motor be supplied from the emergency source of power.

l. A new § 112.50–7 would be added with requirements for compressed air starting systems for emergency generators. Proposed § 112.05–5(f), would permit such systems.

Table 112.05–5(a), covering requirements for emergency sources of electrical power, would be amended to include Great Lakes vessels. This would codify in the regulations what has generally been required for these vessels.

Table 112.05–5(a) would be amended and § 112.15–1(p) would add requirements for emergency power supplies on a nuclear vessel. Similar requirements are contained in §§ 37.05–1(b), 79.05–1(b), and 99.05–1(b). The proposed requirements would better define these existing requirements. It is therefore proposed to delete §§ 37.05–1(b), 79.05–1(b), and 99.05–1(b).

Table 112.05–5(a) would be amended and § 112.05–15 would be deleted to remove requirements for passenger vessels of less than 100 gross tons that are not on international voyages. The requirements for emergency electrical installations for such vessels are contained in Part 184 of this chapter.

The requirements for vessels other than nuclear and passenger vessels above 300 gross tons on voyage that are not ocean, Great Lakes, or coastwise voyages would be amended to reduce the required period of operation of the emergency source from the present 12 hours to 8 hours. This would be consistent with the requirements for passenger vessels on similar routes.

Sections 112.05–5(c) and 112.50–1 would be amended to require the emergency installation on a vessel carrying liquefied gas cargo to be functional when the vessel is inclined 30 degrees. This would bring this requirement into agreement with the IMCO Gas Carrier Code.

Section 112.05–5(b) would be amended to require that stop controls for emergency generators be only in the space containing the emergency generator. This is proposed to elaborate on the existing requirement that the emergency source be independent of the vessel's ship's service lighting and power plant and propulsion plant.

Section 112.05–5(f) would be amended to require that emergency circuits in enginerooms and boiler rooms not supply equipment in other spaces. This would amplify the intent of the present section.

A new requirement for a lube oil pump to be supplied from the emergency source of power would be added in proposed § 112.15–5(g).

The requirement would be that a lube oil pump for propulsion turbines and ship's service generator turbines that require external lubricating means be supplied by the emergency source of power. This would prevent damage to the turbines in case of failure of the main source of electrical power.

A new § 112.15–5(p) would be added to require a blow-out preventer system on a mobile offshore drilling unit to be supplied by the emergency source of power. This requirement is proposed because this system is a vital system on a mobile offshore drilling unit.

Section 113.25–5(b) would add the requirement that a tank vessel have an additional contact maker for the general alarm system. The contact maker would be at the location of the operator for the

emergency means of stopping cargo transfer that is required by 33 CFR 155.780. The purpose of this proposed requirement is that in the event of a major spill, overflow, flash, or fire while loading or discharging cargo there would be a contact maker rapidly accessible to the person in charge.

Section 113.25-10(a)(3)(iii) would be replaced by proposed § 113.25-6(e)(3), requiring a temporary emergency source that is used for the general alarm system power supply to have the same capacity to power the general alarm system as other permitted sources. This would make the capacity of this source consistent with the capacity of other permitted sources.

Section 113.25-10(c)(2) would be replaced by § 113.25-9(b) to make it clear where general alarm bells are required.

Section 113.25-10(d) would be replaced by § 113.25-10 to clarify the requirements for flashing red lights in general alarm systems. Additionally, the emergency power source would be permitted to power flashing red lights in the main machinery space. This is proposed because lights necessary in many modern vessel machinery spaces require a higher voltage than that of the general alarm power supply and the lights are only needed when machinery in the space is operating, at which time the emergency switchboard is receiving power.

A new § 113.25-11(g) would be added requiring that general alarm contact makers be approved by the Commandant, which is present practice. Section 113.25-15(d)(3) would be replaced by § 113.25-15(c) and would require that general alarm distribution panels be approved by the Commandant, which is also present practice.

A new Subpart 113.27—*Engineers' Alarms* is proposed to implement Regulation 16 of IMCO Resolution A.325(IX) requiring an engineers' alarm.

Section 113.30-5(f) would be revised to require communication at fire detecting cabinets in addition to smoke detecting cabinets. This would bring the requirement into agreement with Regulation 61(a) of SOLAS 1960 and Regulation 13(i) of SOLAS 1974.

Subpart 113.35—*Engine Order Telegraph Systems* would be revised by deleting engine gong systems and mechanical engine order telegraph systems and the sections in the subpart would be renumbered. This is proposed because these systems are no longer installed on modern vessels. Subpart 113.35 would also be revised throughout to permit the use of pushbutton engine order telegraph instruments in enginerooms.

In § 113.35-7(a) an exception would be added for vessels with pilothouse throttle control, permitting telegraph instruments that are not in the weather to be dripproof rather than watertight due to lesser risks from loss of the telegraph than on other vessels.

The requirement in § 113.35-55 that a passenger vessel of 20,000 gross tons or over that has an electric engine order telegraph system also have a standby system would be deleted. This is proposed because the communication capability required by § 113.30-5 provides an adequate standby means to transmit engine orders in the case of failure of the telegraph system.

A new requirement for a positive mechanical stop on engine order telegraph instruments that prevents movement to the "Pilothouse Control" position without positive action of the operator would be added in proposed § 113.35-11. This is proposed as a result of a casualty where the operator intended to order "Full Astern" but placed the telegraph in the "Pilothouse Control" position.

A new requirement for approval by the Commandant of engine order telegraph instruments would be added in § 113.35-13. This is present practice.

Existing § 113.45-5(a), concerning refrigerated spaces alarm systems, would be revised by changing the applicability from ships to all vessels since the hazard is the same for a ship or a barge.

Table 113.50-15 and § 113.50-15(d) would be amended by adding the required sound level for emergency loudspeaker systems in accommodation and service spaces. Failure to include the sound level was an oversight when Subpart 113.50 was amended to include these spaces on December 20, 1967.

The following table listing old section numbers and the corresponding section numbers of similar items in the proposal is published as an aid to interested persons:

DERIVATIVE REFERENCE TABLE

Old section No.	*New section No.*
110.01-1—110.01-10	Deleted.
110.05-1—110.05-5	110.01-1—110.01-5.
110.10-1—110.10-5	110.10-1.
110.15-1—110.15-195	110.15-1.
110.20-1	Same.
110.25-1—110.25-5	Deleted.
111.01-1—111.01-5	Do.
111.05-1	Do.
111.05-5	110.25-1—110.25-7.
111.05-10	110.30-1—110.30-7.
111.05-15 (a)-(e), (g).	111.01-1—111.01-13.
111.05-15(f)	111.05-3—111.05-9.
111.05-20	111.01-15.
111.05-25	111.01-17.
111.05-30	Deleted.
111.10-1	111.10-1—111.10-11.
111.10-5—111.10-40	111.12-1—111.12-7.
111.15-1 (a)-(b)	111.15-1.
111.15-1(c)	111.15-3.
111.15-1(d)	111.15-5 (f).
111.15-5	111.15-5 (a)-(c).
111.15-6	111.15-5 (d)-(e).
111.15-10	Same.
111.15-15	111.15-5 (g)-(h).
111.15-20	Same.
111.15-25	Do.
111.20-1—111.20-5	Do.
111.25-1—111.25-5	Do.
111.25-10	111.25-1.
111.25-15	Same.
111.25-20—111.25-30(b).	111.25-1.
111.25-30(c)	111.01-9.
111.25-30(d)	111.01-3.
111.25-30(e)	111.105-5.
111.25-35	111.70-1.
111.30-1(a)	111.30-5(a)(3).
111.30-1(b)	111.30-1—111.30-3.
111.30-1(c)	111.30-9.
111.30-1(d)	111.30-5.
111.30-1(e)	111.30-7.
111.30-1 (f)-(g)	Deleted.
111.30-1(h)	111.30-15.
111.30-1(i)	111.30-17.
111.30-1(j)	111.30-13.
111.30-5	111.30-19.
111.30-10 (a)	111.30-21.
111.30-10 (b) and (c)	Deleted.
111.30-15(a)	Do.
111.30-15(b)	111.30-27.
111.30-15(c)	111.30-25.
111.30-20	111.30-29.
111.30-30	111.30-31.
111.35-1—111.35-5	111.35-1.
111.40-1(a)	111.40-7.
111.40-1(b)	111.40-5.
111.40-1(c)	111.40-9.
111.40-1(d)	111.40-13.
111.40-1(e)	Deleted.
111.40-1 (f) and (g)	111.40-1.
111.40-1(h)	111.40-11.
111.50-1	111.50-3.
111.50-5	Same.
111.50-10 (a) and (b)	111.50-7.
111.50-10 (c) and (d)	111.50-9.
111.50-15 (a)-(d)	111.53-1—111.53-3.
111.50-15(e)	111.54-1.
111.50-20(a)	111.53-1(b) and 111.54-1(a)(3).
111.50-20(b)	111.53-3.
111.50-20(c)	110.25-1(a)(6) and 111.52-1—111.52-3.
111.50-25	111.51-1—111.51-3.
111.55-1—111.55-5	111.55-1—111.55-9.
111.60-1 (a)-(c)	111.60-1—111.60-3.
111.60-1(d) —111.60-1(n).	111.60-5—111.60-7.
111.60-5	111.50-11—111.60-13.
111.60-10	Deleted.
111.60-15	111.60-7.
111.60-20	111.60-7.
111.60-25 (a)-(e)	111.60-7.
111.60-25(f)	111.05-11.
111.60-25(g)	111.20-10.
111.60-25(h)	111.60-15.
111.60-25(i)	Deleted.
111.60-25(m)	111.60-17.
111.60-25(n)	111.60-7.
111.60-25(o)	111.60-9.
111.60-30	111.05-11.
111.60-35	111.05-9.
111.60-40	111.60-19.
111.65-1	111.12-11.
111.65-5—111.65-10	111.05-17.
111.65-15	111.12-13.
111.70-1 — 111.70-20 (h).	111.70-1.
111.70-20 (i)-(q)	111.70-3.
111.70-25	111.70-3(d).
111.70-30	111.70-1.
111.70-35	111.70-5.
111.70-40	111.70-7.
111.75-1	Same.
111.75-3	111.20-15.
111.75-5	Same.
111.75-10	Deleted.
111.75-15 (a)-(d)	111.75-15 (a)-(e).
111.75-15(e)	111.76-16.
111.75-15(f)	Same.
111.75-15(g)	111.75-17.
111.75-15(h)	111.75-18.
111.75-20	Same.
111.75-25	111.77-1.
111.75-30	111.79-1—111.79-13.
111.75-35	111.81-1—111.81-13.
111.80-5	111.105-1—111.105-27.
111.80-8	111.105-11.
111.80-10—111.80-13	111.103-1—111.103-9.
111.80-15	111.83-1—111.83-5.
111.80-20	111.105-37.
111.80-25	111.105-39.
111.80-30	111.89-1.
111.80-35	111.91-1.

Old section No.	New section No.
111.80-40	111.101-1—111.101-3.
111.80-45	111.95-1—111.95-7.
111.80-50	111.99-1—111.99-5.
111.80-55	111.95-1—111.95-7.
111.80-60	111.87-1—111.87-3.
111.80-65	111.77-3—111.77-11.
111.80-70	111.93-1—111.93-11.
111.85-1—111.85-5	Deleted.
111.85-10	111.105-29—111.105-31.
111.85-90	110.01-3.
111.90-1—111.90-25	110.01-3.
112.01-1	Deleted.
112.05-1—112.05-5	Same.
112.05-10	112.07-1—112.07-15.
112.05-15	Deleted.
112.10-1—112.10-20	Same.
112.15-1—112.15-10	Do.
112.15-15	112.10-5.
112.20-1—112.20-15	Same.
112.25-1—112.25-10	Do.
112.30-1—112.30-10	Do.
112.35-1—112.35-5	112.35-3—112.35-5.
112.40-1	112.40-1.
112.45-1—112.45-5	112.445-1—112.45-5.
112.50-1	112.50-1—112.50-7.
112.51-1	112.50-1—112.50-7.
112.55-1	111.15-2.
112.55-5—112.55-15	Same.
112.90-1—112.90-10	110.01-3.
113.01-1—113.05-1	Deleted.
113.05-5	Same.
113.05-10	111.60-11.
113.10-1	Deleted.
113.10-5(a)	113.10-1.
113.10-5(b)	111.60-1.
113.10-5 (c)-(e)	113.10-3—113.10-7.
113.10-5(f)	111.01-9.
113.10-90	110.01-3.
113.15-1	Deleted.
113.15-5(a)	113.15-1.
113.15-5(b)	111.60-1.
113.15-5 (c)-(d)	113.15-3—113.15-7.
113.15-5(f)	111.01-9.
113.15-90	110.01-3.
113.20-1	Deleted.
113.20-5 (a) and (b)	113.20-1.
113.20-5(c)	111.60-1.
113.20-5(d)	113.20-3.
113.20-90	110.01-3.
113.25-1	Same.
113.25-5	Do.
113.25-10(a) (1)-(3)	113.25-6.
113.25-10(a) (4)-(5)	113.25-7.
113.25-10(b)	113.25-8.
113.25-10(c)	113.25-9.
113.25-10(d)	113.25-10.
113.25-15(a)	113.25-6(f).
113.25-15(b)	113.25-11.
113.25-15(c) (1) and (2).	113.25-12 (a) and (b).
113.25-15(c)(3)	113.25-13.
113.25-15(d)(1)	111.60-1.
113.25-15(d)(2)	113.25-14.
113.25-15(d)(3)	113.25-15.
113.25-15(d) (4) and (5).	113.25-16.
113.25-20—113.25-30	Same.
113.25-90	110.01-3.
113.30-1—113.30-10	Same.
113.30-15	113.30-10(b).
113.30-20—113.30-25	Same.
113.30-90	110.01-3.
113.35-1—113.35-5	113.35-3.
113.35-10—113.35-35	Deleted.
113.35-40—113.35-50	113.35-5—113.35-9.
113.35-55—113.35-90	110.01-3.
113.40-1—113.40-10	Same.
113.40-90	110.01-3.
113.45-1	Deleted.
113.45-5	Same.
113.45-90	110.01-3.
113.50-1—113.50-5	Same.
113.50-10	112.15-1(j).
113.50-15—113.50-20	Same.
113.50-25(a)	111.60-1.
113.50-25(b)	113.50-25.
113.50-30	110.30-3(n).
113.50-35	78.16-1(a).
113.50-90	110.01-3.
113.65-1	Deleted.
113.65-5	Same.
113.65-90	110.01-3.
113.70-1	Deleted.
113.70-5(a)	Same.
113.70-5(b)	111.60-1.
113.70-5(c)	113.70-5(b).
113.70-10	112.15-1(n).
113.70-90	110.01-3.

In consideration of the foregoing it is proposed to amend Chapter I of Title 46, Code of Federal Regulations, as follows:

PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

§ 32.15 [Amended]

1. By deleting the last sentence in § 32.15-5(b).

§§ 32.15-20—32.15-25 [Amended]; §§ 32.25-1, 32.25-5 and 32.25-10 (Subpart 32.25) [Revoked]; §§ 32.30-1, 32.30-5 and 32.30-10 (Subpart 32.30) [Revoked]

2. By revoking § 32.15-20(b) and § 32.15-25(b), and Subparts 32.25, and 32.30.

§ 32.40-1 [Amended]

3. By deleting the last sentence in § 32.40-1(d)(4).

4. By revising § 32.45-1 to read as follows:

Subpart 32.45—Electrical Installations

§ 32.45-1 Installation and details.

The installation of all systems of an electrical engineering or interior communications nature, together with the details of design, construction, and installation, must meet the requirements of Subchapter J (Electrical Engineering) of this chapter.

PART 33—LIFESAVING EQUIPMENT

§ 33.20 [Amended]; § 33.50-1 (Subpart 33.50) [Revoked]

5. By revoking § 33.20-1(c)(3) and Subpart 33.50.

PART 35—OPERATIONS

§ 35.10-15 [Amended]

6. By revoking § 35.10-15(c).

7. By revising § 35.30-30 to read as follows:

§ 35.30-30 Portable electric equipment.

Portable electric equipment must not be used in a hazardous location described in Subpart 111.105 of this subchapter, except—

(a) Self-contained, battery-fed lamps and intrinsically safe equipment approved by Underwriters' Laboratories, Inc., or Factory Mutual Engineering Corporation for use in a Class I, Division I location and for the electrical group of the cargo; and—

(b) Any electrical equipment, if—

(1) The hazardous locations is—

(i) Enclosed; and

(ii) gas-free;

(2) The adjacent compartments are—

(i) Gas-free;

(ii) Inerted;

(iii) Filled with water;

(iv) Filled with Grade E liquid; or

(v) Spaces where flammable gases are not expected to accumulate; and—

(3) Each compartment where flammable gas is expected to accumulate is—

(i) Closed; and

(ii) Secured.

§§ 35.40-1, 35.40-5 and 35.40-6 [Revoked]

8. By revoking § 35.40-1, § 35.40-5, and § 35.40-6.

PART 37—SPECIAL CONSTRUCTION, ARRANGEMENT, AND OTHER PROVISIONS FOR NUCLEAR VESSELS

§ 37.05-1 [Amended]

9. By revoking § 37.05-1(b).

PART 72—CONSTRUCTION AND ARRANGEMENT

§ 72.20-45 [Amended]

10. By revoking § 72.20-45(b).

PART 75—LIFESAVING EQUIPMENT

§ 75.30-15 [Amended]

11. By deleting the last sentence in § 75.30-15(a).

§§ 75.50-10 and 75.50-15 [Revoked]

12. By revoking § 75.50-10 and § 75.50-15.

PART 77—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

§ 77.05-1 (Subpart 77.05) [Revoked]

13. By revoking Subpart 77.05.

PART 78—OPERATIONS

§§ 78.47-5, 78.47-7, 78.47-33 and 78.47-40 [Revoked]

14. By revoking § 78.47-5, § 78.47-7, § 78.47-33, and § 78.47-40.

15. By adding a new Subpart 78.16 to read as follows:

Subpart 78.16—Emergency Loudspeaker Systems

§ 78.16-1 Operation.

The emergency loudspeaker system must—

(a) Be used at the discretion of the master;

(b) Function entirely independent of any public address or music distribution system; and

(c) Not be used for entertainment purposes.

PART 79—SPECIAL CONSTRUCTION, ARRANGEMENTS, AND OTHER PROVISIONS FOR NUCLEAR VESSELS

§ 79.05-1 [Amended]

16. By revoking § 79.05-1(b).

PART 92—CONSTRUCTION AND ARRANGEMENT

§ 92.20–45 [Amended]

17. By revoking § 92.20–45(b).

PART 94—LIFESAVING EQUIPMENT

§ 94.30–15 [Amended]

18. By deleting the last sentence in § 94.30–15(a).

§§ 94.50–10 and 94.50–15 [Revoked]

19. By revoking § 94.50–10 and §94.50–15.

PART 96—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

§ 96.05–1 (Subpart 96.05) [Revoked]

20. By revoking Subpart 96.05.

PART 97—OPERATIONS

§§ 97.37–5, 97–37–7, and 97.37–25 [Revoked]

21. By revoking § 97.37–5, § 97–37–7, and § 97.37–25.

PART 99—SPECIAL CONSTRUCTION, ARRANGEMENTS, AND OTHER PROVISIONS FOR NUCLEAR VESSELS

§ 99.05–1 [Amended]

22. By deleting the last sentence in § 99.05–1(b).

SUBCHAPER J—ELECTRICAL ENGINEERING

23. By revising the entire subchapter to read as follows:

PART 110—GENERAL PROVISIONS

Subpart 110.01—Applicability

Sec.

110.01–1 Applicability.
110.01–3 Electric equipment and systems installed before [the effective date of these regulations].
110.01–5 Repairs to new and existing installations.

Subpart 110.10—Reference Specifications, Standards, and Codes

110.10–1 General.

Subpart 110.15—Terms Used in This Subchapter

110.15–1 Definitions.

Subpart 110.20—Equivalents

110.20–1 Conditions under which equivalents may be used.

Subpart 110.25—Plan Submittal

110.25–1 Plans and information for field technical offices.
110.25–3 Procedure for submitting plans to technical offices.
110.25–5 Number of plans required for technical offices.
110.25–7 Plans and information for the Officer in Charge, Marine Inspection.

Subpart 110.30—Testing and Inspection

110.30–1 General.
110.30–3 Initial inspection.
110.30–5 Inspection for certification.
110.30–7 Repairs or alterations.

AUTHORITY: 46 U.S.C. 170, 367, 369, 375, 390(b), 391(a), 392, 408, 416, 445, 489, 526p; 49 U.S.C. 1655(b); 49 CFR 1.46.

Subpart 110.01—Applicability

§ 110.01–1 Applicability.

This subchapter applies to electric equipment and systems—

(a) on each vessel required by Subchapter D, H, I, II, O, or U of this chapter to meet this subchapter; and

(b) installed on the vessel after (the effective date of these regulations) (new installations) except repairs meeting § 110.01–5.

§ 110.01–3 Electric equipment and systems installed before (the effective date of these regulations).

Electric equipment and systems installed before (the effective date of these regulations) (existing installations) on a vessel required by Subchapter D, H, I, II, O, or U of this chapter to meet this subchapter must meet this subchapter's requirements in effect on the date of installation.

§ 110.01–5 Repairs to new and existing installations.

(a) Repairs to new installations must meet this subchapter.

(b) Repairs to existing installations must meet this subchapter's requirements in effect on the date—

(1) Of the original installation; or

(2) The repair is made.

Subpart 110.10—Reference Specifications, Standards, and Codes

§ 110.10–1 General.

(a) Each specification, standard, and code listed in paragraph (b) is incorporated by reference to the extent stated in the affected section in this subchapter. The specification, standard, or code incorporated is the one in effect on the date the electric equipment or system is—

(1) Contracted for by the parties to be bound; or

(2) If there is no contract, installed.

(b) The following are incorporated by reference:

(1) Rules for Building and Classing Steel Vessels, issued by the American Bureau of Shipping, 45 Broad Street, New York, N.Y. 10004.

(2) The following publications issued by the National Fire Protection Association, 470 Atlantic Avenue, Boston, Mass. 02110:

(i) The National Electrical Code (NFPA 70).

(ii) Standard for the Use of Inhalation Anesthetics (NFPA 56A).

(iii) Standard for Purged and Pressurized Enclosures for Electrical Equipment in Hazardous Locations (NFPA 496).

(iv) Recommended Practice for Static Electricity (NFPA 77).

(3) The following publications issued by the National Electrical Manufacturers Association, 155 East 44th Street, New York, N.Y. 10017:

(i) IPCEA–NEMA Standards Publication Rubber-insulated Wire and Cable for the Transmission and Distribution of Electrical Energy (NEMA WC 3).

(ii) IPEA–NEMA Standards Publication Ethylene Propylene Rubber-insulated Wire and Cable for the Transmission and Distribution of Electrical Energy (NEMA WC 8).

(4) The following publications issued by the Institute of Electrical and Electronics Engineers Inc., 345 East 47th Street, New York, N.Y. 10017:

(i) Recommended Practice for Electric Installations on Shipboard (IEEE Standard No.45).

(ii) IEEE Standard Dictionary of Electrical & Electronics Terms (IEEE Standard No. 100).

(5) The following standards issued by Underwriters' Laboratories, Inc., 207 East Ohio Street, Chicago Illinois 60011:

(i) Standard for General Use Snap Switches (UL 20).

(ii) Standard for Rubber-Insulated Wires and Cables (UL 44).

(iii) Standard for Electrical Cabinets and Boxes (UL 50).

(iv) Standard for Flexible Cord and Fixture Wire (UL 62).

(v) Standard for Electric Panelboards (UL 67).

(vi) Standard for Electrical Motor Operated Appliances (UL 73).

(vii) Standard for Thermoplastic-Insulated Wires (UL 83).

(viii) Standard for Enclosed Switches (UL 98).

(ix) Standard for Elevator Door Locking Devices and Contacts (UL 104).

(x) Standard for Commercial Electric Cooking Appliances (UL 197).

(xi) Standard for Fuses (UL 198).

(xii) Standard for Class H Fuses (UL 198B).

(xiii) Standard for Plug Fuses (UL 198F).

(xiv) Standard for High-Interrupting-Capacity Fuses, Current Limiting Type (UL 198.2).

(xv) Standard for High-Interrupting Capacity Fuses, Class K (UL 198.3).

(xvi) Standard for Class R Fuses (UL 198.4).

(xvii) Standard for Household Refrigerators and Freezers (UL 250).

(xviii) Standard for Automotive Glass Tube Fuses (UL 275B).

(xix) Standard for High Voltage Industrial Control Equipment (UL 347).

(xx) Standard for Knife Switches (UL 363).

(xxi) Standard for Refrigerated Drinking Water Coolers (UL 399).

(xxii) Standard for Commercial Refrigerators (UL 471).

(xxiii) Standard for Electric Wire Connectors and Soldering Lugs (UL 486).

(xxiv) Standard for Molded Case Circuit Breakers and Circuit Breaker Enclosures (UL 489).

(xxv) Standard for Special Fuses for Radio and Television Receiving Appliances and Other Electronic Equipment (UL 492.7).

(xxvi) Standard for Electrical Attachment Plugs and Receptacles (UL 498).

(xxvii) Standard for Electric Industrial Control Equipment (UL 508).

(xxviii) [Reserved].

(xxix) Standard for Electrical Outlet Boxes and Fittings (UL 514).

(xxx) Standard for Marine Type Electric Lighting Fixtures (UL 595).

(xxxi) Standard for Electric Motors and Generators for Use in Hazardous Locations, Class II, Groups F and G (UL 674A).

(xxxii) Standard for Electric Motors and Generators for Use in Hazardous Locations, Class I, Groups C and D (UL 674B).

(xxxiii) Standard for Industrial Control Equipment for Use in Hazardous Locations, Class I, Groups A, B, C, and D, and Class II, Groups E, F, and G (UL 698).

(xxxiv) Standard for Household Electric Dishwashers (UL 749).

(xxxv) Standard for Electric Heaters for Use in Hazardous Locations, Class I, Groups A, B, C, and D and Class II, Groups E, F, and G (UL 823).

(xxxvi) Standard for Electric Lighting Fixtures for Use in Hazardous Locations (UL 844).

(xxxvii) Standard for Electric Motor Control Centers (UL 845).

(xxxviii) Standard for Busways and Associated Fittings (UL 857).

(xxxix) Standard for Circuit Breakers and Circuit Breaker Enclosures for Use in Hazardous Locations, Class I, Groups A, B, C, and D, and Class II, Groups E, F, and G (UL 877).

(xl) Standard for Electrical Outlet Boxes and Fittings for Use in Hazardous Locations, Class I, Groups A, B, C, and D and Class II, Groups E, F, and G (UL 886).

(xli) Standard for Switches for Use in Hazardous Locations, Class I, Groups, A, B, C, and D, and Class II, Groups E, F, and G (UL 894).

(xlii) Standard for Intrinsically Safe Electrical Circuits and Equipment for Use in Hazardous Locations (UL 913).

(xliii) Standard for Commercial Electric Dishwashers (UL 921).

(xliv) Standard for Emergency Lighting Equipment (UL 924).

(xiv) Standard for Electrically Operated Valves for Use in Hazardous Locations, Class I, Groups A, B, C, and D, and Class II, Groups E, F, and G (UL 1002).

(xlvi) Standard for Electric Receptacle—Plug Combinations for Use in Hazardous Locations (UL 1010).

(xlvii) Standard for Electric Air Heaters (UL 1025).

(xlviii) Standard for Electric Baseboard Heating Equipment (UL 1042).

(xlix) Standard for Special-Use Switches (UL 1054).

(l) Standard for Electric Central Air Heating Equipment (UL 1096).

(li) Standard for Electric Battery Chargers (UL 1236).

(6) The following specifications and guides issued by the Commander, Naval Ship Engineering Center, Department of the Navy, Washington, D.C. 20362.

(i) Military Specifications, Wire, Electrical (MIL-W-16878).

(ii) Military Specification, Wire and Cable, Hook-up, Electrical, Insulated (MIL-W-76).

(iii) Military Specification, Cable and Cord, Electrical, for Shipboard Use (MIL-C-95).

(iv) Cable Comparison Guide (NAVSEA 0981-052-8090).

(7) American National Standard Safety Code for Elevators, Dumbwaiters, Escalators, and Moving Walks (ANSI A17.1), issued by the American Society of Mechanical Engineers, 345 East 47th Street, New York, N.Y. 10017.

(8) Standard for Power Switchgear (ANSI C37), issued by the American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018.

(9) Standard Specification for Nylon Injection Molding and Extrusion Materials (ASTM D 789), issued by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103.

Subpart 110.15—Terms Used in This Subchapter

§ 110.15-1 Definitions.

For the purpose of this subchapter:

(a) Electrical and electronic terms are used as defined in the "IEEE Standard Dictionary of Electrical & Electronics Terms" (IEEE Standard No. 100), issued by the Institute of Electrical and Electronics Engineers.

(b) In addition to the definitions in paragraph (a) of this section:

(1) "Boat deck" means a deck on which lifeboats are stowed.

(2) "Coastwise" means in the waters of any ocean or the Gulf of Mexico that are 20 nautical miles or less offshore.

(3) "Commandant" means the Commandant of the Coast Guard.

(4) "Corrosion-resistant finish" means one of the following treatments:

(i) Electroplated of cadmium, chromium, nickel, silver, or zinc.

(ii) Sherardized.

(iii) Galvanized.

(iv) An enameled finish over a zinc chromate primer that is over a surface that has been cleaned and degreased.

(5) "Corrosion-resistant material" and "noncorrodible material" mean silver, corrosion-resistant steel, copper, brass, bronze, copper-nickel, corrosion-resistant nickel alloys, corrosion-resistant aluminum alloys, or fiberglass reinforced plastics.

(6) "Corrosive location" means a location exposed to the weather on vessels operating in salt water.

(7) "Damp or wet location" means—

(i) A location exposed to the weather;

(ii) A machinery space;

(iii) A cargo space;

(iv) A refrigerated space;

(v) A galley;

(vi) A laundry;

(vii) A public washroom or toilet room that has a bath or shower;

(viii) An area directly inside of an access door to a weather deck if the access door is not protected against entrance of rain or spray by an overhanging deck or by other means; or

(ix) Other spaces with similar humidity.

(8) "Dripproof" means enclosed equipment so constructed or protected that falling drops of liquid or solid particles striking the enclosure at any angle from 0 to 15 degrees downward from the vertical do not interfere with the operation of the equipment.

NOTE.—A NEMA Type 1 enclosure with dripshield or a NEMA Type 2 enclosure meets this definition.

(9) "Dry location" means—

(i) An accommodation space;

(ii) A pantry;

(iii) A passageway adjacent to quarters;

(iv) A public washroom or toilet room that does not have a bath or shower;

(v) A radio room;

(vi) A gyro room;

(vii) A chart room; or

(viii) A control room on a mobile offshore drilling unit.

(10) "Embarkation deck" means a deck from which persons embark into lifeboats or are assembled before embarking into lifeboats.

(11) "Emergency squad" means the crew designated on the station bill as the nucleous of a damage control party.

(12) "Flashpoint" means the temperature at which a liquid gives off a flammable vapor when heated in a closed cup tester.

(13) "Great Lakes vessel" means a vessel that navigates exclusively on the Great Lakes.

(14) "Marine inspector" and "inspector" mean any person from the civilian or military branch of the Coast Guard assigned under an Officer in Charge, Marine Inspection, or any other person as may be designated for the duties of inspection, enforcement, and administration of R.S. 52, as amended and rules and regulations under its authority.

(15) "Nonsparking fan" means a fan that cannot produce sparks that ignite a flammable mixture and includes—

(i) Blades or housing of nonmetallic construction;

(ii) Blades and housing of nonferrous material;

(iii) Blades and housing of corrosion-resistant steel;

(iv) Ferrous blades and housing with one-half inch or more design tip clearance; or

(v) Blades of aluminum or magnesium alloy and a ferrous housing with a nonferrous insert ring at the periphery of the impeller.

NOTE: Any combination of an aluminum alloy or a magnesium alloy component and a ferrous component is considered by the Coast Guard to be a sparking hazard regardless of the material that is used as the fixed or rotating component.

(16) "Ocean vessel" means a vessel that navigates the waters of any ocean or the Gulf of Mexico more than 20 nautical miles offshore.

(17) "Qualified person" means a person who by his special knowledge, ability, and experience can competently

and safely perform required functions and duties.

(18) "Waterproof machine" means a totally enclosed machine so constructed that a stream of water from a hose not less than 1 inch in diameter under a head of 35 feet and from a distance of about 10 feet can be played on the machine from any direction for a period of not less than 5 minutes without leakage, except leakage that occurs around the shaft may be considered permissible, provided it is prevented from entering the oil reservoir and provision is made for automatically draining the machine.

(19) "Watertight" means enclosed so that equipment does not leak when tested at any angle with a stream of water from a hose with a one inch nozzle that delivers at least 65 gallons per minute from a distance of 10 feet for 5 minutes.

NOTE: NEMA Types 4 and 4X meet this definition.

Subpart 110.20—Equivalents

§ 110.20–1 Conditions under which equivalents may be used.

Where in this subchapter a fitting, material, apparatus, or equipment must be in a vessel, a provision must be made, or an arrangement must be adopted, the Commandant may accept in substitution any other fitting, material, apparatus, or equipment or any other provision or arrangement if he is satisfied that the fitting, material, apparatus, or equipment, or the provision or arrangement is at least as effective as that required and provides the degree of safety consistent with the requirements of this subchapter.

Subpart 110.25—Plan Submittal

§ 110.25–1 Plans and information for field technical offices.

The following must be submitted for Coast Guard review to a field technical office listed in § 110.25–3:

(a) Elementary one-line wiring diagram of the power system, supported, if necessary, by cable lists, panelboard summaries, and other information including:

(1) Type and size of generators;

(2) Type and size of generator cables, bus-tie cables, feeders, and branch circuit cables;

(3) Power, lighting, and interior communication panel boards with number of circuits and rating of energy consuming devices;

(4) Type and capacity of storage batteries;

(5) Rating of circuit breakers and switches, interrupting capacity of circuit breakers, and rating or setting of overcurrent devices; and

(6) Detailed computations of short circuit currents and studies of overcurrent protective device coordination for each system with an aggregate generating capacity of more than 750 kilowatts.

(b) Electric plant load analysis including connected loads and computed operating loads for each condition of operation.

(c) Elementary and isometric or deck wiring plans, including symbol lists, and manufacturer's name and identification of each item of electric equipment, of each—

(1) Steering gear circuit and steering motor controller;

(2) General alarm system;

(3) Sound powered telephone system;

(4) Power operated boat winch;

(5) Fire detecting and alarm system;

(6) Smoke detecting system;

(7) Alarm for a carbon dioxide extinguishing system;

(8) Electric watertight door system;

(9) Fire screen door holding system;

(10) Emergency loudspeaker system;

(11) Manual alarm system; and

(12) Supervised patrol system.

Each isometric and deck wiring plan must show the location of each cable splice.

(d) Switchboard wiring diagram.

(e) Switchboard material and nameplate list.

(f) Elementary wiring diagram of metering and automatic switchgear.

(g) Description of operation of propulsion control and bus transfer switchgear.

(h) Schematic or logic diagrams for automated or centrally controlled propulsion or auxiliary machinery.

(i) The operating maintenance and instruction manuals for automated or centrally controlled propulsion or auxiliary machinery systems that include operational test procedures for verifying the operation of the required safety devices and systems.

(j) For tank vessels and mobile offshore drilling units, plans showing the location of each item of electric equipment that is in a hazardous location under Subpart 111.105 of this subchapter, including symbol lists, and manufacturer's name and identification.

§ 110.25–3 Procedure for submitting plans to technical offices.

Plans must be submitted to one of the following field technical offices:

(a) Commander, 3rd Coast Guard District (mmt), Governor's Island, New York, N.Y. 10004, for the 1st and 3rd Coast Guard Districts.

(b) Commander, 5th Coast Guard District (mmt), Federal Building, 431 Crawford St., Portsmouth, Va. 23705, for the 5th Coast Guard District.

(c) Commander, 8th Coast Guard District (mmt), Room 1130, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, for the 2nd, 7th and 8th Coast Guard Districts.

(d) Commander, 9th Coast Guard District (mmt), Federal Office Building, 1240 East 9th Street, Cleveland, Ohio 44199, for the 9th Coast Guard District.

(e) Commander, 12th Coast Guard District (mmt), 630 Sansome Street, San Francisco, Calif. 94126, for the 11th, 12th, 13th, 14th, and 17th Coast Guard Districts.

§ 110.25–5 Number of plans required for technical offices.

(a) Three copies of each plan are required so that one can be returned to the submitter. If the submitter desires additional copies of approved plans, he should submit enough for the required distribution.

(b) If an applicant for plan review of a vessel that is classed by the American Bureau of Shipping (ABS) desires the Coast Guard to forward copies of approved plans to ABS, he must request in writing, with a copy to ABS, that the Coast Guard technical office that reviews the plans send copies of the approved plans to ABS and he must submit:

(1) 6 copies of each plan; or

(2) If the equipment is built at a place other than that of the shipbuilder, 7 copies of each plan.

§ 110.25–7 Plans and information for the Officer in Charge, Marine Inspection.

One copy of the following must be submitted for information to the Officer in Charge, Marine Inspection of the Marine Inspection Zone in which the vessel is to be built:

(a) Isometric or deck wiring plans of power systems and lighting systems, including symbol lists with manufacturer's name and identification of each item of electric equipment and showing:

(1) Locations of cables;

(2) Cable sizes and types;

(3) Location of each item of electric equipment; and

(4) Locations of cable spices.

(b) Plans and instructions for each intrinsically safe system approved by Underwriters' Laboratories, Inc. or Factory Mutual Engineering Corporation.

Subpart 110.30—Testing and Inspection

§ 110.30–1 General.

(a) The general requirements for inspection of vessels are in Parts 31, 71, 91, 107, 151, and 188 of this chapter. This section supplements the general requirements in other parts of this chapter.

(b) In the inspection of electric equipment and installations, the rules of the American Bureau of Shipping for materials and construction, and the certificate of classification that refers to them, except as otherwise provided by this subchapter, are accepted as standard.

(c) This subpart must not be construed to imply that shop tests or factory inspections of electric apparatus or equipment of the types conducted by the American Bureau of Shipping are conducted by the Coast Guard. Shop tests of electric apparatus or equipment are conducted by the Coast Guard only when required by this chapter or when requested, either by the manufacturer, shipbuilder, owner or the Coast Guard, and agreed to by all.

§ 110.30–3 Initial inspection.

(a) *Scope.* The initial inspection, which may be a series of inspections during the construction of the vessel, includes a complete inspection of the electric installation and electric equipment or apparatus. The inspection is to determine that the arrangement, materials, and their installations meet this chapter and the approved plans. The inspec-

tion also is to determine that the workmanship of all equipment and apparatus and the installation is satisfactory.

(b) *Inspections required.* The inspections described in this section are intended as suggestions to the marine inspector. It is not the intent of this section to require, for any particular vessel, any test that, in the opinion of the Officer in Charge, Marine Inspection, is unnecessary.

(c) *Electric cable.* Electric cable should be checked during installation for size and type as shown on the approved plans. The adequacy of cable supports should be checked, and it should be ascertained that no cable is near a pipe or other hot object and that the cables have not been damaged during the installation due to excessive pulling force having been applied, or due to sharp bends or sharp or rough edges of cable supports or bulkhead penetrations, or similar abrasions. Cable penetrations required to be watertight should be checked for proper packing of the terminal or stuffing tubes, including provisions for future takeup of gland units. (See Subpart 11.60 of this subchapter.)

(d) *Generators.* Generators should be checked for general condition, both electrical and mechanical, voltage regulation, parallel operation, operation of safety devices such as reverse-current or reverse-power trips, overcurrent trips, overspeed trips, low oil pressure trips, and similar devices. (See Subpart 111.12 of this subchapter.)

(e) *Rotating electric machinery.* Rotating electric machinery should be checked to ensure that rotating and uninsulated electric parts are adequately shielded from accidental contact by personnel.

(f) *Switchboards.* Switchboards should be checked for handrails, guard-rails, working spaces, insulating floor covering, drip covers, and enclosures for backs and ends. Switchboard mounted apparatus should be checked for identifying nameplates. Circuit nameplates should be compared with rating or setting of the overcurrent devices and with the approved plans. The accessibility of items requiring maintenance or adjustment should be checked. Meters should be checked for proper calibration. The operation of automatic switchgear and mechanical interlocks should be observed. (See Subpart 11.30 of this subchapter.)

(g) *Motor starters.* Motor starters should be checked to ensure proper starting of the motor under service conditions and to assure that there are properly rated motor running overcurrent protective devices. Enclosures should be checked to assure they are dripproof or watertight and that required door positioners are installed. Motor running overcurrent protective devices must not be set greater than allowed by Part C of Article 430 of the National Electrical Code, except for steering gear motors (see § 111.93–9(c) of this subchapter. A fixed heat resistant wiring diagram for each motor starter must be on the inside of its enclosure door. Each motor starter not disconnected from all sources of potential when the disconnect switch is opened, due to electrical interlocked circuits necessary for proper operation of the apparatus or for other valid reasons, should be checked to ensure that attention is directed to these conditions by a warning sign. (See Subpart 111.70 of this subchapter).

(h) *Disconnect switches.* The presence and location of disconnect switches required for motor starters, fuses, etc., should be checked. When a switch or circuit breaker or a switchboard or distribution panel is intended to serve as a motor and controller disconnect switch, it should be determined that the applicable requirements of the regulations in this subchapter have been met. (See Subparts 111.55 and 111.70 of this subchapter.)

(i) *Accessibility.* The accessibility of electric apparatus for inspection and maintenance should be observed. The accessibility of junction boxes and similar apparatus in way of paneling should be noted during construction of a vessel. Hinged doors of motor starters and similar apparatus should be checked for interference with adjacent structural parts or apparatus.

(j) *Panelboards.* The rating or setting of the overcurrent devices should be compared with the values given on the circuit directory and with the approved plans. The accuracy of the directory description of loads served by each circuit should be checked. (See Subpart 111.40 of this subchapter.)

(k) *Grounding.* It should be determined that metal enclosures for electric equipment are grounded, either by the method of mounting or by ground leads. Portable equipment should be checked for grounding through the grounding conductor of the supply cable. (See Subpart 111.05 of this subchapter).

(l) *Emergency lighting and exit lights.* The adequacy of emergency lights and exit lights should be checked at night with all general lighting turned off.

(m) *General alarm system.* The general alarm system should be checked with a sound level meter, the sound level of the bells being measured in each stateroom with doors closed. Where the background noise level is questionable, the sound level should be measured while the vessel is underway. For the required sound levels, see § 113.25–9(a) of this subchapter.

(n) *Emergency loudspeaker system.* The emergency loudspeaker system should be checked with a sound level meter, the sound level being measured at several locations in the vicinity of each lifeboat handling station, each lifeboat embarkation station, each passenger assembly station, and throughout crew quarters. Where the background noise level is questionable, the sound level should be measured while the vessel is underway. For the required sound levels, see Table 113.50–15 of this subchapter. It should be demonstrated that voice reproduction is highly intelligible. It should be demonstrated that grounding or opening either conductor or shorting both conductors to a typical lifeboat station loudspeaker or to a typical embarkation deck loudspeaker, each to be selected by an inspector, will not reduce the output of any one of the remaining loudspeakers by more than three decibels.

(o) *Fire detecting systems.* Fire detecting systems should be checked for compliance with the applicable regulations in this chapter and for conformance with the approved plans. Power supply circuits and thermostat circuits should be checked for supervision.

(p) *Communication systems.* All communciation systems should be checked for performance and for compliance with the regulations in this chapter.

(q) *Insulation resistance.* All electric power and lighting cable and equipment should be checked for proper insulation resistance to ground and between conductors. (See Section 46 of IEEE Standard No. 45)

(r) *Automated machinery.* All propulsion and auxiliary machinery control and safety systems for an automated or centralized control machinery system should be checked for material condition, operation and set point.

(s) *Electric installations in hazardous locations.* Electric equipment and wiring in hazardous locations should be checked for compliance with Subpart 111.105 of this subchapter. Intrinsically safe systems should be checked to assure they are installed in accordance with the plans and instructions approved by Underwriters' Laboratories, Inc. or Factory Mutual Engineering Corporation.

(t) *Fire screen doors.* Fire screen door releases should be checked for compliance with Subpart 111.99 of this subchapter.

(u) *Watertight doors.* Power operated watertight doors should be checked for compliance with Subpart 111.97 of this subchapter.

(v) *Electric power operated boat winches.* Controllers and limit switches on electric power operated boat winches should be checked for compliance with Subpart 111.95 of this subchapter.

(w) *Steering gear circuits.* Steering gear circuits should be checked to see that they are separated to meet §§ 111.-93–5(d) and 111.93–7(d) of this subchapter. Steering gear motor controllers should be checked to see that they are in the steering gear room. (See Subpart 111.93 of this subchapter.)

(x) *Emergency fire pump circuits.* Circuits for the emergency firepump should be checked to see that they do not pass through the engineroom or boiler room. (See § 112.05–5(f) of this subchapter).

(y) *Low voltage release.* It should be determined that motor controllers required to have low voltage release by § 111.70–3(f) of this subchapter have low voltage release and motor controllers prohibited from having low voltage release have low voltage protection. All motors should be run simultaneously and then all generators tripped off the line. One generator should be placed back on the line and it should not trip because of the oncoming load. Motor controllers requiring low voltage release

should start their motors automatically. Motor controllers prohibited from having low voltage release should not start their motors automatically.

§ 110.30–5 Inspection for certification.

(a) *General.* The inspection of electric installations at the annual or biennial inspection incident to reissuance of a certificate of inspection includes an inspection of all item listed in § 110.30–3 to determine mechanical and electrical condition and performance. Particular note should be made of circuits added or modified after the initial inspection.

(b) *Fire detecting system.* Fire detecting thermostats should be tested at regular intervals (at least 25 percent of those installed tested annually) to detect any change in operating characteristics. A portable hand light with an open and sheet metal shield, such as a No. 3 fruit can, replacing the usual guard and globe, usually serves as a source of heat to operate the thermostat without damage to paint work or to the thermostat itself. Any thermostat requiring a time to operate significantly different from the average when covered with the heating device should be suspected of being defective and forwarded to Commandant (G-MMT-2) for further testing.

§ 110.30–7 Repairs or alterations.

A general or partial inspection, depending upon circumstances, should be made whenever any important repairs or alterations are undertaken.

PART 111—ELECTRIC SYSTEM—GENERAL REQUIREMENTS

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AUTHORITY: 46 U.S.C. 170, 367, 369, 375, 390(b), 391(a), 392, 408, 416, 445, 489, 526p; 49 U.S.C. 1655 (b); 49 CFR 1.46.

Subpart 111.01—General Considerations

§ 111.01-1 General.

Electric installations on vessels must ensure—

(a) That services necessary for safety are maintained under emergency conditions; and

(b) The safety of passengers, crew, other persons, and vessel from electrical hazards.

§ 111.01-3 Placement of equipment.

(a) Electric equipment must be arranged, as far as practicable, to prevent mechanical damage to the equipment from the accumulation of dust, oil vapors, steam, or dripping liquids.

(b) Apparatus that may arc must be ventilated or be in ventilated compartments in which flammable gases, acid fumes, and oil vapors cannot accumulate. Skylights and ventilators must be arranged to prevent flooding of the apparatus.

§ 111.01-5 Protection from bilge water.

Each generator, motor, and electric coupling must be arranged so that it cannot be damaged by bilge water.

§ 111.01-7 Accessibility.

(a) The design and arrangement of electric apparatus must allow accessibility to each part that needs inspection or adjustment.

(b) Each armature and field coil, rotor, and revolving field must be removable, and where there is an air duct, there must be a means of access.

§ 111.01-9 Watertight and waterproof equipment.

Electric equipment exposed to the weather or in a space where it is exposed to seas, splashing, or similar moisture conditions, must be watertight or be in a watertight enclosure that prevents exposure of the equipment to temperatures greater than those for which it has been designed, except that a motor may be a waterproof machine instead of being watertight.

§ 111.01-11 Corrosion-resistant parts.

Each enclosure and part of electric equipment that can be damaged by corrosion must be made of corrosion-resistant materials or of materials rendered corrosion resistant. Aluminum alloys with copper content greater than 0.4 percent must not be used.

§ 111.01-13 Limitations on porcelain use.

Porcelain must not be used for lamp sockets, switches, receptacles, fuse blocks, or other electric equipment where the material is fixed by machine screws or their equivalent.

§ 111.01-15 Temperature ratings.

In this subchapter, except as otherwise stated, an ambient temperature of 40° C is assumed. Where the ambient temperature is greater than 40° C, the total temperature stated must not be exceeded. Where equipment has been rated on ambient temperatures less than 40° C, this equipment may be used if the temperature for which the equipment is rated is not exceeded.

§ 111.01-17 Nature of electric supply.

(a) *Standard systems.* The following systems of distribution are standard:

(1) Two-wire with direct current or single-phase alternating current.

(2) Three-wire with direct current or single-phase alternating current.

(3) Three-wire, three-phase alternating current.

(4) Four-wire, three-phase alternating current.

(b) *Standard voltages.* The voltages given in Table 111.01-17(b) are standard.

TABLE 111.01-17(b)—*Standard voltages*

Equipment	Direct current (volts)	Alternating current (volts)
Lighting	115	115
Power	115 and 230	115, 200, 220, 230, 460, 2300, 4000
Generators	120 and 240	120, 208, 230, 240, 480, 2400, 4160
Propulsion	1,000	7,500

(c) *Standard frequency.* A frequency of 60 hertz is recognized as standard for alternating-current lighting and power systems.

(d) *Others.* Systems, voltages, or frequencies that differ from the standard may be specially approved by the Commandant.

Subpart 111.05—Grounding, Ground Detection, and Grounded Systems

§ 111.05–1 Purpose.

This subpart contains requirements for the grounding of circuits and electric equipment.

NOTE.—Circuits are grounded to limit excessive voltage from lightning, to line surges, and unintentional contact with higher voltage lines, and to limit the voltage to ground during normal operation. Conductive materials enclosing electric conductors and equipment, or forming part of that equipment, are grounded to prevent a voltage above ground on these materials.

EQUIPMENT GROUNDING

§ 111.05–3 Design, construction, and installation; general.

(a) Exposed metal parts of electric machines and equipment that are not "live" but may become "live" because of any condition must be grounded.

(b) An electric apparatus must be designed, constructed, and installed to protect any person who handles that apparatus from injury.

(c) If the installation of an electric appliance does not ensure positive grounding, the apparatus must be grounded with grounding—

(1) Conductors; or

(2) Straps.

§ 111.05–5 Equipment.

The following must be grounded:

(a) Metal frames of portable lamps, tools, and other portable ship's equipment through a conductor in the supply cable.

(b) An installed receptacle outlet through its grounding pole.

(c) Lighting equipment, including fixtures.

(d) Metal cases of instruments, relays, meters, instrument transformers, and secondary windings of instrument transformers.

(e) Controller covers, except the covers of snap switches.

(f) Outlet boxes.

(g) Enclosures for switches and circuit breakers.

(h) Exposed metal parts of electrically driven cranes and hoists.

(i) Mobile units through conductors in supply cables.

§ 111.05–7 Armored and metallic-sheathed cable.

(a) Each metallic-sheathed multiconductor multiphase cable and each multiconductor multiphase armored cable must have its metallic covering:

(1) Electrically and mechanically continuous;

(2) Grounded to the metal hull at the supply end on final sub-circuits; and

(3) Grounded to the metal hull at each end on other circuits.

(b) Single conductor alternating-current cable must be grounded only at the midpoint.

§ 111.05–9 Masts.

Each wooden mast and each wooden topmast must have a lightning ground conductor.

SYSTEM GROUNDING

§ 111.05–11 Hull return.

(a) A vessel's hull must not carry current as a conductor for a distribution system.

(b) A battery system for engine starting may be a one-wire system if the ground lead is connected to the engine.

§ 111.05–13 Grounding connection.

Each grounded system must have only one point of connection to ground regardless of the number of power sources operating in parallel in the system.

§ 111.05–15 Neutral grounding.

Each neutral of a propulsion, power, lighting, or distribution system must be grounded.

§ 111.05–17 Generation system grounding.

The neutral of each generation system must:

(a) Be grounded at the generator switchboard, except the neutral of an emergency power generation system must be grounded with—

(1) No direct ground connection at the emergency switchboard;

(2) The neutral bus permanently connected to the neutral bus of the main switchboard; and

(3) No switch, circuit breaker, or fuse in the neutral conductor of the bus-tie feeder connecting the emergency switchboard to the main switchboard;

(b) Have the ground connection accessible for checking the insulation resistance of the generator to ground before the generator is connected to the bus; and

(c) Have the grounding arrangement limit the full load current at full load voltage to 20 amperes or less upon a fault to ground.

§ 111.05–19 Tank vessels; grounded distribution systems.

(a) Except as allowed in paragraph (b) of this section, a tank vessel must not have a grounded distribution system.

(b) If the voltage of a distribution system on a tank vessel is 3000 volts or more, line-to-line, the tank vessel may have a grounded system if any resulting current does not flow through hazardous locations.

GROUND DETECTION

§ 111.05–21 Ground detection.

There must be ground detection for each:

(a) Electric propulsion system;

(b) Power system;

(c) Lighting system; and

(d) Distribution system that is isolated from the power and lighting systems by transformers, motor generator sets, or other devices.

§ 111.05–23 Location of ground indicators.

Ground indicators must:

(a) Be at the vessel's generator and distribution switchboard for the main power, main lighting, and emergency lighting systems;

(b) Be at the propulsion switchboard for propulsion systems; and

(c) Not be concealed.

§ 111.05–25 Ungrounded systems.

Ground detection for each ungrounded system must have:

(a) A lamp for each phase that is:

(1) Connected between the phase and ground; and

(2) More than 5 watts and less than 25 watts when operating at one-half voltage in the absence of a ground; and

(b) A normally-closed, spring return-to-normal switch between the lamps and the ground connection.

§ 111.05–27 Grounded neutral alternating-current systems.

Ground detection for each alternating-current system that has a grounded neutral must have the following equipment that can withstand the maximum available fault current without damage:

(a) An ammeter that:

(1) Indicates the current in the ground connection; and

(2) Has a full scale range of 10 amperes.

(b) An ammeter switch that is the spring return to "on" type.

§ 111.05–29 Dual voltage direct-current systems.

Ground detection for each dual voltage, direct-current system must have a zero center ammeter that:

(1) Is in the ground connection;

(2) Has a full scale range of 150 percent of the neutral current rating; and

(3) Has the polarity of the ground marked.

GROUNDED CONDUCTORS

§ 111.05–31 Grounding conductors for systems.

(a) A conductor for grounding a direct-current system must be the larger of:

(1) The largest conductor supplying the system; or

(2) No. 8 AWG.

(b) A conductor for grounding the neutral of an alternating-current system must meet Table 111.05–31(b).

TABLE 111.05-31(b)—NEUTRAL GROUNDING CONDUCTOR FOR ALTERNATING-CURRENT SYSTEM

Size (AWG) of the largest generator cable or equivalent for parallel generators:	*Size (AWG) of the system grounding conductor*
2 or less	8
1 or 0	6
2/0 or 3/0	4
Greater than 3/0 and less than or equal to 350 MCM	2
Greater than 350 MCM and less than or equal to 600 MCM	0
Greater than 600 MCM and less than or equal to 1100 MCM	2/0
Greater than 1100 MCM	3/0

§ 111.05–33 Equipment grounding conductors.

An equipment grounding conductor must be at least as large as the power conductor that supplies the equipment.

§ 111.05–35 Color coding of conductors.

(a) Each grounded conductor, except an equipment grounding conductor, must have a white or grey outer cover.

(b) A conductor that has a white or grey outer cover must not be an ungrounded conductor unless the color is changed at each connection.

(c) Each insulated grounding conductor of a cable must have green braid or insulation.

§ 111.05–37 Overcurrent device.

A permanently grounded conductor must not have an overcurrent device unless the overcurrent device:

(a) Simultaneously opens each ungrounded conductor of the circuit; or

(b) Meets Section 430–36 of the National Electrical Code.

§ 111.05–39 Switch and circuit breaker.

(a) The grounded conductor of a circuit must not be disconnected by a switch or circuit breaker, unless, the ungrounded conductors are simultaneously disconnected.

(b) The neutral conductor of the emergency-main switchboard bus-tie must not have a switch or circuit breaker.

Subpart 111.10—Power Supply

§ 111.10–1 Two generating sets.

In addition to the emergency generator sets required under Part 112 of this subchapter, each self-propolled vessel must have at least two electric generating sets.

§ 111.10–3 Power requirements: generating sets.

With the largest generating set stopped, the combined capacity of the remaining electric generating set or sets required in § 111.10–1 must be sufficient for the normal sea load, except full power to electric propulsion motors.

§ 111.10–5 Multiple energy sources.

Failure of any single energy source for the generating sets required in § 111.10–1 must not cause all generating sets to be inoperable.

§ 111.10–7 Dead ship.

(a) The generating plant of each self-propelled vessel must provide the electrical services necessary to start the main propulsion plant from a dead ship condition.

(b) The emergency generator may be used for part or all of the electric power necessary to start the main propulsion plant from a dead ship condition if the emergency generator can simultaneously provide power to all emergency lighting, emergency internal communications systems, and fire detection and alarm systems.

§ 111.10–9 Two transformers.

If transformers are an essential part of the power and lighting supply system required by this subpart for self-propelled vessels the system must have at least two transformers.

§ 111.10–11 Power requirements: transformers.

With the largest transformer deenergized, the remaining transformer or transformers required in § 111.10–9 must be sufficient for the normal sea load, except full power to electric propulsion motors.

Subpart 111.12—Generator Construction and Circuits

§ 111.12–1 Prime movers.

(a) Requirements for prime movers are in Subpart 58.10 of this chapter. Additional requirements for prime movers for emergency generators are in Subpart 112.50 of this subchapter.

(b) Each diesel engine prime mover must have an overspeed device that is independent of the normal operating governor and adjusted so that the speed can not exceed the maximum rated speed by more than 15 percent.

(c) Each prime mover must shut down automatically upon loss of lubricating pressure to the generator bearings.

§ 111.12–3 Excitation.

Excitation must meet Section 35.23 of the American Bureau of Shipping "Rules for Building and Classing Steel Vessels", except a static exciter must not be used for excitation of an emergency generator.

§ 111.12–5 Generator construction and testing.

(a) Each generator must meet Section 35 of the American Bureau of Shipping, "Rules for Building and Classing Steel Vessels".

(b) Each generator must be dripproof and protected machine and have dampers in each non-recirculating system air duct.

(c) Each emergency generator must have means to prevent moisture condensation in the machine.

(d) No steam heating coil may have a pipe joint in a generator casing.

§ 111.12–7 Voltage regulation and parallel operation.

(a) Generator voltage regulation and parallel operation must meet Sections 35.31 and 35.33 of the American Bureau of Shipping "Rules for Building and Classing Steel Vessels".

(b) Each voltage regulation supply circuit must:

(1) Be taken from the generator side of the generator circuit breaker; and

(2) Not be protected by an overcurrent device.

§ 111.12–9 Generator cables.

(a) The current carrying capacity of generator cables must be at least equal to the trip setting of the generator overcurrent device.

(b) If the ship's service generators are located in separate spaces, the generator cables between the circuit breakers and the switchboard must be separated as widely as practicable throughout their length.

(c) Generator cables must not be in the bilges.

§ 111.12–11 Generator protection.

(a) *Applicability.* This section applies to each generator except a propulsion generator.

(b) *25 kw and larger.* Each generator that is 25 kw or larger must be protected by an individual, trip-free, open frame, air circuit breaker, except that a generator that is not a ship's service generator on a self-propelled vessel or an emergency generator may be protected by a molded case circuit breaker.

(c) *Less than 25 kw.* Each generator that is smaller than 25 kw must be protected by an individual, trip-free, open frame or molded case, air circuit breaker.

(d) *Type of trips.* Each circuit breaker for a generator must have only inverse time overcurrent trips, except it must also have instantaneous trips if:

(1) Three or more alternating-current generators can be paralleled; or

(2) The circuit breaker is for a direct-current generator.

(e) *Setting of long-time trips.* The pickup setting of the long-time overcurrent trip of a generator circuit breaker must not be larger than:

(1) 115 percent of the generator rating rating for a continuous rated machine; and

(2) 115 percent of the overload rating for a machine with a 2 hour or greater overload rating.

(f) *Setting of instantaneous trips.* The instantaneous trip of a generator circuit breaker must be set:

(1) Above the maximum asymmetrical short circuit current available from the generator; and

(2) At the lowest setting that will coordinate with the trip settings of feeder circuit breakers supplied by the generator.

(g) *Reverse-power trips.* Each generator arranged for parallel operation must have a reverse-power trip.

(h) *Location.* The generator overcurrent protective device must be on the ship's service generator switchboard if the generator and switchboard are in the same space or if the generator and switchboard are in different spaces but not separated by more than 25 feet (7.6 m). If the generator and switchboard are in different spaces and separated by more than 25 feet (7.6 m), the generator overcurrent protective device must be in the same space as the generator.

(i) *Three-wire single-phase and four-wire three-phase generators.* There must be a circuit breaker pole for each generator lead, except that there need not be a circuit breaker pole in the neutral lead.

(j) *Three-wire direct-current generators.* Each three-wire direct-current generator must meet the following requirements:

(1) *Circuit breaker poles.* There must be a separate circuit breaker pole for each positive and negative lead, and, unless the main poles provide protection, for each equalizer lead. If there are equalizer poles for a three-wire generator, each overload trip must be of the "Algebraic" type. If there is a neutral pole in the generator circuit breaker,

there must not be an overload trip element for the neutral pole. There must be a neutral overcurrent relay and alarm system that is set to function at a current value equal to the neutral rating.

(2) *Equalizer buses.* For each three-wire generator, the circuit breaker must protect against a short circuit on the equalizer bus.

§ 111.12–13 Propulsion generator protection.

Protection of a propulsion generator requires special consideration in each case.

Subpart 111.15—Storage Batteries and Battery Chargers; Construction and Installation

§ 111.15–1 General.

Each battery must be a lead acid, alkaline, or other type of storage battery specially approved by the Commandant (G-MMT).

§ 111.15–2 Battery construction.

(a) Each battery must withstand vessel pitch, vibration, and roll, and exposure to a salt water atmosphere.

(b) Each battery cell must not spill electrolyte if the battery is inclined at 30° from the vertical.

(c) Each positive plate of a lead-acid battery for a general alarm system or for an emergency lighting and power system, except for an engine cranking system, must be at least 6.35 mm (0.25 in.) thick.

(d) Except as required under paragraph (c) of this section, each positive plate of a lead-acid battery must be at least 3.17 mm (0.125 in.) thick.

(e) Each fully charged lead-acid battery, except an engine cranking battery, must have a specific gravity of acid electrolyte of 1.210 to 1.220 at 25°C.

(f) Each fully charged, high watering space lead-acid type engine cranking battery must have a specific gravity of at most 1.260 at 25°C.

(g) Each fully charged normal watering space lead-acid type engine cranking battery must have a specific gravity of at most 1.285 at 25°C.

§ 111.15–3 Battery categories.

A battery is classified as one of three types, based upon power output of the battery charger, as follows:

(a) *Large.* A large size battery is one connected to a battery charger that has an output of more than 2 kw computed from the highest possible charging current and the rated voltage of the battery.

(b) *Moderate.* A moderate size battery is one connected to a batttery charger that has an output of between 0.2 kw and 2 kw computed from the highest possible charging current and the rated voltage of the battery.

(c) *Small.* A small size battery is one connected to a battery charger that has an output of less than 0.2 kw computed from the highest possible charging current and the rated voltage of the battery.

§ 111.15–5 Battery installation.

(a) *Large size batteries.* Each large size battery must be in a room that is only for batteries or in a box on deck. Electric equipment in a battery room must be approved by Underwriters' Laboratories, Inc. or Factory Mutual Engineering Corp. for a Class I, Division 1, Group B location. Devices that may arc, such as switches, battery charges, and similar devices, mut not be in a battery room. Except conductors for engine cranking batteries, each battery conductor must have an overcurrent protective device that is next to, but outside the battery room. Electric cables, other than those for the battery or battery room lighting, must not be in a battery room. A fixed danger notice must be on each door of a battery room and on each cover of a battery deck box, stating that a naked light or smoking in the room or in the area is not allowed.

(b) *Moderate size batteries.* Each moderate size battery must be in a battery room, in a box on deck, or in a box or locker in another space such as an engineroom, storeroom, or similar space, except this battery may be open in the engineroom or in a similar ventilated compartment, if protected from falling objects. A battery must not be in a sleeping space. An engine cranking battery for one or more engines must be as close as possible to the engine or engines.

(c) *Small size batteries.* Each small size battery may be in a place such as an open working space or engine compartment if the space is ventilated.

(d) *Battery trays.* Each battery tray must be chocked with wood strips or their equivalent to prevent movement, and each tray must have non-absorbent insulating supports on the bottom and similar spacer blocks at the sides, or equivalent provisions for air circulation space all around each tray. Each battery tray must be accessible, with at least 10 in. (254 mm) of head room.

(e) *Tiers.* When batteries are arranged in two or more tiers, each shelf must have at least 2 in. (50.8 mm) of space front and back for circulation of air.

(f) *Nameplates.* The battery manufacturer's name or trade mark and type designation, the ampere-hour rating at a specific rate of discharge, and, for a lead-acid battery when fully charged, the specific gravity of the electrolyte, must be on a fixed nameplate on each tray or molded on the tray case.

(g) *Lining in battery rooms and lockers.* Each battery room and locker must have a watertight lining that is:

(1) On:

(i) Each shelf to a height of at least 3 in. (76.2 mm); or

(ii) The deck to a height of at least 6 in (152.4 mm);

(2) For lead-acid batteries, $\frac{1}{16}$ in. (1.6 mm) thick lead or other material that is corrosion-resistant to the electrolyte of the battery; and

(3) For alkaline batteries, $\frac{1}{32}$ in. (0.8 mm) thick steel or other material that is corrosion-resistant to the electrolyte of the battery.

(h) *Lining of battery boxes.* Each battery box must have a watertight lining to a height of at least 3 in. (76.2 mm) that meets paragraphs (g)(2) and (g)(3) of this section.

§ 111.15–10 Ventilation.

(a) *General.* Each room, locker, and box for storage batteries must be arranged or ventilated to prevent accumulation of flammable gas.

(b) *Power ventilation.* If power ventilation is required, the following must be met:

(1) The power ventilation system must be separate from ventilation systems for other spaces.

(2) Electric motors must be:

(i) Outside the duct and compartment; and

(ii) Explosionproof motors for Class I, Division 1, Group B locations or be at least 10 ft. (3 m) from the duct end.

(3) Each blower must have a non-sparking fan.

(4) The power ventilation system must be interlocked with the battery charger so that the battery cannot be charged without ventilation.

(c) *Large size batteries.* Each battery room that has large size batteries must be ventilated by a power ventilation system with mechanical exhaust and have openings for air near the floor that allow the passage of the quantity of air that must be expelled. The quantity of the air expelled must be at least:

$$q = 3.89(i)(n),$$

where:

q = quantity of expelled air in cubic feet per hour.

i = maximum charging current during gas formation, or one-fourth of the maximum obtainable charging current of the charging facility, whichever is greater.

n = number of cells.

(d) *Moderate and small size batteries.* Each battery room or battery locker that has moderate or small size batteries must have louvers near the bottom of the room or locker for air, and must be ventilated by:

(1) Ventilation that meets paragraph (c) of this section;

(2) A duct:

(i) That ends in a mechanically ventilated space;

(ii) From the top of the room or locker to at least 3 ft. (1 m) above the top of the room or locker;

(iii) That is at an angle of 45° or less from the vertical; and

(iv) That has no appliances, such as flame arresters, that impede free passage of air or gas mixtures;

(3) A duct that meets paragraph (d)(2), of this section, except that it ends in the weather; or

(4) A duct from the top of the room or locker to an exhaust ventilation duct.

(e) *Deck boxes.* Except for a deck box for small size batteries, each deck box must have a duct from the top of the

box to at least 4 ft. (1.2 m) above the box ending in a gooseneck or mushroom head that prevents entrance of water. Holes for air must be on at least two parallel sides of each box.

(f) *Weathertight.* Each deck box must be weathertight.

(g) *Boxes for small size batteries.* Each box for small size batteries must have openings near the top to allow escape of gas.

§ 111.15–20 Conductors.

(a) If a conductor enters a battery room, the hole must be made watertight.

(b) Each connection within a battery room must be resistant to the electrolyte.

(c) The end of each cable must be sealed to prevent the entrance of electrolyte by spray or creepage.

(d) The current-carrying capacity of a connecting cable must be at least as large as the maximum charging current or maximum discharge current, whichever is greater.

§ 111.15–25 Overload and reverse current protection.

(a) An overload protective device must be in each battery conductor, except that engine cranking batteries and batteries with a nominal potential of 6 volts or less need not be protected against overload. For large size storage batteries, the overcurrent protective devices must be next to, but outside of, the battery room.

(b) Except when a rectifier is used, the charging equipment for each battery with a nominal voltage more than 20 percent of line voltage must protect automatically against reversal of current.

§ 111.15–30 Battery chargers.

Each battery charger must be dripproof and meet UL 1236.

Subpart 111.20—Transformer Construction, Installation, and Protection

§ 111.20–1 General requirements.

Each transformer winding must be resistant to moisture, sea atmosphere, and oil vapor.

§ 111.20–5 Temperature rise.

(a) The temperature rise, based on an ambient temperature of 40°C, must not exceed the following:

(1) For Class A insulation, 55°C.
(2) For Class B insulation, 80°C.
(3) For Class F insulation, 115°C.
(4) For Clas H insulation, 150°C.

(b) If the ambient temperature is higher than 40°C, the transformer must be derated so that the total temperature stated in this section is not exceeded. The temperature must be taken by the resistance method.

§ 111.20–10 Autotransformers.

An autotransformer must not supply feeders or branch circuts.

§ 111.20–15 Transformer overcurrent and short-circuit protection.

Each transformer must have protection against overcurrent and short circuit that meets Article 450 of the National Electrical Code.

Subpart 111.25—Motors

§ 111.25–1 General requirements.

The requirements for generators contained in § 111.12–5 (a) and (b) apply to motors.

§ 111.25–5 Marking.

(a) Each motor must have a marking or nameplate that meets Section 430–7 of the National Electrical Code.

(b) The marking or nameplate for each motor that is in a corrosive location must be corrosion-resistant.

§ 111.25–15 Duty cycle.

Each motor must be rated for continuous duty, except that a motor for an application listed in Table 111.25–15 may be short-time rated as stated. Each other motor for similar duty may have a consistent short-time rating.

TABLE 111.25–15

Application of motor	*Minimum short-time rating of motor, in hour*
Deck winch and direct acting capstan.	Half.
Deck winch with hydraulic transmission.	Continuous at no load, followed by ½ hr. at full load.
Direct acting windlass.	One fourth.
Windlass with hydraulic transmission.	Half hour idle pump operation followed by ¼ hr. full load operation.
Steering gear, direct acting.	One.
Steering gear, indirect drive.	Continuous operation at 15 pct. load followed by 1 hr. at full load.
Watertight door operators.	One twelfth.
Lifeboat winches	One thirteenth.

Subpart 111.30—Switchboards

§ 111.30–1 Location and installation.

Each switchboard must:

(a) Be in a dry place;

(b) Have a working space of at least 3 ft. (1 m) in front of the switchboard;

(c) Have a working space behind the switchboard that is at least 24 in. (0.6 m) from the nearest bulkhead and at least 18 in. (0.5 m) from the nearest stiffener or frame, or have no rear access;

(d) Be protected, by location or a shield, from machinery and piping having steam or pressurized liquid; and

(e) If it is a main switchboard, be in a machinery space that has a ship's service generator.

§ 111.30–3 Switchboards without rear access.

Each component and bus bar connection on a switchboard without rear access, except a bus bar connection for a draw-out type circuit breaker, must be within 20 in. (0.5 m) of the front of the switchboard.

§ 111.30–5 Construction.

(a) Insulating material for panels, bases, and supports for a switchboard must be moisture resistant and incombustible.

(b) Each switchboard must have:

(1) Wood only in handrails and guardrails;

(2) Positioners and stops on hinged panels; and

(3) Wearing parts readily replaceable.

§ 111.30–7 Dead front type.

Each switchboard must have a dead front.

§ 111.30–9 Mechnical protection.

Each switchboard must have:

(a) Enclosed sides;

(b) A dripshield, except a switchboard that is in an environmentally controlled space;

(c) A door at each entrance to a rear working space;

(d) Front non-conducting handrails; and

(e) Rear non-conducting guardrails if the switchboard has a rear working space.

§ 111.30–11 Mats or gratings.

Non-conducting mats or gratings must be in each working area in front of and behind each switchboard.

§ 111.30–13 Grounding.

The following must be grounded:

(a) The metal case of each:

(1) Instrument;
(2) Relay;
(3) Meter; and
(4) Instrument transformer.

(b) The secondary winding of each instrument transformer.

§ 111.30–15 Nameplates.

(a) Each derive must have a nameplate showing the device's function.

(b) Each nameplate for a circuit breaker must show the electrical load served, and the setting of the circuit breaker.

§ 111.30–17 Protection of instrument circuits.

(a) Each circuit that supplies a device on a switchboard, except a circuit under paragraph (b) of this section, must have overcurrent protection.

(b) A circuit that supplies a device on a switchboard must have no overcurrent protection if it supplies—

(1) An electric propulsion control;
(2) A voltage regulator;
(3) A ship's service generator circuit breaker tripping control;
(4) A device that creates a hazard to the vessel if de-energized; or
(5) A secondary circuit of a current transformer.

(c) The circuit from a current transformer to a device that is not in the switchboard must have a high voltage protector to short the transformer during an open circuit.

§ 111.30–19 Buses and wiring.

(a) *Bus capacity.* Each bus must have the following current-carrying capacity, except the capacity of a feeder bus may be the same as the capacity of the generator bus to which the feeder bus is connected:

(1) Each bus and each bus connection must have a current-carrying capacity that is at least the total of 75 percent of the combined full-load rated currents of the equipment supplied and 50 percent of the combined ratings of the spare circuit breakers, except a bus under paragraphs (a)(2) through (a)(4) of this section.

(2) Each feeder bus must have the current-carrying capacity for the full-load rated currents supplied to units in continuous operation.

(3) Each generator bus that is supplied by a single generator must have a current-carrying capacity that is at least the total of:

(i) The continuous current rating of the generator; and

(ii) Any overload current rating of the generator that is more than 30 minutes.

(4) Each generator bus that is supplied by more than one generator and has all the generating capacity feeding through one section must have a current-carrying capacity that is at least the total of:

(i) The continuous current rating of the largest generator;

(ii) Any overload current rating of more than 30 minutes for the largest generator; and

(iii) 80 percent of the continuous current rating of each additional generator.

(b) *Bus rating.* The size and arrangement of each bus must be such that its rating in Table 34 (Appendix) of IEEE Standard No. 45 is not less than the capacity required in paragraph (a) of this section.

(c) *Bus bracing.* Each bus must be braced to prevent damage from the maximum available short-circuit current.

(d) *Spacing.* The spacing between live metal parts must meet Section 384-26 of the National Electrical Code.

(e) *Connections.* Each bus and wiring connections must have a locking device and must be accessible.

(f) *Wiring.* Instrument and control wiring must be:

(1) National Electrical Code Type TA, TBS, or SIS wire;

(2) Stranded copper;

(3) No. 18 AWG or larger;

(4) Flame-retardant meeting UL 83; and

(5) Extra flexible if used on a hinged panel.

§ 111.30-21 High temperature devices.

Each rheostat and other device that operates at high temperatures must be isolated by barriers and naturally ventilated.

§ 111.30-23 Medium voltage switchboards.

Each switchboard having a root-mean-square (RMS) voltage of 1000 volts or more must meet ANSI C37.20 for metal-clad switchgear.

§ 111.30-25 Alternating-current ship's service switchboards.

(a) Except as allowed in paragraph (g) of this section, each alternating-current ship's service switchboard must have the equipment required by paragraphs (b) through (f) of this section.

(b) For each connected generator, each switchboard must have the following:

(1) A circuit breaker that meets § 111.-12-11, if required in § 111.50-5(a)(1).

(2) A disconnect switch or link for each generator conductor, except a switchboard having a draw-out or plug-in type generator circuit breaker that disconnects—

(i) Each generator conductor; or

(ii) If there is a switch in the generator neutral, each ungrounded conductor.

(3) A pilot lamp connected between the generator and the circuit breaker.

(4) An ammeter with a selector switch that connects the ammeter to show the current in each phase.

(5) A voltmeter with a selector switch that connects the voltmeter to show the—

(i) Generator voltage of each phase; and

(ii) Bus voltage of one phase.

(6) A voltage regulator and voltage regulator functional cut-out switch.

(c) For each generator that is not excited from a variable voltage or rotary amplifier that is controlled by a voltage regulator unit acting on the exciter field, each switchboard must have a—

(1) Generator field rheostat;

(2) Exciter field rheostat;

(3) Double-pole field switch;

(4) Discharge clips; and

(5) Discharge resistor.

(d) If generators are arranged for parallel operation, each switchboard must have—

(1) A speed control for the prime mover of each generator;

(2) An indicating wattmeter for each generator; and

(3) A synchroscope and synchronizing lamps that have a selector switch to show synchronization for paralleling generators.

(e) Each switchboard must have the following:

(1) Ground detection that meets Subpart 111.05 of this part for the—

(i) Main power system;

(ii) Main lighting system; and

(iii) Emergency lighting system.

(2) A frequency meter with a selector switch to connect the meter to each generator.

(f) For each shore power connection, each switchboard must have—

(1) A circuit breaker or fused switch;

(2) A pilot light connected to the shore side of the circuit breaker or fused switch; and

(3) One of the voltmeters under paragraph (b)(5) of this section connected to show the voltage of each phase of the shore power connection.

(g) The equipment under paragraphs (b), (d), (e), and (f) of this section, except the equipment under paragraphs (b)(1), (b)(2), and (f)(1) of this section, need not be on the ship's service switchboard if it is on a central control console that—

(1) Is in the same control area as the main ship's service switchboard;

(2) Has a generator section that has only generator functions;

(3) Has the generator section segregated from each other console section by a fire-resistant barrier; and

(4) Has cabling from the main switchboard to the generator section of the console that—

(i) Has only generator control and generator instrumentation circuits; and

(ii) Is protected from mechanical damage.

(h) Each alternating-current ship's service switchboard of a self-propelled vessel having a ship's service generating capacity of more than 3000 kw must have the following:

(1) At least two sections of the main bus that are connected by—

(i) A non-automatic circuit breaker;

(ii) A disconnect switch; or

(iii) Removable links.

(2) As far as practicable, the connection of generators and duplicated equipment equalized between the sections of the main bus.

§ 111.30-27 Direct-current ship's service switchboards.

(a) Each direct-current ship's service switchboard must have the equipment required by paragraphs (b) through (f) of this section.

(b) For each connected generator, each switchboard must have the following:

(1) A circuit breaker that meets § 111.-12-11, if required in § 111.50-5(a)(1).

(2) A disconnect switch or link for each generator conductor, except a switchboard having a draw-out or plug-in type generator circuit breaker that disconnects—

(i) Each conductor; or

(ii) If there is a switch in the generator neutral, each ungrounded conductor.

(3) A field rheostat.

(4) A pilot lamp connected between the generator and circuit breaker.

(c) For each two-wire generator, each switchboard must have—

(1) An ammeter; and

(2) A voltmeter with a selector switch that connects the voltmeter to show—

(i) Generator voltage; and

(ii) Bus voltage.

(d) For each three-wire generator, each switchboard must have the following:

(1) An ammeter for—

(i) The positive lead; and

(ii) The negative lead.

(2) A center zero type ammeter for the neutral ground connection.

(3) A voltmeter with a selector switch that connects the voltmeter to show generator and bus voltage—

(i) Positive to negative;

(ii) Positive to neutral; and

(iii) Neutral to negative.

(e) Each switchboard must have ground detection that meets Subpart 111.05 of this part for the—

(1) Main power system;

(2) Main lighting system; and

(3) Emergency lighting system.

(f) For each shore power connection, each switchboard must have—

(1) A circuit breaker or fused switch; and

(2) A pilot light connected to the shore side.

(g) One of the voltmeters under paragraph (c)(2) or (d)(3) of this section must be connected to show—

(1) For each two-wire system, shore connection voltage; and

(2) For each three-wire system, shore connection voltage—

(i) Positive to negative;

(ii) Positive to neutral; and

(iii) Neutral to negative.

§ 111.30–29 Emergency switchboards.

(a) Each emergency generator must have an emergency switchboard.

(b) Each alternating-current emergency switchboard must have the equipment required by paragraphs (c) through (e) of this section.

(c) For each connected emergency generator, each emergency switchboard must have—

(1) A circuit breaker that meets § 111.12–11;

(2) A disconnect switch or link for each emergency generator conductor, except for a switchboard with a drawout or plug-in type generator circuit breaker that disconnects—

(i) Each generator conductor; and

(ii) If there is a switch in the generator neutral, each ungrounded conductor; and

(3) A pilot lamp connected between the generator and circuit breaker.

(d) For each emergency generator that is not excited from a variable voltage or rotary amplifier exciter that is controlled by a voltage regulator unit acting on the exciter field, each emergency switchboard must have a—

(1) Generator field rheostat;

(2) Exciter field rheostat;

(3) Double-pole field switch;

(4) Discharge clips; and

(5) Discharge resistor.

(e) Each emergency switchboard must have the following:

(1) An ammeter with a selector switch that connects the ammeter to show the current for each phase.

(2) A voltmeter with a selector switch that connects the voltmeter to show—

(i) Generator voltage of each phase; and

(ii) Bus voltage of one phase.

(3) Ground detection that meets Subpart 111.05 for the emergency power and lighting system.

(4) A frequency meter.

(5) A voltage regulator and a voltage regulator functional cut-out switch.

(f) Each direct-current emergency switchboard must have the—

(1) Equipment under § 111.30–27(b) through (d); and

(2) Ground detection under Subpart 111.05 of this part for the emergency power and lighting system.

§ 111.30–31 Tests.

Each switchboard must meet the test requirements in Section 35 of the American Bureau of Shipping "Rules for Building and Classing Steel Vessels."

Subpart 111.33—Semiconductor Controlled Rectifiers (SCR)

§ 111.33–1 Switchboard requirements.

Each semiconductor controlled rectifier (SCR) must meet § 111.30–1 through 111.30–23.

§ 111.33–3 Heat sink and ventilation.

Each SCR must have a heat sink and a forced ventilation system that prevents overheating of the SCR.

§ 111.33–5 Ventilation exhaust.

The exhaust of each SCR ventilation system must—

(a) Terminate in a location other than a hazardous location under Subpart 111.105 of this part; and

(b) Not impinge upon any other electric device.

§ 111.33–7 Ventilation alarm.

There must be an alarm for failure of ventilation for an SCR.

§ 111.33–9 Temperature alarm.

There must be an alarm that is actuated by high SCR temperature.

§ 111.33–11 Propulsion systems.

Each SCR in a propulsion system must—

(a) Meet Subpart 111.35 of this part;

(b) Have a current-limiting circuit;

(c) Have fuses for overcurrent protection; and

(d) Have a system for detecting a blown fuse.

Subpart 111.35—Electric Propulsion

§ 111.35–1 Electric propulsion installations.

Each electric propulsion installation must meet Section 35 of the American Bureau of Shipping "Rules for Building and Classing Steel Vessels".

Subpart 111.40—Panelboards

§ 111.40–1 Panelboard; National Electrical Code.

Each panelboard must meet Article 384 of the National Electrical Code, except—

(a) Section 384–3(c);

(b) The neutral connection provision in Section 384–14;

(c) Section 384–16(d);

(d) Section 384–17; and

(e) Section 384–27.

§ 111.40–3 Grounding.

Each panelboard enclosure must be grounded.

§ 111.40–5 Enclosure.

Each panelboard enclosure must be—

(a) Watertight, if the panelboard is part of a general alarm system; or

(b) Dripproof, if the panelboard is where liquid might drip on it.

§ 111.40–7 Location.

Each panelboard must be accessible and must not be—

(a) In the weather; or

(b) In a cargo hold, bunker, or storeroom.

§ 111.40–9 Locking device.

Each panelboard enclosure that is accessible to any passenger must have a door locking device.

§ 111.40–11 Numbered switching unit and panelboard directory.

(a) Each panelboard switching unit must be numbered.

(b) Each panelboard must have—

(1) A circuit directory cardholder; and

(2) A circuit directory that has—

(i) The circuit designation of each circuit;

(ii) A description of the load of each circuit; and

(iii) The rating of the overcurrent protective device for each circuit.

§ 111.40–13 Panelboard standard.

Each panelboard must meet UL 67.

Subpart 111.50—Overcurrent Protection

§ 111.50–1 Protection of equipment.

Overcurrent protection of the following electric equipment must meet the listed subparts:

(a) Appliances, Subpart 111.77 of this part.

(b) Generators, Subpart 111.12 of this part.

(c) Motors, motor circuits, and controllers, Subpart 111.70 of this part.

(d) Transformers, Subpart 111.20 of this part.

§ 111.50–3 Protection of conductors.

(a) *Purpose.* The purpose of overcurrent protection for conductors is to open the electric circuit if the current reaches a value that will cause an excessive or dangerous temperature in the conductor or conductor insulation. A grounded conductor is protected from overcurrent if a protective device of a suitable rating or setting is in each ungrounded conductor of the same circuit.

(b) *Overcurrent protection of conductors.* Each conductor must be protected in accordance with its current-carrying capacity, except a conductor for the following circuits must meet the listed subparts:

(1) Propulsion circuits, Subpart 111.35 of this part.

(2) Steering circuits, Subpart 111.93 of this part.

(3) Motor circuits, Subpart 111.70 of this part.

(4) Flexible cord and fixture wire for lighting circuits, Subpart 111.75 of this part.

(5) Switchboard circuits, Subpart 111.30 of this part.

(c) *Fuses.* If the allowable current-carrying capacity of the conductor does not correspond to a standard size fuse that meets Section 240-6 of the National Electrical Code, the next larger size or rating may be used if it is not larger than 150 percent of the allowable current-carrying capacity of the conductor.

(d) *Circuit breakers.* If the allowable current-carrying capacity of the conductor does not correspond to a standard circuit breaker rating that meets Section 240-6 of the National Electrical Code, the next larger rating may be used if it is not larger than 150 percent of the allowable current-carrying capacity of the conductor. The effect of the heat on the operation of thermally controlled circuit breakers must be taken into consideration in the application of these circuit breakers if they are subjected to extremely low or extremely high temperatures.

(e) *Parallel overcurrent protective devices.* No overcurrent protective device may be connected in parallel with another overcurrent protective device.

(f) *Thermal devices.* No thermal cutout, thermal relay, or other device not designed to open a short circuit, may be used for protection of a conductor against overcurrent due to a short circuit or ground, except in a motor circuit as described in Article 430 of the National Electrical Code.

(g) *Ungrounded conductors.* A fuse or overcurrent trip unit of a circuit breaker must be in each ungrounded conductor. A branch switch or circuit breaker must open all conductors of the circuit, except grounded conductors. Single pole circuit breakers with operating handles yoked together may be used for the protection of a conductor of a two-wire circuit.

(h) *Grounded conductor.* No overcurrent device may be in a permanently grounded conductor, except—

(1) An overcurrent device that simultaneously opens all conductors of the circuit, unless prohibited by § 111.05-17 for the bus-tie feeder connecting the emergency and main switchboards; and

(2) For motor-running protection described in Article 430 of the National Electrical Code.

§ 111.50-5 Location of overcurrent protective devices.

(a) *Location in circuit.* Overcurrent devices must be at the point where the conductor to be protected receives its supply, except as follows:

(1) The generator overcurrent protective device must be on the ship's service generator switchboard if the generator and switchboard are in the same space, or if the generator and switchboard are in different spaces but not separated by more than 25 feet (7.6 m). If the generator and switchboard are in different spaces and separated by more than 25 feet (7.6 m), the generator overcurrent protective device must be in the same space as the generator.

(2) The overcurrent protection for shore connection conductors must be on the switchboard to which the shore connection conductors are connected.

(3) If the overcurrent device that protects the larger conductors also protects the smaller conductors, an overcurrent device is not required at the supply to the smaller conductors.

(4) If the overcurrent device protecting the primary side of a transformer also protects the conductors connected to the secondary side as determined by multiplying the current-carrying capacity of the secondary conductor by the secondary to primary transformer voltage ratio, an overcurrent device is not required at the supply to the secondary side conductors.

(b) *Location on vessel.* Each overcurrent device must be readily accessible, not exposed to mechanical damage, not near an easily ignitible material nor where explosive gas or vapor may accumulate, and be in a distribution panelboard, switchboard, motor controller, or similar electric equipment.

§ 111.50-7 Enclosures.

(a) Each enclosure of an overcurrent protective device must meet Sections 240-30 and 240-33 of the National Electrical Code.

(b) No enclosure may be exposed to the weather unless unavoidable.

§ 111.50-9 Disconnecting and guarding.

Disconnecting and guarding of overcurrent protective devices must meet Part D of Article 240 of the National Electrical Code.

Subpart 111.51—Coordination of Overcurrent Protective Devices

§ 111.51-1 Purpose.

The purpose of this subpart is to provide continuity of service for vital equipment under short-circuit conditions through coordination and selective operation of overcurrent protective devices.

§ 111.51-3 Protection of vital equipment.

Overcurrent protective devices must be installed so that—

(a) A short-circuit on a circuit that is not vital to the propulsion, control, or safety of the vessel does not trip equipment that is vital; and

(b) A short-circuit on a circuit that is vital to the propulsion, control, or safety of the vessel is cleared only by the protective device that is closest to the point of the short-circuit.

Subpart 111.52—Calculation of Short-Circuit Currents

§ 111.52-1 General.

The available short-circuit current must be computed—

(a) From the aggregate contribution of all generators that can simultaneously operate in parallel;

(b) From the largest probable motor load; and

(c) With a three phase fault on the load terminals of the protective device.

§ 111.52-3 Systems below 750 kilowatts.

For a system with an aggregate generating capacity below 750 kilowatts, the following short-circuit currents must be used, unless detailed computations are submitted:

(a) The maximum short-circuit current of a direct-current system must be assumed to be 10 times the aggregate normal rated generator currents plus six times the aggregate normal rated currents of all motors that may be in operation.

(b) The maximum asymmetrical short-circuit current for an alternating-current system must be assumed to be 10 times the aggregate normal rated generator currents plus four times the aggregate normal rated currents of all motors that may be in operation.

(c) The average asymmetrical short-circuit current for an alternating-current system must be assumed to be 8½ times the aggregate normal rated generator currents plus 3½ times the aggregate normal rated currents of all motors that may be in operation.

Subpart 111.53—Fuses

§ 111.53-1 General.

Each fuse must—

(a) Meet Parts E and F of Article 240 of the National Electrical Code;

(b) Have an interrupting rating sufficient to interrupt the maximum asymmetrical RMS short-circuit current at the point of application; and

(c) Be listed by Underwriters' Laboratories, Inc.[1]

§ 111.53-3 Current-limiting fuses.

(a) The fault current at an overcurrent device that is protected by a current-limiting fuse may not be greater than 90 percent of the interrupting rating of the overcurrent device.

(b) The maximum peak let-through current of a current-limiting fuse that protects an overcurrent device must not be greater than that given by the following formula:

$$I_{peak} = I_{RMS} \times K \times 0.9$$

where:

I_{RMS} = RMS symetrical short-circuit current rating of the overcurrent device.

I_{peak} = maximum peak let-through current from the fuse.

$$K = \sqrt{2}\left[1 + \frac{\sin\theta}{e^{\pi/\tan\theta}}\right]$$

$\theta = \cos^{-1} pf$

pf = power factor of the short circuit test circuits of the protective device.

(c) For circuit breakers tested under UL 489, "K" in paragraph (b) of this section is as follows:

Circuit breaker interrupting rating (amperes):	K
10,000 or less	1.61
10,002 to 20,000	1.91
Over 20,000	2.14

(d) The I^2t let through by a current-limiting fuse that protects an overcur-

[1] Underwriters' Laboratories, Inc., standards for listing fuses are listed in § 111.10-1 (b) (5) of this subchapter.

rent device must not be greater than $0.01 \times I^2_{sus}$.

(e) Current-limiting fuses in a three-phase motor circuit must be interlocked to prevent single-phase operation of the three-phase motor.

Subpart 111.54—Circuit Breakers

§ 111.54–1 Circuit breakers.

(a) Each circuit breaker must—

(1) Meet Part G of Article 240 of the National Electrical Code;

(2) Meet Subpart 111.55 of this part; and

(3) Have an interrupting rating sufficient to interrupt the average asymmetrical RMS short-circuit current of the three phases and the average symmetrical RMS short-circuit current of the three phases at the point of application.

(b) Each molded case circuit breaker must meet UL 489.

(c) Each circuit breaker that is not a molded case circuit breaker must meet ANSI C37.

(d) No circuit breaker may—

(1) Be dependent upon mechanical cooling to operate within its rating; or

(2) Have a long-time-delay trip element set above the continuous current rating of the trip element or of the circuit breaker frame.

Subpart 111.55—Switches

§ 111.55–1 General.

Each switch must meet Article 380 of the National Electrical Code, except each switch that is in the weather must, in addition, be in a watertight enclosure and be externally operable.

§ 111.55–3 Circuit connections.

Each circuit must be connected to the fuse end of a switch or to the coil end of a circuit breaker, except that a generator may be connected to either end of a circuit breaker.

§ 111.55–5 Knife switches.

Each knife switch must meet UL 363.

§ 111.55–7 Snap switches.

Each snap switch must meet UL 20.

§ 111.55–9 Enclosed switches.

Each enclosed switch must meet UL 98.

Subpart 111.59—Busways

§ 111.59–1 General.

Each busway must meet—

(a) Article 364 of the National Electrical Code; and

(b) UL 857.

§ 111.59–3 No mechanical cooling.

A busway must not need mechanical cooling to operate within its rating.

§ 111.59–5 Copper.

Each current-carrying part of a busway must be copper.

Subpart 111.60—Wiring Materials and Methods

§ 111.60–1 Cable construction and testing.

Each cable must meet Section 18 of IEEE Standard No. 45 or § 111.60–3.

§ 111.60–3 Type N cable.

Each type N cable must meet the requirements for polyvinyl chloride insulated cable in Section 18 of IEEE Standard No. 45 except—

(a) The thickness of the polyvinyl chloride insulation must meet UL 83 for type THWN wire;

(b) Each conductor must have a nylon jacket;

(c) The thickness of the nylon jacket must meet UL 83 for type THWN wire; and

(d) The material of the nylon jacket must meet ASTM D789 Type VIII.

§ 111.60–5 Cable application.

(a) Cable application must meet Section 19 of IEEE Standard No. 45.

(b) Cable application of Type N cable must meet Section 19 of IEEE Standard No. 45 for polyvinyl chloride insulated cable.

§ 111.60–7 Cable installations.

Each cable installation must meet Sections 20 and 22 of IEEE Standard No. 45.

§ 111.60–9 Segregation of vital circuits.

(a) *General.* A branch circuit that supplies vital equipment must not supply any other equipment.

(b) *Passenger vessels.* (1) Each passenger vessel with firescreen bulkheads that form main fire zones must have distribution systems arranged so that fire in a main fire zone does not interfere with essential services in another main fire zone.

(2) Main and emergency feeders passing through a main fire zone must be vertically and horizontally as far apart as possible.

§ 111.60–11 Wire.

(a) Wire must be in an enclosure.

(b) Wire in a lighting fixture must meet UL 595.

(c) Switchboard wire must meet Subpart 111.30.

(d) Wire, except in lighting fixtures and switchboards, must meet—

(i) MIL–W–76;

(ii) MIL–W–16878 type B, C, D, E, EE, or FF;

(iii) UL 44; or

(iv) UL 83.

(e) The installation of wire that meets UL 44 or UL 83 must meet Tables 310–13 and 310–17 of the National Electrical Code.

§ 111.60–13 Portable electric cord and cables.

(a) *Construction and testing.* Each portable electric cord and cable must meet—

(1) UL 62;

(2) NEMA WC 3;

(3) NEMA WC 8; or

(4) MIL–C–915.

(b) *Application.* A portable cord must be used—

(1) Only as allowed under Sections 400–7 and 400–8 of the National Electrical Code; and

(2) In accordance with Table 400–4 of the National Electrical Code.

(c) *Allowable current-carrying capacity.* A portable cord must not carry more current than allowed under Table 400–5 of the National Electrical Code, NEMA WC 3, NEMA WC 8, or Department of the Navy Cable Comparison Guide (NAVSEA 0981–052–8090).

(d) *Conductor size.* Each portable cord must be No. 18 AWG or larger.

(e) *Splices.* Each portable cord and cable must have no splices or taps except a cord or cable may be spliced for repairs in accordance with § 111.60–19.

(f) *Pull at joints and terminals.* Each portable cord and cable must be connected to a device or fitting by a knot, tape, or special fitting so that tension is not transmitted to joints or terminal screws.

§ 111.60–15 Color coding of conductors.

Color coding of conductors must meet § 111.05–35.

§ 111.60–17 Connections to terminals.

(a) Each connection to a terminal of a conductor that is larger than No. 10 AWG must have—

(1) A pressure-type connector;

(2) A solder lug; or

(3) A splice that is soldered, brazed or welded to flexible leads.

(b) Each connection to a terminal of a conductor that is No. 10 AWG or smaller must—

(1) Meet paragraph (a) of this section; or

(2) Have clamps or screws with terminal plates that have upturned lugs.

(c) A connector or lug of the setscrew type must not be used with stranded conductors smaller than No. 14 AWG except if there is a nonrotating follower that travels with the setscrew and makes pressure contact with the conductor.

(d) Each pressure-type wire connector, fixture splicing connector, and lug must meet UL 486.

(e) Each terminal block must have 6–32 terminal screws or larger and spacings that meet Table 111.60–17(e).

TABLE 111.60–17(e)—*Terminal block spacings in inches (millimeter)*

Voltage	Minimum spacing between opposite polarity and between live parts and ground	
	Through air	Over surface
0 to 250	¼ (6.4)	⅜ (9.5)
251 to 600	⅜ (9.5)	⅜ (9.5)

§ 111.60–19 Splices

(a) A cable may be spliced only under the following conditions:

(1) A cable installed in a subassembly may be spliced to a cable installed in another subassembly.

(2) For a vessel receiving alterations, a cable may be spliced to extend a circuit.

(3) A cable having a large size or exceptional length may be spliced to facilitate its installation.

(4) A cable may be spliced to replace a damaged section of the cable if, before replacing the damaged section, the in-

sulation resistance of the remainder of the cable is measured to determine the condition of the insulation.

(b) Each splice must be made by a qualified person with a one cycle compression tool and must have the following:

(1) A pressure-type butt connector that is listed by Underwriters' Laboratories, Inc. under UL 486.

(2) Replacement insulation that—

(i) Has the same or greater thickness than that of the cable insulation;

(ii) Has electrical properties that are the same as or better than the electrical properties of the cable insulation; and

(iii) Has a heat transfer capability that is the same as or better than that of the original cable insulation.

(3) A watertight replacement jacket that is heat shrinkable or prestretched tubing of the same or a greater thickness than that of the cable jacket and that has properties that are the same as or better than those of the cable jacket.

(4) For armored cable, replacement armor or a jumper that connects to the cable armor on each side of the splice and that maintains the electrical continuity of the cable armor.

(c) All material in a splice must be chemically compatible with all other material in the splice and with the materials of the cable.

Subpart 111.70—Motor Circuits, Controllers, and Protection

§ 111.70–1 General.

Each motor circuit, controller, and protection must meet Article 430 of the National Electrical Code, except—

(a) Each fire pump motor circuit and protection must meet the same requirements in the National Electrical Code as each other motor circuit and protection;

(b) Each steering gear motor circuit and protection must meet Subpart 111.93 of this part; and

(c) Each propulsion motor circuit and protection must meet Subpart 111.35 of this part.

§ 111.70–3 Motor controllers and motor control centers.

(a) *General.* Each controlling apparatus, except as allowed in paragraph (b), of this section, must be protected by an enclosing case that is either dripproof or watertight, depending on its location. If there is a cable entrance plate in a watertight enclosure or in the top of a dripproof enclosure, the plate must be at least ⅛ inch (3.18 mm) thick and have a gasket. Each watertight enclosure must have external feet or lugs for mounting.

(b) *Open type.* A control apparatus may be of the open type if it is in a compartment or enclosure that is only for electric control equipment and accessible only to qualified persons. If the compartment is used for other apparatus and an open controller is where it is subject to accidental contact, the controller must have guardrails.

(c) *Hinged doors.* Each controller hinged door with a height greater than 45 inches (1.14m), or a width greater than 24 inches (0.6 m), must have door positioners and stops. Equipment mounted on a hinged door must be constructed or shielded so that no live part of the doormounted equipment is exposed to accidental contact by a person when the door is open and the circuit energized.

(d) *Construction.* Each motor controller for use at 600 volts or less must meet UL 508. Each motor controller for use above 600 volts must meet UL 347. Each motor control center must meet UL 845.

(e) *Wearing parts.* Each wearing part of a controller must be accessible for inspection and renewal.

(f) *Low voltage release.* Each motor controller for a fire pump, elevator, steering gear, or auxiliary that is vital to the vessel's propulsion system, except a motor controller for a forced draft fan under paragraph (g) of this section, must have low voltage release if automatic restart after a voltage failure is not hazardous. If automatic restart is hazardous, the motor controller must have low voltage protection. Motor controllers for other motors must not have low voltage release unless the starting current and the short-time sustained current of the additional low voltage release load is within the capacity of one generator.

(g) *Forced draft fans.* Each motor controller for a forced draft fan for a propulsion boiler must have low voltage protection if—

(1) The vessel has no diesel or gas turbine-driven ship's service generator; and

(2) The vessel has a centralized engineroom control system that has a control for each forced draft fan and controls to start each propulsion boiler.

(h) *Low voltage protection.* Each motor controller must have low voltage protection, except—

(1) A motor controller that has low voltage release under paragraph (f) of this section; and

(2) A motor controller for a motor of less than 2 horsepower (1.5 kw).

(i) *Manually-operated controllers.* Each manually-operated controller must operate without the operator opening the enclosed case. In each panel-type manually-operated controller, the starting arm must be arranged so that the motor stops if the arm is left on a starting point. In each regulating drum controller, the resistor must be proportioned for the duty cycle.

(j) *Alternating-current manual autostarters.* Each alternating-current manual autostarter with a self-contained autotransformer must have a switch of the quick-make-and-break type, and the starter must be arranged so that it is impossible for an operator to throw the switch to the running position without having first thrown the switch to the starting position. If oil is necessary, the starter must not leak when tilted to an angle of 30 degrees and must be constructed to prevent the liquid from splashing out due to the rolling of the vessel.

(k) *Identification of controllers.* Each controller must be marked with the maker's name or identification symbol, the voltage, the current or horsepower rating, and data necessary to show the motor that it controls. The identification data necessary to show the motor that the controller controls must be on the external surface of the enclosure. A durable heat resistant wiring diagram of the controller must be fixed to the inside of the controller door.

§ 111.70–5 Heater circuits.

(a) If an enclosure for a motor, master switch, or other equipment, except a motor controller, has an electric heater inside the enclosure that is energized from a separate circuit, the heater circuit must be disconnected in the same manner as required for control, interlock, and indicator circuits under § 111.70–7(d)(2).

(b) If the location of the enclosure for a motor, master switch, or other equipment for deck machinery is remote from the motor and controller disconnect device, a sign may be fixed to the enclosure instead of the disconnect arrangement required under § 111.70–7(d)(2). The sign must warn the operator of the presence of two sources of potential within the enclosure and show the location of the heater circuit disconnect device.

§ 111.70–7 Remote control, interlock, and indicator circuits.

(a) *Overcurrent protection.* A conductor of a control, interlock, or indicator circuit of a motor controller need not be protected against overcurrent if the conductor is wholly within the controller enclosure. A conductor of a control, interlock, or indicator circuit external to the controller enclosure need not be protected against overcurrent if—

(1) The rating or setting of the branch circuit overcurrent device is not more than 300 percent of the current-carrying capacity of the control, interlock, or indicator circuit conductor;

(2) There is an overcurrent device in each side of the line that has a rating or setting of not more than 300 percent of the current carrying capacity of the control, electrical interlock, or indicator circuit conductor, except if under operating conditions there is no appreciable difference in potential between the external conductors, overcurrent protection need only be at the supply of that side of the line; or

(3) The opening of the control, interlock, or indicator circuit creates a hazard.

NOTE: For overcurrent protection of steering gear control and indicator circuits, see Subpart 111.93.

(b) *Accidental ground.* No motor may start by an accidental ground in a remote control circuit.

(c) *Source of potential.* The potential for a control, interlock, or indicator circuit must be derived from the load side of the motor and controller disconnect means, except if the control functions require circuits that must be common to two or more controllers, the switching arrangement in paragraph (d) of this section must be met.

(d) *Switching.* In the design of each control, interlock, or indicator circuit, all practicable steps must be taken to eliminate all but one source of potential in an enclosure. If the control functions make it impracticable to energize a control, interlock, or indicator circuit from the load side of a motor and controller disconnect means, there must be one of the following alternative methods of switching:

(1) If the potential of the control, interlock, or indicator circuit is limited to not more than 24 volts, no disconnecting means is necessary.

(2) Each conductor of a control, interlock, or indicator circuit must be disconnected from all sources of potential by a disconnect device independent of the motor and controller disconnect device. The two independent devices must be adjacent to each other, and a fixed sign, warning the operator to open both devices to disconnect completely the motor and controller, must be on the exterior of the door of the main disconnect device.

(3) Each conductor of a control, interlock, or indicator circuit must be disconnected from all sources of potential by a disconnect device actuated by the opening of the controller door. The disconnect device and its connections, including each terminal block for terminating the vessel's wiring, must have no electrically uninsulated or unshielded surface.

Subpart 111.75—Lighting Circuits and Protection

§ 111.75–1 Lighting feeders.

(a) *Passenger vessels.* On a passenger vessel with firescreen bulkheads forming fire zones, the lighting distribution system must be arranged so that fire in any main fire zone does not interfere with the lighting in any other main fire zone. This requirement is met if main and emergency feeders passing through any zone are separated both vertically and horizontally as widely as is practicable.

(b) *Machinery spaces.* Lighting for each engineroom, boiler room, and auxiliary machinery space must be supplied from two or more feeders, one of which may be an emergency feeder.

(c) *Cargo spaces.* There must be separate feeders for cargo space lighting. Distribution panels must be outside cargo spaces.

NOTE: Special requirements for emergency lighting, feeders, and branch circuits are in Subpart 112.07 of this subchapter.

§ 111.75–5 Lighting branch circuits.

(a) *General.* Each lighting branch circuit conductor must be No. 14 AWG or larger, except a tap to a lampholder within a lighting fixture and flexible cord may be No. 18 AWG or larger if the branch circuit is protected by an overcurrent device rated or set at not more than 15 amperes.

(b) *Limit on type of load.* Each lighting distribution panel may supply only—

(1) Lighting branch circuits; and

(2) Appliance branch circuits rated at 30 amperes or less.

(c) *Connected load.* The connected load on a lighting branch circuit must be not more than 80 percent of the rating of the overcurrent protective device, computed on the basis of the lamp sizes, but must me at least 50 watts for each outlet unless the design of the fixture prevents the use of a lamp of a higher wattage than the original lamp. Each circuit supplying electric discharge type lamps must be computed on the basis of ballast input current. A receptable outlet for the convenience of passengers or crew to which no ship's service apparatus, such as a room fan, desk lamp, or table lamp, is connected, is not considered a connected load.

(d) *Lighting fixtures on lighting circuits.* Each lighting fixture must be on a lighting branch circuit.

(e) *Overcurrent protection.* Each lighting branch circuit must be protected by an overcurrent device rated at 15 amperes or less, except as allowed under paragraphs (f) and (g) of this section.

(f) *20 ampere lighting branch circuits.* A lighting branch circuit supplying only fixed nonswitched lighting fixtures for cargo hold or deck lighting may be supplied by a 20 ampere branch circuit with No. 12 AWG or larger conductors if each fixture wire or portable cord used in each lighting fixture is No. 14 AWG or larger.

(g) *30 ampere lighting branch circuits.* A lighting branch circuit supplying only fixed nonswitched lighting fixtures having only lampholders of the mogul type, or other lampholding devices required for lamps of more than 300 watts, may be supplied by a 30 ampere branch circuit wired with at least No. 10 AWG conductors if each fixture wire used in wiring each lighting fixture is No. 12 AWG or larger.

(h) *Connections to screw-shell lampholders.* On each branch circuit with a grounded conductor, the screw shell of each lampholder must be connected to the grounded neutral.

§ 111.75–15 Lighting requirements.

(a) *Lights in passageways, public spaces, and berthing compartments.* The supply to lights in each passageway, public space, or berthing compartment accommodating more than 25 persons must be divided between two or more branch circuits, one of which may be an emergency branch circuit.

(b) *Lights in machinery spaces.* Alternate groups of lights in an engineroom, boiler room, or auxiliary machinery space must be arranged so that the failure of one branch circuit does not leave an area without light.

(c) *Illumination of passenger and crew spaces.* Each space used by passengers or crew must have illumination that is sufficient for reading .125 in. (3.18 mm) print.

(d) *Berth lights.* Each crew berth must have a fixed light that is not wired with a portable cord. The berth light must have minimum horizonal projection so that the light may not be covered with bedding.

(e) *Exit lights.* Each exit light required on passenger vessels under § 112.-15–1 of this subchapter must have the word "Exit" in red block letters at least 2 inches (50.8 mm) high.

(f) *Pilot ladders.* There must be a means for lighting each pilot ladder on a vessel for voyages on which pilots are likely to embark at night.

§ 111.75–16 Lifeboat and liferaft floodlights.

Each vessel must have floodlights for illumination of lifeboat and liferaft launching that meet the following requirements:

(a) Floodlights must be where they can be directed to illuminate launching devices and the area for launching, from the stowage position to the water.

(b) Each floodlight must—

(1) Have a manual means of training that does not need tools;

(2) Connect to the supply circuit by a short length of Type S or Type SO portable cord without the use of a receptacle outlet; and

(3) Be supplied from the emergency source of lighting and power in accordance with Subpart 112.07 of this chapter.

§ 111.75–17 Navigation lights.

Each navigation light system must meet the following:

(a) *Overcurrent protection.* The feeder supplying a navigation light panel must be protected by overcurrent devices rated or set at 30 amperes or greater. The navigation light panel must have 10-ampere main fuses and 3-ampere branch circuit fuses.

(b) *Navigation light indicator panel.* Each self-propelled vessel must have a navigation light indicator panel in the wheelhouse to control electric side, masthead, range, and stern lights. The panel must visually and audibly signal the failure of each of these navigation lights. The power supply must meet § 112.07–13 of this subchapter. Recommended circuit diagrams for navigation light indicator panels are shown in Figure 111.75–17. Other circuit diagrams may be specially approved by the Commandant.

(c) *Construction of navigation lights.* Each navigation light must be of a type approved by the Commandant.

(d) *Light intensity standards.* Each navigation light must have the intensity in Table 111.75–17 for the required distance of visibility.

TABLE 111.75–17

Distance of visibility, in nautical miles:	*Luminous intensity, in candelas*
1	0.9
2	4.3
3	12
5	52
6	94

NOTE.—Table 111.75–17 is based upon

$$I = 3.43 \times 10^6 \times T \times D^2 \times K^{-D};$$

where:

I is the luminous intensity in candelas,
T is the threshold factor, 2×10^{-7} lux,
D is the range of visibility in nautical miles; and
$K = 0.8$, the atmospherice transmissivity corresponding to a meteorological visibility of approximately 13 nautical miles.

NOTE.—The following standard incandescent lamps are recommended for vessels with 115 volt electric systems:

Distance of visibility, in nautical miles	Color	With fresnel lens	Without fresnel lens
1	Red		25
1	Green	25	50
2	White		15
2	Amber		25
2	Red	40	75
2	Green	75	200
3	White		25
3	Amber	15	50
3	Red	75	200
3	Green	200	
5	White	25	75
6	do	40	100

The recommended lamp wattage is based upon: (1) For lights with fresnel lenses, a lamp-to-light ratio of 1 to 4. (2) Filter efficiencies: Amber 30 percent; red 5 percent; green 2 percent. (3) Lamp intensities: 15w.—11cd; 25w—21cd; 40w.—37cd; 50W.—50 cd; 75w.—90cd; 100w—130cd; 200w.—290 cd.

(e) *Installation of navigation lights.* Each navigation light must:

(1) Be installed so that its angle of visibility and its minimum height above the deck meet the applicable Rules of the Road;

(2) Be arranged so light from a nevigation light is not obstructed by any part of the vessel's structure or rigging;

(3) Be wired by a short length of heavy-duty, portable cable to a watertight receptacle outlet next to the light; and

(4) If it is a double lens, two-lamp type, have each lamp connected to its branch circuit conductors by an individual portable cable and receptacle plug.

(f) *Light screens.* Each light screen required by the Rules of the Road for port and starboard side lights must be painted with a flat black paint and must project at least 3 feet (1 m) forward of the center of the light source.

§ 111.75–18 Signaling lights.

Each ocean, Great Lakes, and coastwise self-propelled vessel of over 150 gross tons must have a daylight signaling light that meets the following:

(a) The signaling light must produce a narrow, high-intensity beam of light for daylight blinker communication at speeds up to 180 dots or dashes per minute.

(b) The axial luminous intensity of the beam must be at least 60,000 candela.

(c) The luminous intensity of the beam in every direction within an angle of 0.7° from the axial must be at least 50 percent of the axial luminous intensity.

(d) The signaling light must have a sighting arrangement that the operator can use to direct the beam to the receiving station.

(e) Signaling must be by keying the current through the lamp or by movement of shutters.

(f) Each signaling light must be:

(1) A fixed unit mounted on the top of the wheelhouse;

(2) A semi-fixed unit with arrangements for quick mounting at either wing of the navigating bridge; or

(3) A portable unit.

(g) Each fixed or semi-fixed signaling light must be energized from the emergency lighting and power system. Each portable signaling light must be energized from a self-contained storage battery that can operate the light continuously for two hours without recharging.

§ 111.75–20 Lighting fixtures.

(a) The construction of each lighting fixture must meet UL 595.

(b) An open-arc lamp may only be used in a searchlight or in a motion picture projector.

(c) Each fixture globe must have a guard or be made of high strength material, except in an accommodation space, wheelhouse, gyro room, radio room, galley, or similar space where it is not subject to damage.

(d) Each fixture must have a shade or guard so that adjacent combustible material is not subjected to temperatures higher than 90° C.

(e) No fixture may be used as a connection box for a circuit other than the branch circuit supplying the fixture.

(f) Lighting fixtures must be installed as follows:

(1) Each fixture in the weather or in another location where it may be exposed to splashing water must be watertight. Each fixture in another damp or wet location must at least be dripproof.

(2) Each combustible bulkhead or ceiling finish that is exposed between the edge of a fixture canopy or pan and the outlet box must be covered with noncombustible material.

(3) Each fixture and lampholder must be fixed. No fixture may be supported by the screw shell of a lampholder.

(4) Each pendent-type fixture must be suspended by and supplied through a threaded, rigid conduit stem.

(5) Each tablelamp, desklamp, floorlamp, and similar equipment must be secured in place so that it cannot be displaced by the roll or pitch of the vessel.

Subpart 111.77—Appliances and Appliance Circuits

§ 111.77–1 Overcurrent protection.

If a circuit supplies only one appliance or device, the rating or setting of the branch circuit overcurrent device must not be more than 150 percent of the rating of the appliance or device, or 15 amperes, whichever is greater.

§ 111.77–3 Electric cooking equipment.

(a) Each piece of equipment, attachment, and device must be designed to allow cleaning, maintenance, and repair.

(b) Each door must have heavy-duty hinges and securing devices.

(c) There must be grab rails where necessary for safety of personnel.

Each range must have sea rails with adjustable barriers that prevent cook pot movement.

(d) There must be a means for grease or fat collection and spillage prevention.

(e) All equipment must be mounted to prevent dislodgment by roll or pitch.

(f) Each equipment unit must have a means of disconnection from all circuit conductors. The open and closed circuit position of the means of disconnection must be marked. The means of disconnection must be in the same compartment with, and visible from its associated equipment. The means of disconnection may be an integral part of the equipment if the means is unaffected by the heat of that equipment. If the disconnection means is part of the equipment, it must be where it is accessible if there is a fire on the cooking surfaces.

(g) Each item of electric cooking equipment must meet UL 197.

§ 111.77–5 Electric motor-operated appliances.

(a) Each electric motor-operated appliance must meet UL 73.

(b) Each electric motor-operated commissary appliance motor and controller must be:

(1) In a watertight enclosure; or

(2) Totally enclosed.

§ 111.77–7 Dishwashers.

Each dishwasher must meet UL 749 or UL 921.

§ 111.77–9 Refrigerators.

Each refrigerator must meet UL 250 or UL 471.

§ 111.77–11 Refrigerated drinking water coolers.

Each refrigerated drinking water cooler must meet UL 399.

Subpart 111.79—Receptacles

§ 111.79–1 Receptacle outlets; general.

(a) There must be enough receptacle outlets throughout the crew's accommodations for electric razors, radios, and similar items.

(b) There must be enough receptacle outlets throughout each machinery space for lighting any machine that is necessary for the operation of the vessel with a portable light having a 75 foot (24 m) portable cord.

(c) The rating of each receptacle must meet Section 210–21 of the National Electrical Code.

(d) Each interior unit of a receptacle outlet or plug must meet UL 498.

§ 111.79–3 Grounding pole.

Each receptacle outlet that operates at 100 volts or more must have a ground-

ing pole connected to meet Section 250–74 of the National Electric Code.

§ 111.79–5 Damp or wet locations and weather locations.

(a) Each receptacle outlet in a damp or wet location must be designed so that when the plug is in, the plug is held in positive contact and establishes and maintains a watertight enclosure.

(b) Each receptacle outlet in a damp or wet location must be designed so that, when the plug is not in, the plug opening may be closed to establish and maintain a watertight enclosure. If a threaded cap is used for this purpose, the cap must be mechanically fastened to the cover or enclosure by a link or hinged strap.

(c) Each receptacle outlet and plug in a damp or wet location must be made of corrosion-resistant materials or of materials or of materials with corrosion-resistant finishes, except a receptacle outlet or plug for a corrosive location must be made of corrosion-resistant materials.

(d) Each receptacle outlet in a location in the weather must be designed so that, with the plug opening uncovered, water does not collect in the interior of the box.

§ 111.79–7 No live parts.

Each receptacle outlet in a location that is accessible to other than a qualified person must have no exposed live parts. Each screw, rivet, contact, or similar item that is accessible and in electrical connection with any live metal part, must be connected in a hole not more than 9/32 in. (7.2 mm) in diameter and recessed at least 3/16 in. (4.8 mm).

§ 111.79–9 Transmitting power between receptacles.

(a) If it is necessary to transmit current in one direction between two receptacle outlets by a portable cable with a plug on each end, such as a battery charging lead between a receptacle outlet on a ship and a receptacle outlet in a lifeboat, the plug that may be energized when not in the receptacle outlet must be female.

(b) If a receptacle outlet may be used as a source of power and as a receiver of power, such as the receptacles on barges that may have to supply power to adjoining barges in some makeups and receive power from the towboat or adjoining barge in other makeups, the receptacle must be male and reverse service. Plugs of portable cable must be female and must be at both ends of the portable lead. The female plug must meet § 111.79–7.

§ 111.79–11 Lifeboat receptacles.

Each receptacle outlet on a lifeboat for connection to a vessel's electrical system must allow the plug to pull free when the lifeboat is lowered.

§ 111.79–13 Different potentials on a vessel.

If receptacle outlets on a vessel are connected to different potentials or to different types of potential, each receptacle outlet must preclude the plugging of a portable device into a receptacle outlet of an incompatible potential.

§ 111.79–15 Receptacles for refrigerated containers.

Each group of receptacles for refrigerated containers must have:

(a) A switch near the receptacles that disconnects all power to those receptacles; and

(b) A sign stating that the switch should be opened before cables are disconnected from the receptacles or refrigerated containers.

Subpart 111.81—Outlet Boxes and Junction Boxes

§ 111.81–1 Outlet boxes and junction boxes; general.

(a) The requirements of this subpart apply to each outlet box used with a lighting fixture, wiring device, or similar item, including each separately installed connection and junction box.

(b) An outlet box must be at each outlet, switch, receptacle, or junction point.

(c) Each outlet or junction box must have a cover unless a fixture canopy, switch cover, receptacle cover, or other cover is used.

§ 111.81–3 Cables entering boxes.

Each cable entering a box or fitting much be protected from abrasion and must meet the following:

(a) Each opening through which a conductor enters must be closed.

(b) Cable armor must be secured to the box or fitting.

(c) Each cable entrance in a damp or wet location must be made watertight by a terminal or stuffing tube.

§ 111.81–5 National Electrical Code.

Each outlet box and junction box installation must meet Section 370–6 of the National Electrical Code.

§ 111.81–7 Degree of enclosure.

Each outlet box in a damp or wet location must be watertight.

§ 111.81–9 Mounting.

(a) Each outlet box must be fixed.

(b) Each watertight outlet box must have external mounting feet.

§ 111.81–11 Penetration of walls.

A hole in a wall of a watertight outlet box for the attachment of a part on the exterior or interior of the box, for securing the cover, or for a similar purpose, must not penetrate the total thickness of the box wall.

§ 111.81–13 Construction.

The construction of each box must meet UL 50 or UL 514, except a sheet steel outlet box must not be installed in a corrosive location.

Subpart 111.83—Shore Connection Boxes

§ 111.83–1 General.

Each shore connection box must be of a size that accommodates the connections of the portable and fixed cables.

§ 111.83–3 Spacing; live parts and live parts and ground.

(a) The minimum spacing between live parts and between live parts and ground in each shore connection box must meet Section 384–26 of the National Electrical Code.

(b) A cable lug must not rotate.

(c) Paragraph (b) of this section must be met by means other than friction between parts.

§ 111.83–5 Bottom entrance and protected enclosures.

Each shore connection box must have a bottom entrance for portable cable and protect the shore connection when the connection is in use.

Subpart 111.85—Electric Oil Immersion Heaters

§ 111.85–1 Electric oil immersion heaters.

Each oil immersion heater must have the following:

(a) An operating thermostat.

(b) Heating elements that have no electrical contact with the oil.

(c) A high temperature limiting device that—

(1) Opens all conductors to the heater;

(2) Is manually reset; and

(3) Actuates at a temperature below the flashpoint of the oil.

(d) A low fluid level device that, if not submerged, opens all conductors to the heater, or a flow device that opens all conductors to the heater if there is inadequate flow.

Subpart 111.87—Electric Air Heating Equipment

§ 111.87–1 Applicability.

This subpart applies to electrically energized units or panels for heating a room or compartment. This subpart does not apply to electrically energized units for heating the air in an enclosed apparatus, such as a motor or controller.

§ 111.87–3 General requirements.

(a) Each electric heater must meet UL 1025 except—

(1) Each electric baseboard heater must meet UL 1042; and

(2) Each electric duct heater must meet UL 1096.

(b) Each heater element must be an enclosed type. The heater element case or jacket must be of a corrosion-resistant material.

(c) Each heater must have a thermal cutout of the manually-reset type that prevents overheating and must have a regulating switch.

(d) Each heater for bulkhead mounting must have its top slanted or otherwise designed to prevent hanging anything on the heater. If a heater is portable, it must have a clip or bracket to hold the heater in a fixed position.

Subpart 111.89—Motion Picture Projectors

§ 111.89–1 Motion picture projectors.

Each motion picture projector must be installed to meet Article 540 of the National Electrical Code.

Subpart 111.91—Elevators and Dumbwaiters

§ 111.91–1 Control and interlock circuits.

Each electric control and interlock circuit of an elevator or dumbwaiter must meet ANSI A17.1.

§ 111.91–3 Control switches.

The construction of each control switch must meet UL 104.

Subpart 111.93—Steering Systems

§ 111.93–1 Applicability.

This subpart applies to each steering gear installation that has an electrically-powered steering control system and that has—

(a) A main steering gear that is electrically or electro-hydraulically powered; or

(b) A main steering gear and an auxiliary steering gear both of which are electrically or electro-hydraulically powered.

§ 111.93–3 Definitions.

As used in the subpart:

"Steering control system" means a group of devices and cables forming a network that regulates and guides the operation of a steering gear.

"Steering power system" means a group of devices and cables forming a network that supplies mechanical energy to a steering gear.

"Steering gear" means the machinery and equipment, including motors and pumps, that apply torque to the rudder stock, tiller, or quadrant.

§ 111.93–5 Feeder circuits.

(a) If a vessel has only one steering gear, electric power to the steering gear must be supplied by—

(1) Two feeder circuits from the main switchboard; or

(2) One feeder circuit from the main switchboard and one feeder circuit from the emergency switchboard.

(b) If a vessel has two steering gears, electric power to—

(1) Each steering gear must be supplied by a separate feeder circuit from the main switchboard; or

(2) One steering gear must be supplied by a feeder circuit from the main switchboard and the other steering gear by a feeder circuit from the emergency switchboard.

(c) Each ocean, Great Lakes, or coastwise vessel that has more than one steering power system must have a feeder circuit from the emergency switchboard to one steering power system.

(d) Each feeder circuit for a steering power system must be separated as widely as practicable from each other feeder circuit for a steering power system.

(e) Each steering power system must be connected to its feeder circuit in the steering gear room.

(f) Each feeder circuit for a steering power system must have a disconnect switch in the steering gear room.

(g) If there is a feeder transfer panel, it must—

(1) Be in the steering gear room; and

(2) Have interlocks that prevent—

(i) More than one steering power system from being connected to the same feeder simultaneously; and

(ii) More than one feeder from being connected to the same steering power system simultaneously.

(h) Each feeder circuit for a steering power system must have a current-carrying capacity of the sum of the following:

(1) 125 percent of the full-load current rating of the largest motor supplied.

(2) 100 percent of the full-load current rating of all other motors that may be supplied simultaneously.

(3) 100 percent of the normal steering control system current.

§ 111.93–7 Steering control systems.

(a) Each steering power system must have a steering control system.

(b) Each steering control system must be one that can be operated from the pilothouse.

(c) Each main steering gear must be one that can be controlled in the steering gear room.

(d) The steering control system for a steering power system must be separated as widely as practicable from each other steering control system and each steering power system that it does not control.

(e) Each steering control system must have a switch that—

(1) Is in the pilothouse; and

(2) Automaticaly energizes the steering control system and associated steering power system for which the switch is provided.

(f) If there is more than one steering control system, the switches required by paragraph (e) of this section must be—

(1) Operated by one handle;

(2) Arranged so that not more than one steering control system and its associated steering power system can be energized at one time;

(3) Arranged so that the handle passes through an "off" position when transferring from one steering control system to another; and

(4) In separate enclosures or separated by fire resistant barriers.

(g) Each steering control system must be connected to the feeder circuit for its steering power system in the steering gear room.

(h) Each steering control system must have a switch that—

(1) Is in the steering gear room;

(2) Disconnects power to the steering control system; and

(3) Does not disconnect power to the steering power system.

(i) Each motor controller for a steering gear must—

(1) Be in the steering gear room; and

(2) Have low voltage release.

(j) A means to start and stop each motor for a steering gear must be in the steering gear room.

§ 111.93–9 Overcurrent protection for steering systems.

(a) *Feeder circuits.* Each steering feeder circuit must be protected by a circuit breaker that is on the switchboard from which it is supplied and has an instantaneous trip set at a current of at least—

(1) For a direct-current steering gear motor, 300 percent and not greater than 375 percent of the rated full-load current of one steering gear main motor; and

(2) For an alternating-current steering gear motor, 175 percent and not greater than 200 percent of the locked-rotor current of one steering gear main motor.

(b) *No other protection.* A steering feeder circuit must not have any overcurrent protection, except that required under paragraph (a) of this section.

(c) *Motor overloads.* Each main steering gear motor and each motor for a steering control system must not have a motor running overcurrent protective device. The motor starter must have a device that operates an audible and visual alarm in the pilothouse and at the main machinery control station if there is an overload that would cause overheating of the motor.

(d) *Short circuit protection.* Each control circuit of a motor controller, each steering control system, and each indicating and alarm system must have short circuit protection that is instantaneous and rated at 400 to 500 percent of the current-carrying capacity of the conductor. There may be no other protection.

(e) *Protection of steering control systems.* The short circuit protective device for each steering control system must be—

(1) In the steering gear room; and

(2) In the control circuit just after the steering control system disconnect switch.

§ 111.93–11 Indicating and alarm systems for steering installations.

(a) Each steering gear power motor and each auxiliary motor for control of the rudder must have a pilot light that lights in the pilothouse when the motor is energized.

(b) The opening of a steering gear feeder circuit breaker must actuate an audible and visual alarm in the pilothouse and at the main machinery control station.

(c) The failure of any phase of a three phase supply must actuate an audible and visual alarm in the pilothouse.

NOTE.—For requirements pertaining to overload indicating lights for steering gear motors, see § 111.93–9(c).

Subpart 111.95—Electric Power-Operated Boat Winches

§ 111.95–1 Applicability.

The electric installation of each electric power-operated boat winch must meet the requirements in this subpart, except that limit switches must be adapted to the installation if there are no gravity davits.

§ 111.95–3 General requirements.

(a) Each switch and motor controller must be designed to prevent corrosion of its working parts. Each structural part,

such as an enclosing case, if not made of corrosion-resistant materials, must have a corrosion-resistant finish.

(b) Insulating material must have low water absorption and little effect of such water absorption upon the dielectric properties consistent with the other necessary characteristics.

(c) If a gasket is used for a water seal between parts of an assembly, the gasket must be fixed to prevent its falling out or becoming loose when the unit is disassembled.

(d) A hole in a wall of an equipment housing for the purpose of providing means for the attachment of a part on its interior or for securing a cover or similar device must not penetrate the total thickness of the housing wall.

(e) Each totally enclosed unit must have a valve, or at least one hole closed by a ¼-inch pipe plug. The valve or hole must be at the bottom of the enclosure or as near the bottom as practicable.

(f) Each main line emergency disconnect switch, if accessible to an unauthorized person, must have a means to lock the switch in the open-circuit position with a padlock or its equivalent. The switch must not lock in the closed-circuit position.

§ 111.95–5 Detail construction requirements.

(a) *Enclosures.* Each enclosure for a motor controller or switching device must be watertight if in the weather.

TABLE 111.95–5(b)—*Minimum spacings in inches (millimeter)*

Location	Potential in volts		
	0 to 150	151 to 300	301 to 600
Between any uninsulated live part and an uninsulated live part of opposite polarity, an uninsulated grounded part other than the enclosure, or an exposed metal part:			
Through air	¼(6.4)	5/16(7.9)	⅜(9.5)
Over surface	½(12.7)	⅝(15.9)	¾(19.0)
Between any uninsulated live part and the walls of a metal enclosure, including fittings for cable entrance:			
Through air	½(12.7)	½(12.7)	½(12.7)
Over surface	¾(19.0)	¾(19.0)	¾(19.0)

(b) *Electrical clearances.* The creepage and air clearance distance between live parts of different polarity of motor controllers, master switches, and control circuit limit switches must be at least equal to the values in Table 111.95–5(b). The electrical clearances for power circuit limit switches and main line emergency disconnect switches must meet Subpart 111.55 of this part.

(c) *Motors.* Motors must be waterproof or watertight.

§ 111.95–7 Wiring of boat winch components.

(a) If the motor controller of a boat winch power unit is next to the winch, the main line emergency switch must disconnect all parts of the boat winch power unit, including the motor controller and limit switches, from all sources of potential. Other power circuit switches must be connected in series with the main line emergency switch and must be ahead of the motor controller. The main line emergency switch must be the motor and controller disconnect required by Subpart 111.70 of this part and must have a horsepower rating of at least that of the winch motor.

(b) If the motor controller of a boat winch power unit is remote from the winch, there must be a switch at the controller that can disconnect the entire winch electric installation from all sources of potential, and the main line emergency switch must be connected in series with, and after, this circuit disconnect switch and ahead of the power circuit limit switches, if any, and ahead of the motor controller.

(c) Each davit arm limit switch, whether connected in the power circuit or in the control circuit, must disconnect all ungrounded conductors of the circuit controlled.

(d) If one motor is used with two winches, there must be a main line emergency switch, a clutch interlock switch, and a master switch for each winch, except that a single main line emergency switch located as required by paragraph (e) of this section may be used for both winches. The main line emergency switches must be connected, in series, ahead of the motor controller. The master switches must be connected in parallel and each, in series, with the corresponding clutch interlock switch for that winch. Each clutch interlock switch must open the circuit to its master swith, except when the power unit is clutched to the associated winch. There must be a means to prevent the power unit from being clutched to both winches simultaneously.

(e) The main line emergency disconnect switch must be adjacent to the master switch, within reach of the winch operator, accessible to the person in charge of the boat stowage, and for a gravity davit installation, in a position from which the movement of boat davit arms can be observed as they approach the final stowed position.

NOTE.—Typical boat which wiring diagrams and arrangement drawings are shown in Figures 111.97–7(e)(1) through 111.97–7(e)(4). The arrangement of the equipment shown is diagrammatical. The fact that some show direct-current motors and some show alternating-current motors has no particular significance.

Subpart 111.97—Electric Power-Operated Watertight Door Systems

§ 111.97–1 Applicability.

This subpart applies to electric power-operated watertight door systems required under Subpart 73.35 of this chapter.

§ 111.97–3 General requirements.

Each watertight door operating system must meet Subpart 163.001 of this chapter.

§ 111.97–5 Electric and hydraulic power supply.

(a) Each electric motor-driven door operator must have the same source of power as the emergency lighting and power system.

(b) The temporary emergency power source and the final emergency power source must each be capable of operating all doors simultaneously.

(c) The power supply for each hydraulically operated watertight door system that uses a hydraulic system common to more than one water tight door must be an accumulator tank with enough capacity to open all doors twice and to close all doors three times and be supplied by one or more motor-driven hydraulic pumps that can operate from the final source of the emergency lighting and power system.

(d) The motor-driven hydraulic pumps must automatically maintain the accumulator tank pressure within the design limits, be above the uppermost continuous deck, and be controlled from above the uppermost continuous deck.

(e) The accumulator tank capacity required in paragraph (c) of this section must be available when the accumulator tank pressure is at the automaitc pump "cut-in" pressure.

(f) The source of power for each hydraulically operated watertight door system using an independent hydraulic system for each door operator must meet paragraphs (a) and (b) of this section.

(g) The power supply for other types of watertight door operators must be specially approved by the Commandant.

§ 111.97–7 Distribution.

(a) Each distribution panelboard for a watertight door system must be above the uppermost continuous deck and must have means for locking.

(b) Each feeder supplying watertight door operators must be above the uppermost continuous deck.

(c) Each watertight door operator must have a separate branch circuit.

§ 111.97–9 Overcurrent protection.

Overcurrent devices must be arranged to isolate a fault with as little disruption of the system as possible. The relationship between the load and the rating or setting of overcurrent devices must meet the following:

(a) The rating or setting of each feeder overcurrent device must be not less than 200 percent of its maximum load.

(b) The rating or setting of a branch circuit overcurrent device must be not more than 25 percent of that of the feeder overcurrent device.

Subpart 111.99—Firescreen Door Holding and Release Systems

§ 111.99–1 Applicability.

This subpart applies to firescreen doors on passenger vessels.

§ 111.99–3 Definitions.

As used in this subpart:

"Central control station" means a manually-operated device in the wheelhouse or fire control room for releasing one or more firescreen doors.

"Firescreen door" means a door that is in a stairway enclosure or main vertical

zone bulkhead and is not usually kept closed.

"Firescreen door holding magnet" means an electromagnet for holding a firescreen door open.

"Local control station" means a manually-operated device next to a firescreen door for releasing the door so that the firescreen door self-closing mechanism may close the door.

§ 111.99–5 General.

(a) Each fire screen door holding and release system must have—

(1) For each firescreen door—

(i) A firescreen door holding magnet;

(ii) A self-aligning armature plate on the door to be seized and held by the magnet when the firescreen door is fully open; and

(iii) A local control station; and

(2) A central control station.

(b) Each firescreen door holding circuit must be arranged so that loss of potential from any cause releases the doors, except that a momentary interruption of the circuit that results from the operation of an automatic bus-transfer device in connection with the emergency lighting and power system must not release the doors.

(c) The central control station must be an enclosed switch, circuit breaker, or magnetic contactor of a rating large enough to interrupt the connected load. The switching unit must be an externally operable, maintaining type.

(d) The local control station must be en enclosed, externally operable, fused switch having a T rating of not less than 10 amperes and 125 volts, and may be either the momentary contact type or the maintaining contact type. A single firescreen door holding magnet must be connected to the fuse end of this local control station. If several doors are near each other, a single local control station switch of ample rating may be used to release these doors simultaneously.

(e) Each firescreen door holding magnet must be designed to hold with a pull of 200 pounds (90.7 kg). If the arrangement of the electrical supply involves transfer relays to transfer the supply from a normal to a temporary source, a firescreen door holding magnet must be designed so that, with a pull on the armature of 110 pounds (50 kg), the armature is held in the sealed position for at least one-fourth of a second after the circuit to the magnet is opened. The firescreen door holding magnet must be designed for continuous duty in an ambient temperature of 40° C. with a temperature rise by thermometer measurement of not more than 55° C. for Class A insulation and not more than 80° C. for Class B insullation. The electromagnet coil must be vacuum-pressure impregnated and the magnet enclosure must be either dripproof or watertight.

(f) The source of power for the firescreen door holding and release system must be the emergency power source.

(g) On a large vessel, if the simultaneous closing of all firescreen doors would interfere with firefighting operations or with the evacuation of passengers, the firescreen door release system must be subdivided into two or more circuits. The circuits must be arranged so that it is possible to isolate any compartment in which a fire is reported by enough closed firescreen doors to stop drafts to the fire area by closing—

(1) Each firescreen door in the area between the main vertical zone bulkheads immediately forward and aft of the fire area;

(2) Each firescreen door in the main vertical zone bulkheads immediately forward and aft of the fire area; and

(3) Each firescreen door in the adjacent main vertical zones forward and aft of the fire area.

Subpart 111.101—Submersible Motor-Driven Bilge Pumps

§ 111.101–1 Applicability.

This subpart applies to each submersible motor-driven bilge pump required on certain vessels under § 56.50–55 of this chapter.

§ 111.101–3 General requirements.

(a) The electric motor driving each submersible bilge pump must be in an open end air bell of rugged construction and be of a size that does not allow water to enter the motor if the compartment that the motor is in is flooded to the uppermost continuous deck.

(b) The motor may be of the open type if it is protected from splashing water from the bottom.

(c) The cable to each motor must enter through the open bottom of the air bell.

(d) Each motor must be one that can operate continuously at rated load under any condition, dry or with water in the air bell at any level up to the maximum.

(e) Each motor controller must be above the uppermost continuous deck. There must be a master switch at the controller and a master switch at the motor. The master switch at the motor must be disconnected from the circuit when the motor is started or stopped from the master switch at the controller.

(f) Each motor must be energized from the final emergency power source.

Subpart 111.103—Remote Stopping Systems

§ 111.103–1 Power ventilation systems except machinery space and cargo hold ventilation systems.

Each power ventilation system must have—

(a) A control to stop the ventilation that is—

(1) Outside the space ventilated; and

(2) Grouped with the controls for every ventilation system; and

(b) In addition to the control required by paragraph (a) of this section, a stop control that is—

(1) As far as practicable from the control required by paragraph (a) of this section and grouped with the controls for every ventilation system; or

(2) The circuit breakers for ventilation grouped on the main switchboard and marked, "In Case of Fire Trip to Stop Ventilation."

NOTE.—The requirements of this section do not apply to closed ventilation systems for motors or generators, diffuser fans for refrigerated spaces, room circulating fans, or exhaust fans for private toilets of an electrical rating comparable to that of a room circulating fan.

§ 111.103–3 Machinery space ventilation.

(a) Each machinery space ventilation system must have two controls to stop the ventilation.

(b) The controls required in paragraph (a) of this section must be grouped so that they are operable from two positions, one of which must be outside the machinery space.

§ 111.103–5 Cargo hold ventilation.

Each cargo hold ventilation system must have a stop control that is located outside any cargo hold.

§ 111.103–7 Ventilation stop stations.

Each ventilation stop station must—

(a) Be protected by an enclosure with a glass-paneled door on the front;

(b) Be marked "In Case of Fire Break Glass and Operate Switch to Stop Ventilation";

(c) Have the "stop" position of the switch clearly identified;

(d) Have a nameplate that identifies the system controlled;

(e) Be of the undervoltage type; and

(f) Be arranged so that damage to the switch or cable automatically stops the equipment controlled.

§ 111.103–9 Machinery stop stations.

(a) Each forced draft fan, induced draft fan, blower of an inert gas system, fuel oil transfer pump, fuel oil unit, fuel oil service pump, and other fuel oil pump must have a stop control that is outside of the space containing the pump or fan.

(b) Each stop control must meet § 111.103–7.

Subpart 111.105—Hazardous Locations

§ 111.105–1 Applicability.

This subpart applies to installations in hazardous locations, as defined in the National Electrical Code.[2]

§ 111.105–5 National Electrical Code.

Each installation in a hazardous location must meet Articles 500 through 503 of the National Electrical Code, except—

(a) The first sentence of Sections 501–1, 502–1, and 503–1;

(b) Section 501–4, which § 111.105–15 replaces;

(c) Sections 502–14(a)(1) and 503–12 and each final sentence of Sections 502–4(a) 502–4(b), 503–3(a), and 503–3(b), which are replaced by § 111.105–17; and

(d) Section 502–14(a)(2), which § 111.105–35(d) modifies.

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[2] Chemicals and materials in addition to those listed in Table 500–2 of the National Electrical Code are listed in Subchapter O of this chapter.

§ 111.105–7 Approved equipment.

If the National Electrical Code states that an item of electric equipment is to be "approved", that item must be—

(a) One that is listed by Underwriters' Laboratories, Inc. or Factory Mutual Engineering Corporation for use in the hazardous location in which it is; or

(b) Purged and pressurized equipment that meets NFPA No. 496.

§ 111.105–9 Explosionproof equipment.

Each item of electric equipment that is required under this subpart to be explosion proof must be—

(a) Listed by Underwriters' Laboratories, Inc., or Factory Mutual Engineering Corporation for use—

(1) In a Class I Division 1 location;

(2) With the Group of the cargo carried; and

(3) If the cargo is inorganic acid, in a Group B atmosphere; or

(b) Purged and pressurized equipment that meets NFPA No. 496.

§ 111.105–11 Intrinsically safe systems.

(a) If a rule in this subpart states that electric equipment is to be intrinsically safe, the equipment must be listed as intrinsically safe by Underwriters' Laboratories, Inc. or Factory Mutual Engineering Corp. for use in the hazardous location in which it is.

(b) Each electric cable for an intrinsically safe system must—

(1) Be a shielded cable or be 2 in. (50 mm) or more from other non-intrinsically safe cables; and

(2) Have only intrinsically safe circuits.

§ 111.105–15 Class I wiring methods.

(a) Cable for a Class I installation must meet Subpart 111.60 of this part.

(b) Each explosionproof enclosure that is in a Class I location must have a seal fitting connected to it by a 18 in. (460 mm) or shorter rigid metal conduit for each cable connection.

§ 111.105–17 Class II and III wiring methods.

(a) Cable for a Class II or III installation must meet Subpart 111.60 of this part.

(b) Each cable entrance equipment in Class II and Class III locations must have a dust-tight terminal tube.

§ 111.105–19 Switches.

Each explosionproof switch and each switch controlling explosionproof equipment must have a pole for each circuit conductor.

§ 111.105–21 Fans.

Each fan for ventilation of a hazardous location must be a non-sparking fan.

§ 111.105–23 Fan motors.

Each electric motor for a fan that ventilates a hazardous location must be approved by Underwriters' Laboratories Inc. or Factory Mutual Engineering Corp. for the same class, division, and group as the ventilated location or be—

(a) Outside the ventilation duct;

(b) 10 ft. (3 m) from the ventilation duct termination; and

(c) In a non-hazardous location.

§ 111.105–25 Ventilation ducts.

For the purpose of this subpart, a ventilation duct that ventilates a hazardous space has the classification of that space.

§ 111.105–27 Belt drives.

Each belt drive in a hazardous location must have—

(a) A conductive belt; and

(b) Pulleys, shafts, and driving equipment grounded to meet NFPA No. 77.

§ 111.105–29 Combustible liquid cargo carriers.

Each vessel that carries combustible liquid cargo with a closed-cup flashpoint of 60° C (140° F), or higher must have—

(a) Only impressed-current cathodic protection system anodes and intrinsically safe electric equipment in cargo tanks; and

(b) No storage battery in any cargo handling room.

§ 111.105–31 Flammable cargo, combustible cargo with a flashpoint below 60° C (140° F), liquid sulphur, ammonia and inorganic acid carriers.

(a) *Applicability.* Each vessel that carries combustible or flammable cargo with a closed-cup flashpoint lower than 60° C (40° F), liquid sulfur cargo, ammonia cargo, or an inorganic acid cargo must meet the requirements of this section, except—

(1) a vessel carrying ammonia need not meet paragraph (a)(1) of this section; and

(2) a vessel carrying carbon disulfide must have only intrinsically safe electric equipment in the locations listed in paragraphs (e) through (m) of this section.

(b) *Cable location.* Electric cable must be as close as practicable to the centerline and must be away from cargo tank openings.

(c) *Lighting circuits.* An enclosed hazardous space that has explosionproof lighting fixtures must—

(1) Have at least two lighting branch circuits; and

(2) Be arranged so that there is light for relamping any deenergized lighting circuits.

(d) *Submerged cargo pump motors.* If a submerged cargo pump motor is in a cargo tank—

(1) Low liquid level, motor current, or pump discharge pressure must automatically shut down power to the motor if the pump loses suction;

(2) An audible and visual alarm must be actuated by the shutdown of the motor; and

(3) There must be a lockable circuit breaker or lockable switch that disconnects power to the motor.

(e) *Cargo tanks.* No electric equipment may be in a cargo tank, except—

(1) Intrinsically safe equipment;

(2) Submerged cargo pumps; and

(3) Supply cable for submerged cargo pumps.

(f) *Cargo handling rooms.* Each cargo handling room must have no electric cable or other electric equipment, except—

(1) Intrinsically safe equipment;

(2) Explosionproof general alarm bells;

(3) Explosionproof lighting fixtures;

(4) Cables supplying intrinsically safe equipment in the cargo handling room; and

(5) Armored cables that supply explosionproof lighting fixtures or general alarm bells that are in the cargo handling room.

(g) *Lighting of cargo handling rooms.* Lighting for each cargo handling room must meet one of the following:

(1) The cargo handling room must be lighted through fixed glass lenses in the bulkhead or overhead. Each fixed glass lens must be wire-inserted glass that is at least 0.25 in. (6.35 mm) thick and arranged to maintain the watertight and gastight integrity of the strucure. The fixed glass lens may form a part of a lighting fixture if the following are met:

(i) There is no access to the interior of the fixture from the cargo handling room.

(ii) The fixture is vented to the engineroom or a similar nonhazardous area.

(iii) The fixture is wired from outside the cargo handling room.

(iv) The temperature on the cargo handling room surface of the glass lens, based on an ambient temperature of 40° C., is not higher than 180° C.

(2) If the location of a cargo handling room precludes the lighting arrangement of paragraph (g)(1) of this section, or if the lighting arrangement of paragraph (g)(1) of this section does not give the required light, there may be explosionproof lighting fixtures.

(h) *Enclosed spaces.* Electric installations in an enclosed space that is immediately above, below, or next to a cargo tank must meet the requirements for cargo handling rooms in paragraphs (f) and (g) of this section, except the enclosed space may have—

(1) Through runs of cable;

(2) Depth sounding devices in gastight enclosures;

(3) Log devices in gastight enclosures; and

(4) Impressed-current cathodic protection system electrodes in gastight enclosures.

(i) *Cargo hose stowage space.* A cargo hose stowage space must have no electric equipment except exposionproof lighting fixtures and through runs of electric cable.

(j) *Cargo piping in a space.* A space that has cargo piping must have no electrical equipment except explosionproof lighting fixtures and through runs of electric cable.

(k) *Liquefied gas carriers.* For a liquefied gas carrier—

(1) A space next to a hold space that has a tank with a secondary barrier must have no electric equipment except intrinsically safe equipment and—

(i) Through runs of electric cable;
(ii) Explosionproof lighting fixtures;
(iii) Depth sounding devices in gastight enclosures;
(iv) Log devices in gastight enclosures;
(v) Impressed-current cathodic protection system electrodes in gastight enclosures;
(vi) Explosionproof motors that operate cargo valves or ballast valves; and
(vii) Explosionproof bells for the general alarm system; and
(2) No switch for lighting in an enclosed space on a liquefied gas carrier may be in a location under paragraphs (e), (f), or (h) through (m) of this section.

(l) *Weather locations.* A location in the weather must have no electric equipment except watertight intrinsically safe equipment, watertight explosionproof equipment, and through runs of cable if it is—
(1) Within 10 ft. (3 m) of—
(i) A cargo tank vent outlet;
(ii) A cargo tank ullage opening;
(iii) A cargo pipe flange;
(iv) A cargo valve;
(v) A cargo handling room entrance; or
(vi) A cargo handling room ventilation opening; or
(2) On a tank ship and—
(i) On the open deck over the cargo area[3] and 10 ft. (3 m) forward and aft of the cargo area on the open deck and up to 8 ft. (2.4 m) above the deck; or
(ii) Within 8 ft. (2.4 m) of the outer surface of a cargo containment system where this surface is exposed to the weather.

(m) *Other spaces.* Except for those spaces listed in paragraphs (e) through (k) of this section, a space that has a direct opening to any space listed in paragrapuhs (e) through (l) of this section must have only the electric installations that are allowed for the space to which it opens.

§ 111.105–33 Mobile offshore drilling units.

(a) This section applies to each mobile offshore drilling unit.

(b) The internal space of each pressure vessel, tank, and pipe for drilling mud and for gas venting must have only intrinsically safe electric equipment.

(c) The following are Class I Division 1 locations:
(1) An enclosed space that has—
(i) A shale shaker;
(ii) Mud processing equipment between the well and the location of final degassing; or
(iii) An open drilling mud tank or open ditch between the well and the location of final degassing.
(2) A location in the weather that is—
(i) Within 5 ft. (1.5 m) of any of the equipment listed in paragraph (c)(1) of this section;
(ii) Within 5 ft. (1.5 m) of a ventilation opening, door, or opening of a Class I Division 1 space; or
(iii) Within 5 ft. (1.5 m) of a gas vent outlet.
(3) A Division 2 location, under paragraph (d) of this section, where combustible or flammable gases might accumulate.
(4) All of the enclosure of an enclosed derrick substructure.
(5) Except as provided in paragraph (e) of this section, an enclosed space that has an opening to a location under paragraphs (c)(1) through (c)(4) of this section.

(d) The following are Class I, Division 2 locations:
(1) An enclosed space that has any open portion of the mud return system, from the location of final degassing to the mud pump suction connection at the mud pit.
(2) A location in the weather that is—
(i) Within 10 ft. (3 m) of the center of the bottom surface of the rotary table;
(ii) Within 5 ft. (1.5 m) of a ventilation opening or door for a Class I, Division 2 space; or
(iii) Within 5 ft. (1.5 m) of a Class I, Division 1 location in the weather.
(3) The surface of an enclosed derrick floor and all of the floor's enclosure above the drilling floor.
(4) Except as provided in paragraph (e) of this section, an enclosed space that has an opening to a location under paragraphs (d)(1) through (d)(3) of this section.

(e) An enclosed space that has direct access to a Division 1 or Division 2 location is the same division as that location, except—
(1) An enclosed space that has direct access to a Division 1 location is not a hazardous location if—
(i) The access has a self-closing gastight door that opens into the space and that has no hold-back device;
(ii) Ventilation causes greater pressure in the space than in the Division 1 location; and
(iii) Loss of pressure in the space to a lesser pressure than that in the Division 1 location actuates an alarm at a manned control station; and
(2) An enclosed space that has direct access to a Division 2 location is not a hazardous location if—
(i) The access has a gastight door that opens into the non-hazardous location;
(ii) Ventilation causes the air to flow with the door open from the space into the Division 2 location; and
(iii) Loss of ventilation actuates an alarm at a manned control station.

§ 111.105–35 Vessels carrying coal.

(a) The following are Class II, Division 1 locations on a vessel that carries bituminous coal:
(1) The interior of each coal bin and cargo hold.
(2) Each compartment that has a coal transfer point where coal is dropped or dumped.
(3) Each open area within 10 ft. (3 m) of a coal transfer point where coal is dropped or dumped.

(b) Each space that has a coal conveyor on a vessel that carries bituminous coal is a Class II, Division 2 space.

(c) Each location listed in paragraphs (a) and (b) of this section is a Class II Division 1 location on a vessel that carries anthracitic coal.

(d) A space that has a coal conveyor on a vessel that carries bituminous coal may have watertight general alarm bells.

§ 111.105–37 Flammable anesthetics.

Each electric installation where flammable anesthetic is used or stored must meet NFPA No. 56A.

§ 111.105–39 Gasoline or other highly volatile motor fuel carrier in vehicles.

(a) *Applicability.* This section applies to spaces that are "specially suitable for vehicles" as defined in §§ 70.10–44 and 90.10–38 of this chapter.

(b) *General requirements.* Electric equipment within 18 in. (460 mm) of the deck, must meet Article 501 of the National Electrical Code for Class I, Division 2, Group D locations. Electric equipment 18 in. (460 mm) or more above the deck must be totally enclosed or be dripproof, and protected by guards or screens to prevent escape of sparks or metal particles.

(c) *Loss of ventilation alarm.* Loss of ventilation in a space that is "specially suitable for vehicles" must actuate an audible and visual alarm at a manned location.

§ 111.105–41 Battery rooms.

Each electric installation in a battery room must meet Subpart 111.15 of this part.

§ 111.105–43 Paint stowage or mixing spaces.

A space for the stowage or mixing of paint must have no electric equipment, except—
(a) Intrinsically safe electric equipment;
(b) Explosionproof electric equipment; or
(c) Through runs of cable.

Subpart 111.107 Mobile Offshore Drilling Unit Industrial Systems

§ 111.107–1 Industrial systems.

A system on a mobile offshore drilling unit that is used only for the industrial function of the unit and meets the National Electrical Code need not meet this subchapter except—
(a) the Underwriters' Laboratories, Inc. standards in § 110.10–1(b)(5) of this subchapter;
(b) The Standard for Power Switchgear (ANSI C37);
(c) Subpart 110.25–Plan Submittal;
(d) Subpart 111.01–General Considerations;
(e) Subpart 111.05–Grounding, Ground Detection, and Grounded Systems; and
(f) Subpart 111.105–Hazardous Locations.

[3] Cargo area is defined in § 30.10–5a of this chapter.

PART 112—EMERGENCY LIGHTING AND POWER SYSTEMS

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Subpart 112.40—Installations Requiring an Alternating-Current Temporary Source of Supply

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Subpart 112.45—Visible Indicators and Test Switch

Sec.
112.45–1 Visible indicators.
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Subpart 112.50—Emergency Diesel and Gas Turbine Engine Driven Generator Sets

112.50–1 General.
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Subpart 112.55—Storage Battery Installation

112.55–1 General.
112.55–5 Emergency lighting loads.
112.55–10 Storage battery charging.
112.55–15 Capacity of storage battery.

AUTHORITY: 46 U.S.C. 170, 367, 369, 375, 390(b), 391(a), 392, 408, 416, 445, 489, 526p; 49 U.S.C. 1655(b); 49 CFR 1.46.

Subpart 112.05—General

§ 112.05–1 Purpose.

(a) The purpose of this part is to ensure that a vessel has a dependable independent emergency power source with the capacity to supply all those services that are necessary for the safety of the passengers, crew, and other persons in an emergency.

(b) No load may be powered from an emergency power source, except a—

(1) Load required by this part to be powered from the emergency power source; and

(2) Bus-tie to the main switchboard that meets § 112.05–3.

§ 112.05–3 Main-emergency bus-tie.

Each bus-tie between a main switchboard and an emergency switchboard must—

(a) Disconnect automatically upon loss of potential at the emergency switchboard;

(b) Be arranged to prevent parallel operation of an emergency power source with any other source of electric power, except for interlock systems for momentary transfer of loads; and

(c) If arranged for feedback operation, open automatically upon overload of the emergency power source before the emergency power source is tripped off the line from the overload.

§ 112.05–5 Emergency power source.

(a) The emergency power source must meet Table 112.05–5(a) and have the capacity to supply all loads than can be simultaneously connected to it, except a load on a bus-tie to the main switchboard.

(b) The emergency power source must be independent of the vessel's ship's service lighting and power plant and propulsion plant, except for the compressed air starting means allow § 112.50–7(c)(3)(i). A stop control for an emergency generator must be only in the space that has the emergency generator.

(c) The complete emergency installation must function when the ship is inclined 22½ degrees (30 degrees for vessels carrying liquified gas cargo) and when the trim of the ship is 10 degrees.

(d) The emergency power source must be aft of the collision bulkhead, outside the machinery casing, and above the uppermost continuous deck.

(e) No compartment that has an emergency power source, or its vital components, may adjoin a Category A machinery space.

(f) Except for a cable for connecting equipment in the engineroom or boiler room, no cable that begins at an emergency switchboard may penetrate the boundaries of the engineroom, boiler room, or uptakes or casings of these spaces. These cables must be kept clear of the bulkheads and decks forming these boundaries. No emergency circuit in an engineroom or a boiler room may supply equipment in any other space.

(g) The emergency switchboard must be as near as practicable to the emergency power source but not in the same space as a battery emergency power source.

(h) If the emergency power source is a generator, the emergency switchboard must be in the same space as the emergency power source unless it interferes with the operation of the emergency switchboard.

Table 112.05–5(a)

Size of vessel and service	Type of emergency power source	Period of operation and minimum capacity of emergency power source
Nuclear vessels	An automatically started generator driven by a suitable prime mover with an independent fuel supply and an automatic load transfer from a temporary source of emergency power consisting of a storage battery of sufficient capacity to supply the temporary emergency source loads for not less than ½ hr.	The maximum amount of time that power for reactor cooldown is required but not less than 36 hr (generator) and ½ hr (battery).
Passenger vessels of 100 G.T. or more and passenger vessels on an international voyage:[1]		
Ocean, Great Lakes, or coastwide.	Storage battery	36 hr.
	Or an automatically started generator driven by a suitable prime mover with an independent fuel supply and an automatic load transfer from a temporary source of emergency power consisting of a storage battery of sufficient capacity to supply the temporary emergency source loads for not less than ½ hr.	36 hr (generator) and ½ hr (battery).
Other than Ocean, Great Lakes, or coastwise.	Storage battery with automatic transfer gear or diesel or gas turbine generator with automatic starting and transfer gear.	8 hr or twice the time of run, whichever is less.

Size of vessel and service	Type of emergency power source	Period of operation and minimum capacity of emergency power source
Cargo and miscelleneous self-propelled vessels and tank ships; barges with sleeping accommodations for more than 6 persons; mobile offshore drilling units; oceanographic vessels:		
Ocean, Great Lakes, or coastwise.	Storage battery or diesel or gas turbine generator with automatic operation.	18 hr.
Other than Ocean, Great Lakes, or coastwise, 300 G.T. or more.	Storage battery or diesel or gas turbine generator, automatic or manual operation, or relay-controlled battery-operated lanterns.[1]	8 hr or twice the time of run, whichever is less.[2]

[1] Battery-operated lanterns must have rechargeable batteries, must have an automatic battery charger that maintains the battery in a fully charged condition, and must not be readily portable.
[2] Minimum period of operation of relay-controlled, battery-operated lanterns may be less than 8 hr but not less than 6 hr. Relay controlled battery-operated lanterns must meet UL 924.
[3] For vessels less than 100 G.T., see 46 CFR part 184.

Subpart 112.07—Emergency Lighting Systems

§ 112.07–1 Switches.

An emergency lighting system must not have a switch, except—

(a) In a distribution panel; or

(b) As required in § 112.07–3.

§ 112.07–3 Controls; general.

(a) Except as allowed in paragraph (b) and § 112.07–5, emergency lights for the following must be controlled by switches in the wheelhouse:

(1) Lifeboat and liferaft launching operations.

(2) Wheelhouse.

(3) Chartroom.

(4) Navigation instruments.

(b) On a mobile offshore drilling unit, the switches required in paragraph (a) of this section may be in the control room.

§ 112.07–5 Controls on island type vessels.

On an island type vessel, such as a containership, emergency lights for illumination of lifeboat and liferaft launching operations may be controlled from a central location within the island nearest the launching operations.

§ 112.07–7 Wheelhouse distribution panel.

(a) Except as allowed in paragraph (b) of this section, the following emergency lights must be supplied from a distribution panel in the wheelhouse:

(1) Navigation lights not supplied by the navigation light indicator panel.

(2) Floodlights for lifeboat and liferaft launching operations.

(3) Signaling lights.

(4) Emergency lights—

(i) On open decks;

(ii) In the wheelhouse;

(iii) In the chartroom; and

(iv) In the fire control room.

(b) On a mobile offshore drilling unit, the distribution panels required in paragraph (a) of this section may be in the control room.

(c) Each distribution panel required in paragraphs (a) and (b) of this section must have a fused switch or circuit breaker for each branch circuit.

§ 112.07–9 Signaling lights.

Each signaling light must be supplied by a branch circuit that supplies no other equipment.

§ 112.07–11 Illumination for launching operations.

Branch circuits for floodlights for lifeboat and liferaft launching operations must—

(a) Supply no other equipment; and

(b) Be arranged so that floodlights for adjacent lifeboats and liferafts are supplied from different branch circuits.

§ 112.07–13 Navigation light indicator panel supply.

Each navigation light indicator panel must be supplied directly from the emergency switchboard.

§ 112.07–15 Emergency lighting feeders.

For a vessel with firescreen bulkheads forming fire zones, at least one emergency lighting feeder must supply only the emergency lights between two adjacent main vertical fire zone bulkheads. The emergency lighting feeder must be separated as widely as practicable from any general lighting feeder supplying the same space.

§ 112.07–17 Emergency light marking.

Each emergency light must be marked with the letter "E" that is at least ½ inch (12.7 mm) high.

Subpart 112.10—Definitions of Emergency Lighting and Power Systems

§ 112.10–1 Purpose.

The purpose of this subpart is to define types of emergency lighting and power systems.

§ 112.10–5 Manual emergency lighting and power system.

A manual emergency lighting and power system is one in which a single manual operation, such as the manual operation of a switch from an "off" to an "on" position, is necessary to cause the emergency power source to supply power to the emergency loads.

§ 112.10–10 Automatic emergency lighting and power system.

An automatic emergency lighting and power system is one in which a reduction in potential from the ship's service power and lighting plant causes the emergency power source to supply power to the emergency loads.

§ 112.10–15 Temporary emergency power source.

A temporary emergency power source is one of limited capacity that carries, for a short time, selected emergency loads while an emergency power source of larger capacity is being started.

§ 112.10–20 Final emergency power source.

A final emergency power source is one that functions after the temporary emergency power source is disconnected.

Subpart 112.15—Emergency Loads

§ 112.15–1 Temporary emergency loads.

The following emergency lighting and power loads must be arranged so that they can be energized from the temporary emergency power source:

(a) Navigation lights.

(b) Enough lights throughout machinery spaces to allow essential operations and observations under emergency conditions and to allow restoration of service.

(c) Lighting for passageways, stairways, and escape trunks in passenger quarters, crew quarters, public spaces, machinery spaces, and work spaces, to allow passengers and crew to find their way to open decks and to lifeboat and liferaft embarkation and assembly points with all watertight doors and fire screen doors closed.

(d) Illuminated signs with the word "EXIT" in red letters throughout a passenger vessel so the direction of escape to the open deck is obvious from any portion of the vessel usually accessible to the passengers or crew, except machinery spaces, and except stores and similar spaces where the crew are not normally employed, and with all fire doors in stairway enclosures and main vertical zone bulkheads closed and all watertight doors closed. For the purpose of this paragraph, an individual stateroom or other similar small room is not required to have a sign, but the direction of escape must be obvious to a person emerging from the room.

(e) Illumination to allow safe operation of each power operated watertight door.

(f) At least one light in each space where a person may be maintaining, repairing, or operating equipment, stowing or drawing stores or equipment, or transiting, such as public spaces, work spaces, machinery spaces, workshops, galleys, emergency fire pump rooms, bow thruster rooms, storage areas for paint, rope, and other stores, underdeck passageways in cargo areas, steering gear rooms, windlass rooms, normally accessible duct keels with valve operators, cargo handling rooms, and holds of roll-on roll-off vessels.

(g) Lighting for boat and embarkation decks and passenger assembly points. Lights must provide continuous illumination for—

(1) The launching gear of a lifeboat or a liferaft; and

(2) The launching of a lifeboat or a liferaft from its stowed position until waterborne.

(h) Electric communication systems that are necessary under temporary emergency conditions and that do not have an independent storage battery source of power.

(i) Each power operated watertight door system.

(j) Each emergency loudspeaker system.

(k) Each fire screen door holding and release system.

(l) Supply to motor-generator or other conversion equipment if a temporary emergency power source of alternating current is necessary for essential communication systems or emergency equipment.

(m) Each daylight signaling light.

(n) Each smoke detector system.

(o) Each electrically controlled or powered ship's whistle.

(p) Nuclear protection, control, and instrumentation systems.

§ 112.15–5 Final emergency loads.

The following emergency lighting and power loads must be arranged so that they can be energized from the final emergency power source:

(a) Each load under § 112.15–1.

(b) Each elevator in a passenger vessel.

(c) Each charging panel for—

(1) Temporary emergency batteries;

(2) Starting batteries for diesel engines or gas turbines that drive emergency generators; and

(3) General alarm batteries.

(d) One of the bilge pumps, if the emergency power source is its source of power to meet Part 56 of this chapter.

(e) One of the fire pumps, if the emergency power source is its source of power to meet Part 34 of Subchapter D (Tank Vessels), Part 76 of Subchapter H (Passenger Vessels), Part 95 of Subchapter I (Cargo and Miscellaneous Vessels), or Part 108 of Subchapter IA (Mobile Offshore Drilling Units) of this chapter.

(f) A sprinkler system pump or water spray extinguishing system pump, if the emergency power source is its source of power to meet Part 76 of Subchapter H (Passenger Vessels) of this chapter.

(g) A lube oil pump for propulsion turbines and ship's service generator turbines that need external lubrication.

(h) Each rudder angle indicator.

(i) Each radio installation.

(j) Each radio direction finder.

(k) Each loran.

(l) Each radar.

(m) Each gyrocompass.

(n) Each depth sounder.

(o) A steering gear motor on an ocean, Great Lakes, or coastwise vessel.

(p) Each electric blow-out preventer control system on a mobile offshore drilling unit.

§ 112.15–10 Loads on systems without a temporary emergency power source.

If there is no temporary emergency power source, the circuits under § 112.15–5 must be arranged so that they can be energized from the emergency power source.

Subpart 112.20—Emergency Systems Having a Temporary and a Final Emergency Power Source

§ 112.20–1 Normal source for emergency loads.

(a) The normal source of emergency loads must be the ship's service generating plant.

(b) The power from the ship's service generating plant for the emergency loads must be supplied to the emergency loads through automatic transfer switches.

§ 112.20–5 Failure of power from the normal source.

If there is a reduction of potential of the normal source by 15 to 40 percent, the loads under § 112.15–1 must be automatically supplied from the temporary emergency power source. For systems in which a reduction of frequency of the normal source of final emergency power source adversely affects the emergency system and emergency loads, there must be means to transfer the loads under § 112.15–1 to the temporary emergency power source.

§ 112.20–10 Diesel or gas turbine driven emergency power source.

Simultaneously with the operation of the transfer means under § 112.20–5, the diesel engine or gas turbine driving the final emergency power source must start automatically with no load on the final emergency power source.

§ 112.20–15 Potential of final emergency power source.

(a) When the potential of the final emergency power source is 85 to 95 percent of normal value, the emergency loads under § 112.15–5 must transfer automatically to the final emergency power source.

(b) When the potential from the normal source has been restored, the emergency loads may be manually or automatically transferred to the normal source, and the final emergency power source may be manually or automatically stopped.

(c) If the potential of the final emergency power source is less than 75 to 85 percent of normal value while supplying the emergency loads, the temporary emergency loads under § 112.15–1 must transfer automatically to the temporary emergency power source.

Subpart 112.25—Emergency Systems Having an Automatic Starting Diesel Engine or Gas Turbine Driven Emergency Power Source as the Sole Emergency Power Source

§ 112.25–1 Normal source for emergency loads.

(a) The normal source for emergency loads must be the ship's service generating plant.

(b) The power from the ship's service generating plant for the emergency loads must be supplied to the emergency loads through automatic transfer switches.

§ 112.25–5 Reduction of normal source potential.

If there is a reduction of potential of the normal source by 15 to 40 percent, the diesel engine or gas turbine driving the final emergency power source must start automatically with no load on the emergency power source.

§ 112.25–10 Potential of final emergency power source.

(a) When the potential of the final emergency source is 85 to 95 percent of normal value, the emergency loads under § 112.15–5 must transfer automatically to the final emergency power source.

(b) When the potential from the normal source has been restored, the emergency loads may be manually or automatically transferred to the normal source, and the final emergency power source may be manually or automatically stopped.

Subpart 112.30—Emergency Systems Having an Automatically Connected Storage Battery as the Sole Emergency Power Source

§ 112.30–1 Normal source for emergency loads.

(a) The normal source for emergency loads must be the ship's service generating plant.

(b) The power from the ship's service generating plant for the emergency loads must be supplied to the emergency loads through automatic transfer switches.

§ 112.30–5 Reduction of normal source potential.

If there is a reduction of potential of the normal source by 15 to 40 percent, the emergency loads under § 112.15–5 must transfer automatically from the normal source to the emergency power source.

§ 112.30–10 Restoration of normal source potential.

When the potential from the normal source is restored to 85 to 95 percent of its normal value, the emergency loads must transfer automatically to the normal source.

Subpart 112.35—Manually Controlled Emergency Systems Having a Storage Battery or a Diesel Engine or Gas Turbine Driven Generator as the Sole Emergency Power Source

§ 112.35–1 Normal source for emergency loads.

The normal source for emergency loads must be the ship's service generating plant.

§ 112.35–3 Manually started emergency systems.

Manually started emergency lighting and power systems must be activated by one manual operation, such as the manual operation of a switch from an "off" to an "on" position, to cause the emergency system to supply its connected loads.

§ 112.35–5 Activating means.

The activating means must be in the wheelhouse or in a location where the means can be controlled by the chief engineer.

Subpart 112.40—Installations Requiring an Alternating-Current Temporary Source of Supply

§ 112.40–1 General requirements.

Installations requiring alternating current for the operation of communication equipment or other apparatus essential under temporary emergency conditions must be provided with the necessary conversion equipment. If such conversion equipment will be operating both under normal conditions and under temporary emergency conditions, the conversion equipment must be provided in duplicate.

Subpart 112.45—Visible Indicators and Test Switch

§ 112.45–1 Visible indicators.

There must be visible indicators in the machinery space to show:

(a) When an emergency battery is discharging; and

(b) When the automatically controlled emergency power source is supplying the emergency loads.

§ 112.45–5 Test switch.

There must be a test switch at the emergency switchboard to simulate a failure of potential from the normal source and cause the emergency loads to be transferred.

Subpart 112.50—Emergency Diesel and Gas Turbine Engine Driven Generator Sets

§ 112.50–1 General.

(a) The prime mover of a generator set must have:

(1) All accessories necessary for operation and protection of the prime mover; and

(2) A self-contained cooling system of a size that ensures continuous operation with 100° F (37° C) air.

(b) The fuel used must have a flashpoint of not less than 110° F (43° C).

(c) The room that has the generator set must have intake and exhaust ducts to supply adequate cooling air.

(d) The prime mover must not have a starting aid, except there may be a thermostatically controlled electric water jacket heater connected to the final emergency bus.

(e) The generator set must carry its full rated load within 20 seconds after cranking it started with the intake air, room ambient temperature, and starting equipment at 32° F. (0° C).

(f) The generator set must start by hydraulic, compressed air, or electrical means.

(g) The generator set must lubricate and operate when inclined to an angle of 22½° athwartship (30° for vessels carrying liquefied gas cargo) and 10° fore and aft, and must be arranged so that it does not spill oil under a vessel roll of 30° each side of the vertical.

(h) The generator set must shut down automatically upon loss of lubricating oil pressure, overspeed, or operation of a fixed fire extinguishing system in the emergency generator room.

(i) If the prime mover is a diesel engine, there must be an audible alarm that sounds on low oil pressure and high cooling water temperature.

(j) If the prime mover is a gas turbine, it must meet the shutdown and alarm requirements in § 58.10–15(g) of this chapter.

§ 112.50–3 Hydraulic starting.

A hydraulic starting system must meet the following:

(a) The hydraulic starting system must be a self-contained system that provides the cranking torque and engine starting RPM recommended by the engine manufacturer.

(b) The stored hydraulic pressure must be automatically maintained within the predetermined pressure limits.

(c) The means of automatically maintaining the hydraulic system within the predetermined pressure limits must be electrical and energized from the final emergency bus.

(d) There must be a means to manually recharge the hydraulic system.

(e) Charging of the hydraulic starting system must not cause an absence of hydraulic pressure for engine starting.

(f) The hydraulic starting system must have capacity for at least six cranking cycles including the reserve capacity under paragraph (g) of this section.

(g) Capacity for three of the cranking cycles under paragraph (f) of this section must be held in reserve. The system must be arranged so that the operation of one control by one person isolates the discharged or initially used part of the system and allows the reserve capacity to be used.

§ 112.50–5 Electric starting.

An electric starting system must meet the following:

(a) The starting battery must have sufficient capacity for at least six cranking cycles. Each cycle must include at least one-half minute of battery rest.

(b) At the end of the sixth cranking cycle the battery voltage, while cranking the engine, must be at least 50 percent of nominal battery voltage.

§ 112.50–7 Compressed air starting.

A compressed air starting system must meet the following:

(a) The starting, charging, and energy storing devices must be in the emergency generator room, except as allowed under paragraph (c)(3)(i) of this section.

(b) The compressed air starting system must provide the cranking torque and engine starting RPM recommended by the engine manufacturer.

(c) The compressed air starting system must have an air receiver that meets the following:

(1) Has capacity for at least six cranking cycles.

(2) Supplies no other system.

(3) Is supplied from one of the following:

(i) The main or auxiliary compressed air receivers with a nonreturn valve in the emergency generator room and a hand-cranked, diesel-powered air compressor for recharging the air receiver.

(ii) An electrically driven air compressor that is automatically operated and is powered from the emergency power source. If this compressor supplies other auxiliaries, there must be a nonreturn valve at the inlet of the starting air receiver and there must be a hand-cranked diesel powered air compressor for recharging the air receiver.

(d) Capacity for three of the cranking cycles under paragraph (c)(1) of this section must be held in reserve. The system must be arranged so that the operation of one control by one person isolates the discharged or initially used part of the system and allows the reserve capacity to be used.

(e) The compressed air starting system must have a visual alarm at a manned control station that shows low starting air pressure.

Subpart 112.55—Storage Battery Installation

§ 112.55–1 General.

Each storage battery installation must meet Subpart 111.15 of this part.

§ 112.55–5 Emergency lighting loads.

When supplying emergency lighting loads, the storage battery initial voltage must not be higher than the standard system voltage by more than 5 percent.

§ 112.55–10 Storage battery charging.

(a) Each storage battery installation for emergency lighting and power, and starting batteries for an emergency diesel or gas turbine driven generator set, must have apparatus to automatically maintain the battery fully charged.

(b) When the ship's service generating plant is available, the battery must have a continuous trickle charge, except that after discharge the battery must be charged automatically at a higher rate.

(c) Charging operations must not cause an absence of battery power.

(d) There must be instruments to show the rate of charge.

§ 112.55–15 Capacity of storage batteries.

(a) A storage battery for an emergency lighting and power system must have capacity:

(1) To close all watertight doors three times;

(2) To open all watertight doors two times; and

(3) To carry the remaining emergency loads continuously for the time under § 112.05–5(a).

(b) At the end of the time specified in paragraph (a) of this section, the potential of the storage battery must be at least 88 percent of the standard system voltage.

(c) For the purposes of this subpart, the nominal potential of a lead-acid storage battery is 2.0 volts per cell, and the nominal potential of a nickel-alkaline storage battery is 1.2 to 1.4 volts per cell.

PART 113—COMMUNICATION AND ALARM SYSTEMS AND EQUIPMENT

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Subpart 113.05—General Provision

§ 113.05-5 Approved equipment.

If approved equipment is required in this part, that equipment must be specifically approved by the Commandant.

NOTE: Many specifications for equipment that must be approved are in Subchapter Q of this chapter.

Subpart 113.10—Automatic Fire Detecting and Alarm Systems

§ 113.10-1 Approved equipment.

Each alarm annunciator, power supply, fire detector, test station, and vibrating bell must be approved under Subpart 161.002 of this chapter.

§ 113.10-3 Cable runs.

Cable runs between the fire alarm annunciator and fire detecting zones must be as direct as practicable and, where practicable, must not be in staterooms, lockers, or other enclosed spaces where the cable could be damaged.

§ 113.10-5 Common return.

A conductor must not be used as a common return from two or more zones.

§ 113.10-7 Connection boxes.

Each connection box that has conductors for two or more fire detecting zones must be watertight and each cable entrance must have a terminal or stuffing tube.

Subpart 113.15—Manual Fire Alarm Systems

§ 113.15-1 Approved equipment.

Each manual fire alarm annunciator, power supply, manual station, and vibrating bell must be approved under Subpart 161.002 of this chapter.

§ 113.15-3 Cable runs.

Cable runs between the annunciator and fire alarm zones must be as direct as practicable, and, where practicable, must not be in staterooms, lockers, or other enclosed spaces where the cable could be damaged.

§ 113.15-5 Common return.

A conductor must not be used as a common return from two or more zones.

§ 113.15-7 Connection boxes.

Each connection box that has conductors for two or more fire alarm zones must be watertight and each cable entrance must have a terminal or stuffing tube.

Subpart 113.20—Automatic Sprinkler System

§ 113.20-1 Approved equipment.

Each sprinkler alarm system, including annunicator, power supply, alarm switches, and bells, must be approved and must meet Subpart 76.25 of this chapter.

§ 113.20-3 Watertight equipment.

Each connection box and each switch in an automatic sprinkler system must be watertight.

Subpart 113.25—General Alarm Systems

§ 113.25-1 Applicability.

(a) This subpart, except §§ 113.25-25 and 113.25-30, applies to each manned vessel of over 100 gross tons, except barges, scows, and similar vessels.

(b) Section 113.25-25 applies to each manned ocean and coastwise barge of over 100 gross tons if the crew is divided into watches for the purpose of steering.

(c) Section 113.25-30 applies to each barge of 300 or more gross tons that has sleeping accommodations for more than six persons.

§ 113.25-3 Requirements.

Each vessel must have a general alarm system that mets the requirements of this subpart.

§ 113.25-5 Location of contact makers.

(a) *Passenger vessels and cargo and miscellaneous vessels.* Each passenger vessel, cargo vessel, and miscellaneous vessel must have a manually operated contact maker for the general alarm system—

(1) In the wheelhouse; and

(2) At the feeder distribution panel if the general alarm power supply is not in or next to the wheelhouse.

(b) *Tank vessels.* Each tank vessel must have a manually operated contact maker for the general alarm system—

(1) In the wheelhouse;

(2) At the deck officers' quarters farthest from the engineroom;

(3) In the engineroom;

(4) At the location of the operator for the emergency means of stopping cargo transfer required under 33 CFR 155.780; and

(5) At the feeder distribution panel if the general alarm power supply is not in or next to the wheelhouse.

(c) *Mobile offshore drilling units.* Each mobile offshore drilling unit must have a manually operated contact maker for the general alarm system—

(1) In the main control room;

(2) At the drilling console;

(3) In the space that has the feeder distribution panel;

(4) In the wheelhouse; and

(5) In a location that is as far as practicable from each other contact maker

(d) *Additional contact maker.* A vessel may have only one more contact maker that operates the general alarm system in addition to those required under paragraph (a), (b), or (c), of this section.

(e) *Special system.* If a vsesel has an emergency squad when operating, has a manual fire alarm system, or is an ocean-going passenger vessel, it must have—

(1) An independent manually operated contact maker in the wheelhouse that is connected to operate only the general alarm bells in crew's quarters and machinery spaces; or

(2) A separate alarm system that sounds in the crew's quarters and machinery spaces.

§ 113.25–6 Power supply.

The power supply for the general alarm system must—

(a) Be above the uppermost continuous deck;

(b) Be outside the machinery casing;

(c) Not be in the weather;

(d) Have a nominal potential of not less than 6 volts and not more than 120 volts;

(e) Be—

(1) One storage battery that—

(i) Powers only the general alarm system and the engineers' emergency alarm required by Subpart 113.27 of this part;

(ii) Has an automatic charging panel that maintains the battery fully charged, except immediately following a discharge; and

(iii) Has the capacity to supply the general alarm system continuously for at least eight hours without being recharged;

(2) Duplicate storage batteries—

(i) With a manual two-position transfer switch that has no "off" position, connected so that one battery is charged while the other battery is available to power the system; and

(ii) Each having the capacity to supply without recharge—

(A) The general alarm system continuously for at least four hours; and

(B) All other connected loads at the normal demand for at least one week and at the maximum demand for at least eight hours;

(3) A circuit connected to the temporary emergency bus of an emergency switchboard, if the temporary emergency power source has the capacity to supply all connected loads for one half hour and the general alarm system for eight hours without being recharged; or

(4) A circuit from an interior communication switchboard, that is supplied by duplicate storage batteries—

(i) With a manual two-position transfer switch that has no "off" position, connected so that one battery is charged while the other battery is available to power the switchboard; and

(ii) Each having the capacity to supply without recharge—

(A) The general alarm system continuously for a period of four hours; and

(B) All other connected loads at the normal demand for at least one week and at the maximum demand for at least eight hours; and

(f) Have a potential at the end of the discharge period described in paragraph (e) of this section of at least 80 percent of the potential under load.

§ 113.25–7 Power supply overcurrent protection.

(a) If the general alarm system is the only load supplied by the general alarm system battery or batteries, the battery or batteries must have an enclosed fused switch or circuit breaker that has a means of locking. The fused switch or circuit breaker must be outside of and next to the battery room or battery locker and the capacity of the fuses or circuit breaker must be at least 200 percent of the connected load.

(b) If the general alarm system is supplied from an emergency or interior communication switchboard, or if duplicate general alarm batteries supply other loads as allowed under § 113.25–6(e)(2), there must be a fused switch or circuit breaker supplying the general alarm system that has a means of locking.

§ 113.25–8 Distribution of general alarm system feeders and branch circuits.

(a) Each system must have a feeder distribution panel to divide the system into the necessary number of zone feeders, except that the branch circuit distribution panel may be substituted for the feeder distribution panel if, because of the arrangement of the vessel, only one zone feeder is necessary.

(b) The feeder distribution panel must have fuses for each zone feeder, but there must be no disconnect switches.

(c) The feeder distribution panel must be in an enclosed space next to the general alarm battery enclosure.

(d) Each system must have at least one feeder for each vertical fire zone that has general alarm bells.

(e) Each system must have one or more branch circuit distribution panels for each zone feeder, with at least one fused branch circuit for each deck level. The distribution panel must be above the uppermost continuous deck, in the zone served, and there must be no disconnect switches for the branch circuits.

(f) No more than five general alarm bells must be connected to one branch circuit, and a branch circuit must not supply bells on more than one deck level.

(g) On a vessel not divided into fire zones by main vertical fire bulkheads, the vessel must be divided into vertical zones not more 150 feet (45.7 meters) long and there must be a general alarm feeder for each of these zones that has general alarm bells.

(h) General alarm feeders and branch circuit cables must be in passageways and must not be in staterooms, lockers, galleys, machinery spaces, or other enclosed spaces, unless it is necessary to supply general alarm bells in those spaces.

§ 113.25–9 Location of general alarm bells.

General alarm bells must be—

(a) In areas to give a sound level in each room with the door closed of at least—

(1) 75 decibels relative to 0.0002 microbar at 1,000 hertz (zero db); and

(2) 6 decibels above the ground noise level existing when the vessel is underway in moderate weather; and

(b) Where they can alert persons in spaces where those persons may be maintaining, repairing, or operating equipment, stowing or drawing stores or equipment, or transiting, such as public spaces, work spaces, machinery spaces, workshops, galleys, emergency fire pump rooms, bow thruster rooms, storage areas for paint, rope, and other stores, underdeck passageways in cargo areas, steering gear rooms, windlass rooms, cargo handling rooms, holds of roll-on/roll-off vessels, and, except those that are accessible only through bolted manhole covers, duct keels with valve operators.

§ 113.25–10 Location of flashing red lights.

In a space described in § 113.25–9(b) where the bells cannot be heard over the noise, there must be a flashing red light, in addition to the bell, that—

(a) Alerts personnel in the space;

(b) Is activated whenever the general alarm bells in the space are activated; and

(c) Is supplied by the general alarm system power supply, except a flashing red light in the main machinery space may be supplied from the emergency source of power through a relay that is operated by the general alarm system.

§ 113.25–11 Contact makers.

Each contact maker must—

(a) Be a normally open, spring-return-to-normal, enclosed, watertight switch;

(b) Close its contacts when an operating handle rotates in a clockwise direction through an arc of approximately 60 degrees;

(c) Have a switch handle that has a spring-loaded locking pin to lock the contact maker in the "on" position;

(d) Have the "off" and "on" positions of the operating handle marked by raised letters;

(e) Have mechanical stops to limit the rotation of the operating handle;

(f) Have an inductive load rating not less than the connected load, except that, on large vessels, auxiliary devices to interrupt the load current may be used if approved; and

(g) Be approved.

§ 113.25–12 Vibrating bells.

Each vibrating bell must—

(a) Be approved; and

(b) Produce a signal or a tone distinct from any other signal on the vessel.

§ 113.25–13 Flashing red lights.

Each flashing red light must be approved.

§ 113.25–14 Electric cable and distribution fittings.

Each cable entrance to a bell or distribution fitting must be made watertight by a terminal or stuffing tube.

§ 113.25–15 Distribution panels.

Each distribution panel must—
(a) Be watertight;
(b) Need a tool to be opened; and
(c) Be approved.

§ 113.25–16 Fuses.

(a) Each fuse in a general alarm system must—
(1) Be a 250-volt, nonrenewable, cartridge fuse approved by Underwriters Laboratories Inc.; and
(2) Cause as wide a differential as possible between branch circuit fuses and feeder fuses.
(b) The capacity of a feeder fuse must be as near as practicable to 200 percent of the load supplied. The capacity of a branch circuit fuse must not be higher than 50 percent of the capacity of the feeder fuse.

§ 113.25–20 Marking of equipment.

(a) Each general alarm system fused switch and distribution panel must have a fixed nameplate on the outside of its cover that has a description of its function. The rating of fuses must also be shown on the outside of the cover of a fused switch.
(b) Each general alarm contact maker must be marked "GENERAL ALARM" in red letters on a corrosion-resistant plate or on a sign.
(c) A contact maker that operates only the general alarm bells in crew quarters, machinery spaces, and work spaces must be marked "CREW ALARM" by the method described in paragraph (b) of this section.
(d) Each general alarm bell must be marked "General Alarm—When Bell Rings Go To Your Station" in red letters at least ½ inch high.
(e) Each general alarm system distribution panel must have a directory attached to the inside of its cover giving the designation of each circuit, the area supplied by each circuit, and the rating of each circuit fuse.

§ 113.25–25 General alarm systems for manned ocean and coastwise barges.

A manned ocean or coastwise barge of more than 100 gross tons, if it is one that operates with the crew divided into watches for steering the vessel, must have an alarm bell installation.

§ 113.25–30 General alarm systems for barges of 300 or more gross tons with sleeping accommodations for more than six persons.

The general alarm system for a barge of 300 or more gross tons with sleeping accommodations for more than six persons must meet the requirements of Subpart 113.25 of this part, except as follows:
(a) The number and location of contact makers must be determined by the design, service, and operation of the barge.[1]
(b) If a distribution panel cannot be above the uppermost continuous deck because of the design of the barge, the panel may be below the deck, but must be as near the deck as practicable.

[1] Contact makers in the primary work area, quarters area, galley and mess area, machinery spaces, and the bridge or control area should be considered.

Subpart 113.27—Engineers' Alarms

§ 113.27–1 Engineers' alarm.

Each self-propelled ocean, Great Lakes, or coastwise vessel must have a manually-operated engineers' alarm that is—
(a) Operated from—
(1) The engine control room, if the vessel has an engine control room; or
(2) The maneuvering platform, if the vessel has no engine control room; and
(b) Audible in the engineers' accommodation spaces.

Subpart 113.30—Sound Powered Telephone and Voice Tube Systems

§ 113.30–1 Applicability.

This subpart applies to each self-propelled vessel.

§ 113.30–5 Requirements.

(a) *Communication.* A vessel must have a sound powered telephone system or a voice tube system between each of the following:
(1) Wheelhouse.
(2) Steering gear room, if outside the engineroom.
(3) Alternative steering station.
(4) Engine control room, if the vessel has an engine control room.
(5) Maneuvering platform, if the vessel has no engine control room.
(6) Control room, if the vessel is a mobile offshore drilling unit.
(b) *Gyro compass.* Each vessel that has a master gyro-compass that is not in or next to the wheelhouse must have a means of communication between the master gyro-compass and the wheelhouse repeater compass.
(c) *Radar.* Each vessel that has a radar plan position indicator that is not in or next to the wheelhouse must have a means of communication between the wheelhouse and the radar plan position indicator.
(d) *Emergency squad.* If the emergency squad equipment lockers or spaces are not next to the wheelhouse, there must be a means of communication between the wheelhouse and the emergency squad equipment lockers or spaces.
(e) *Radio and radio direction finder.* Communication to the radio and radio direction finder must meet the following requirements:
(1) Each vessel that has a radio installation must have a means of communication between the radio room, the wheelhouse, or, if the vessel is a mobile offshore drilling unit, the control room, and any other place from which the vessel may be navigated under normal conditions, other than a place that is only for emergency functions, a place that is only for docking or maneuvering, or a place that is for navigating the vessel in close quarters. A location that has the apparatus that is necessary to steer the vessel, give engine orders, and control the whistle, is a place from which the vessel may be navigated.
(2) If the operating position of the emergency radio installation is not in the compartment normally used for operating the main radio installation, there must be means of communication between the emergency radio room, the wheelhouse, or, if the vessel is a mobile offshore drilling unit, the control room, and any other place, from which the vessel may be navigated under normal conditions, other than a place that is only for emergency functions, a place that is only for docking or maneuvering, or a place that is for navigating vessel in close quarters.
(3) Each vessel equipped with radio direction-finding apparatus that is not in or next to the wheelhouse must have a means of communication between the wheelhouse and the direction-finding apparatus.
(4) The communication system required by this paragraph must be independent of each other system on the vessel, and the location of the termination of these systems is subject to approval by the Federal Communications Commission
(f) *Fire or smoke detecting systems.* Each vessel equipped with a fire or smoke detecting system, if control units are not in the wheelhouse, must have a means of communication betwen the wheelhouse and the stations where the control units are located.
(g) *Lookout.* Each vessel must have a sound powered telephone system or a voice tube system for communication between the wheelhouse and the bow or forward lookout station unless direct voice communication is possible. If there is a sound powered telephone, it must meet the requirements of § 113.30–20(c).

§ 113.30–10 Voice tubes.

Each voice tube must—
(a) Not be used to meet the requirements of this subpart if the required length of voice tube as installed is longer than 125 feet (38.1 meters); and
(b) Meet Section 37.57 of IEEE Standard No. 45.

§ 113.30–20 Sound powered telephone system; general requirements.

(a) If a voice tube longer than 125 feet (38.1 meters) is necessary or if a voice tube is ineffective, approved sound powered telephone equipment is required.
(b) The telephone stations listed in § 113.30–5(a) through (d), (f), and (g) and other stations for the operation of the vessel, such as the captain's and chief engineer's offices and staterooms, emergency power room, CO_2 control room, or fire pumproom, may be on the same circuit.

(c) If the bow or forward lookout telephone is in the weather and on the same circuit as other required stations, there must be a cut-out switch in the wheelhouse for this telephone.

(d) Except as provided in paragraph (c) of this section, a telephone station not required by this subpart that is in the weather must not be on a telephone circuit that includes any required telephone stations.

(e) Jack boxes or headsets must not be on a telephone system that includes any station required by this subpart.

§ 113.30–25 Sound powered telephone system; detailed requirements.

(a) Each item of sound powered telephone equipment on a circuit that includes any station required by this subpart must be approved.

(b) Each sound powered telephone station in the weather must be watertight and the audible signal device must be outside of the station enclosure.

(c) Each sound powered telephone station in a wheelhouse or a machinery space must be dripproof.

(d) In a noisy location, such as a diesel engine room, there must be a telephone booth or other equipment so that a telephone conversation is possible while the vessel is navigated or operated.

(e) In a location where the telephone station sound signal cannot be heard throughout the space, there must be an additional sound signal that is energized from the vessel's electric system and that is magneto-actuated.

(f) If two or more telephone stations are near each other, there must be a means that indicates the station called.

(g) Each sound powered telephone talking circuit must be electrically independent of each calling circuit. A short circuit, open circuit, or ground on either side of a calling circuit must not affect a talking circuit. Circuits must be insulated from ground.

(h) Each connection box must be watertight.

(i) Telephone cables must be run as close to the fore and aft centerline of the vessel as practicable. Cables must not run through such spaces as machinery rooms and galleys.

Subpart 113.35—Engine Order Telegraph Systems

§ 113.35–1 Definitions.

As used in this subpart—

"Indicator" means an instrument in the engine room to receive and acknowledge engine orders.

"Transmitter" means an instrument to send engine orders to the engineroom and receive acknowledgement from the engineroom.

§ 113.35–3 General requirements.

(a) Each self-propelled vessel, except as provided in paragraph (d) of this section, must have an electric engine order telegraph system from the wheelhouse to the engineroom.

(b) On a vessel with more than one propulsion engine, each engine must have this system.

(c) On a double-ended vessel that has two wheelhouses, this system must be between the engineroom and each wheelhouse.

(d) A small vessel that has the propulsion plant controlled entirely from the wheelhouse with no means of normal engine control from the engineroom need not have an engine order telegraph system between the wheelhouse and the engineroom.

§ 113.35–5 Electric engine order telegraph systems; general requirements.

(a) Each electric engine order telegraph system must have transmitters and indicators that are electrically connected to each other.

(b) Each transmitter and indicator face must be divided into sections with engine orders engraved on it.

(c) Movement of the transmitter handle and its pointer must cause the indicator to show the order corresponding to the order on the transmitter.

(d) Each engineroom indicator must have a handle or pushbuttons that actuate the pointer on the transmitter for acknowledgement of orders.

(e) There must be an audible signal that is a vibrating bell at each instrument. The vibrating bell at both the transmitter and the indicator must ring continuously when the transmitter and the indicator do not show the same order.

(f) Each dial of a transmitter instrument must be illuminated in such a manner as not to interfere with navigation of the vessel at night.

(g) Each transmitter operating handle must be large enough so that the engine order may be determined from a distance.

§ 113.35–7 Electric engine order telegraph systems, detail requirements.

(a) Each telegraph instrument must have a watertight enclosure for the electric components, except that an instrument under § 113.35–11 that is not in the weather must be watertight or dripproof.

(b) Each material for a telegraph instrument must be corrosion-resistant.

(c) Each transmitter dial must be arranged with the "STOP" order at the top vertical position of the operating handle. For "Ahead" orders, the operating handle must move toward the bow of the vessel, and for "Astern" orders, the operating handle must move toward the stern of the vessel.

(d) Each indicator face must have the "Stop" order—

(1) At the top of a pedestal or console mounted instrument;

(2) At the bottom on a bulkhead mounted instrument; and

(3) In the center on a pushbutton operated instrument.

(e) Each indicator face on a double-ended vessel must be parallel to the centerline and must not be marked with the designations "Ahead" and "Astern."

§ 113.35–11 Vessels with pilothouse control.

Each vessel with pilothouse throttle control must have a positive mechanical stop on each telegraph instrument that prevents movement to the "Pilothouse Control" position without positive action by the operator.

§ 113.35–13 Approval of telegraph instruments.

Each telegraph instrument must be approved.

Subpart 113.40—Rudder Angle Indicator Systems

§ 113.40–1 Applicability.

This subpart applies to self-propelled vessels.

§ 113.40–5 General requirements.

The position of the rudder, if power operated, must be shown at the principal steering station. If there is non-followup steering control at the alternative steering station, there must be a separate rudder angle indicator system for that station that is electrically independent from each other rudder angle indicator system.

§ 113.40–10 Detail requirements.

(a) Each rudder angle indicator system must have a transmitter at the rudder head that is actuated by movement of the rudder with the angular movements of the rudder transmitted to a remote indicator or indicators.

(b) Each indicator must have a fixed dial that shows the angular position of the rudder right and left of amidships. Indications of rudder angle must be made by a moving pointer.

(c) The movement of the indicator pointer must match the movement of the steering wheel or control.

(d) Each indicator must be—

(1) In the direct line of vision of the helmsman; and

(2) Have dial illumination that does not interfere with the navigation of the vessel at night.

(e) Each electric component of the system must be in a watertight enclosure.

(f) Each component material must be corrosion-resistant.

Subpart 113.45—Refrigerated Spaces Alarm Systems

§ 113.45–5 General requirements.

(a) Each refrigerated space that is accessible to a vessel's personnel and that can be locked from the outside so that it cannot be opened from the inside, must have an audible alarm system that can be operated from within the refrigerated space.

(b) The alarm activator must be in the refrigerated space at its exit.

(c) The audible signal must sound at a manned location.

(d) If there is a common audible signal for more than one lockable refrigerated space, there must be an annunicator for locating the space from which the signal was initiated.

Subpart 113.50—Emergency Loudspeaker System

§ 113.50–1 Applicability.

This subpart applies to each ocean and coastwise passenger vessel certificated to carry 500 or more persons, including officers and crew, and each passenger vessel that has lifeboats stowed more than 100 feet (30.5 meters) from the navigating bridge.

§ 113.50–5 General requirements.

(a) Each vessel must have an approved loudspeaker system that enables an officer on the bridge to broadcast separately or collectively to the following stations:

(1) Lifeboat stations, port.

(2) Lifeboat stations, starboard.

(3) Lifeboat embarkation stations, port.

(4) Lifeboat embarkation stations, starboard.

(5) Public spaces used for passenger assembly stations.

(6) Crew quarters.

(7) Accommodation spaces and service spaces.

(b) The system must be controlled from one location on the navigating bridge.

(c) Each loudspeaker at a lifeboat or embarkation station must allow two-way conversation with the navigating bridge.

(d) Each emergency loudspeaker system must be approved, and must meet the requirements of Subpart 161.004 of this chapter.

(e) If a vessel has a public address or music distribution system, there must be a means to silence that system. This means must be next to the loudspeaker system control panel.

§ 113.50–15 Location of loudspeakers and amplifiers.

(a) *General.* Loudspeakers must be located as follows:

(1) Loudspeakers must be located to minimize the effect of feedback and other interference.

(2) Each loudspeaker on an open deck must be directed toward the after end of the vessel and outboard by an angle of approximately 15 degrees.

(b) *Boat deck loudspeakers.* A loudspeaker must be at each lifeboat handling station. The axis of the loudspeaker must be directed aft and outboard so that the sound level at the lifeboat handling station is not less than the level given in Table 113.50–15.

(c) *Lifeboat embarkation and passenger assembly station loudspeakers.* Enough loudspeakers must be throughout the lifeboat embarkation deck and locations designated by the vessel's station bill for the assembly of passengers in an emergency to provide a distribution of sound of at least the level in Table 113.50–15, and with a variation that does not exceed plus or minus 3 decibels.

TABLE 113.50–15—*Minimum sound level requirements for loudspeaker systems*

[All data given in decibels [1]]

Location	Ground noise level minimum	Signal level		Voice level	
		Aboveground noise	Total	Aboveground noise	Total
Lifeboat station	80	20	[2] 100	15	[2] 95
Embarkation deck or exterior passenger assembly point	80	20	[2] 100	15	[2] 95
Interior passenger assembly point	75	20	[2] 95	15	[2] 90
Crew quarters, accomodation space or service space	60	18	[3] 78	12	[3] 72

[1] The zero decibel level is 0.0002 dyn per cm [2].
[2] Measured at a distance of 10 ft (3 m) from the loudspeaker and on its axis.
[3] Measured in rooms with the doors to the passageways closed.

(d) *Loudspeakers in quarters, accommodation spaces, and service spaces.* Enough loudspeakers must be in passageways throughout crew quarters, accommodation spaces, and service spaces to provide at least the sound level in Table 113.50–15 in each room with the doors closed.

(e) *Amplifier.* An emergency loudspeaker amplifier that is not in the same enclosure as the control panel must be in the wheelhouse or in a compartment next to the wheelhouse.

§ 113.50–20 Distribution of cable runs.

(a) Cable runs to the different loudspeaker groups must be as widely separated from each other as practicable. They must be distributed so that a casualty to the port or starboard supplies to loudspeakers on boat and embarkation decks will not render more than half of the loudspeakers in the group inoperative, such as by feeding the loudspeakers of a particular group alternately from a port and starboard multiconductor cable.

(b) Cables must be in passageways and must not run through staterooms, lockers, and other enclosed spaces.

§ 113.50–25 Equipment enclosures.

Each junction or connection box in the distribution system must be watertight.

Subpart 113.70—Smoke Detector Operators [4]

§ 113.65–5 General requirements.

Each whistle and siren operator must meet Section 37.45 of IEEE Standard No. 45.

[4] The general requirements for whistles, sirens, and fog horns are in Part 25 of Subchapter C (Uninspected Vessels), Part 32 of Subchapter D (Tank Vessels), Part 77 of Subchapter H (Passenger Vessels), Part 96 of Subchapter I (Cargo and Miscellaneous Vessels), Part 107 of Subchapter II (Mobile Offshore Drilling Units), and Part 195 of Subchapter U (Oceanographic Vessels) of this chapter.

Subpart 113.70—Smoke Detectors Systems

§ 113.70–5 General requirements.

(a) Each smoke detector control unit must be approved. Each smoke detector system must meet the requirements of Subpart 161.002 of this chapter.

(b) Cable runs between the smoke detector control unit and the supply switchboard must be as direct as practicable and must not run through staterooms, lockers, and other enclosed spaces where the cable could be damaged by a localized fire or by other causes.

PARTS 114–139—[RESERVED]

PART 190—CONSTRUCTION AND ARRANGEMENT

§ 190.20–45 [Revoked]

24. By revoking § 190.20–45.

PART 192—LIFESAVING EQUIPMENT

§ 192.30–15 [Amended]

25. By deleting the last sentence in § 192.30–15(a).

§§ 192.50–10 and 192.50–15 [Revoked]

26. By revoking § 192.50–10 and § 192.50–15.

PART 195—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

Subpart 195.05 [Revoked]

27. By revoking Subpart 195.05.

PART 196—OPERATIONS

§§ 196.37–5, 196.37–7 and 196.37–25 [Revoked]

28. By revoking § 196.37–5, § 196.37–7, and § 196.37–25.

(46 U.S.C. 170, 367, 369, 375, 390(b), 391(a), 392, 408, 416, 445, 489, 526p, 49 U.S.C. 1655(b); 49 CFR 1.46.)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A–107.

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O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

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[FR Doc.77–18086 Filed 6–24–77;8:45 am]

federal register

MONDAY, JUNE 27, 1977

PART V



THE PRESIDENT
and
OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

■

COLOR TELEVISION RECEIVER IMPORTS

Presidential Proclamation 4511 and Directive to U.S. Customs Service on Implementation of Orderly Marketing Agreement With Japan

Title 3—The President

Proclamation 4511 • **June 24, 1977**

Implementation of Orderly Marketing Agreement On Certain Color Television Receivers

By the President of the United States of America

A PROCLAMATION

1. On March 22, 1977, the United States International Trade Commission (USITC) reported to the President (USITC Publication 808) the results of its investigation under subsection (b) of section 201 of the Trade Act (19 U.S.C. 2251(b)) (the Trade Act). The USITC determined that color television receivers assembled or not assembled, finished or not finished, provided for in item 685.20 of the Tariff Schedules of the United States (TSUS) are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing articles like or directly competitive with the imported articles. By an evenly divided vote, three USITC Commissioners determined serious injury to exist in the monochrome television receiver industry and three Commissioners made no determination of injury with respect to the monochrome receiver industry. The Commissioners also had an evenly divided determination on the question of injury to that portion of the industry producing subassemblies of color television receivers, also provided for in item 685.20 of the TSUS. On those articles on which an injury determination was made, the Commission recommended the imposition of an increased tariff.

2. Pursuant to section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)), in the case of an evenly divided vote on serious injury the President may consider the determination agreed upon by either group of Commissioners

as the determination of the Commission. On May 19, 1977, I determined to accept the determination of those Commissioners making no determination of injury to the monochrome television receiver industry as the determination of the Commission and to accept the determination of those Commissioners finding serious injury to that portion of the industry producing subassemblies of color television receivers as the determination of the Commission.

3. On May 19, 1977, pursuant to Section 202(b)(1) of the Trade Act (19 U.S.C. 2252(b)(1)), and after taking into account the considerations specified in section 202(c) of the Trade Act (19 U.S.C. 2252(c)), I determined to remedy the serious injury found to exist by the USITC through the negotiation of an orderly marketing agreement with Japan, the major supplier of color television receivers to the U.S. market, pursuant to section 203(a)(4) of the Trade Act (19 U.S.C. 2253(a)(4)); and announced my intention to conclude such an agreement limiting the export from Japan into the United States of color television receivers and certain of their subassemblies, and setting conditions under which the United States would limit imports into the United States of such articles. On May 19, 1977, in accordance with section 203(b)(1) of the Trade Act (19 U.S.C. 2253(b)(1)), I transmitted a report to the Congress setting forth my determination and intention to conclude an orderly marketing agreement and stating the reasons why my decision differed from the action recommended by the USITC.

4. Section 203(e)(1) of the Trade Act (19 U.S.C. 2253(e)(1)) requires that import relief be proclaimed and take effect within 90 days after a Presidential determination to negotiate an orderly marketing agreement.

5. Pursuant to the authority vested in the President by the Constitution and the statutes of the United States, including section 203(a)(4) of the Trade Act (19 U.S.C. 2253(a)(4)), an orderly marketing agreement was concluded on

May 20, 1977, between the Government of the United States of America and the Government of Japan, limiting the export from Japan to the United States of color television receivers and certain subassemblies thereof, for a period of three years beginning July 1, 1977, to 1.75 million units in each annual restraint period, and setting forth conditions under which limitations would be placed on the importation into the United States of such articles by the Government of the United States. The agreement shall be implemented by the terms of the Notes exchanged and as directed in this proclamation.

6. In accordance with section 203(d)(2) of the Trade Act (19 U.S.C. 2253(d)(2)), I have determined that the level of import relief hereinafter proclaimed permits the importation into the United States of a quantity or value of articles which is not less than the average annual quantity or value of such articles imported into the United States from Japan in the 1972-1975 period, which I have determined to be the most recent representative period for imports of such articles.

NOW, THEREFORE, I, Jimmy Carter, President of the United States of America, acting under the authority vested in me by the Constitution and statutes of the United States, including section 203 of the Trade Act (19 U.S.C. 2253) and section 301 of Title 3 of the United States Code, do hereby proclaim:

(1) An orderly marketing agreement was entered into on May 20, 1977, between the Government of the United States of America and the Government of Japan with respect to the trade in certain articles of color television receivers effective July 1, 1977. The orderly marketing agreement with Japan accounts for a major part of the United States imports of the articles covered by the agreement. The

orderly marketing agreement is to be implemented according to its terms and as directed in this proclamation.

(2) The President's authority under section 203(e)(2) of the Trade Act (19 U.S.C. 2253(e)(2)) to negotiate orderly marketing agreements with other foreign suppliers of articles subject to this proclamation after any import relief proclaimed pursuant to Sec 203(a)(1)(2)(3) or (5) takes effect, is hereby delegated to the Special Representative for Trade Negotiations (hereinafter referred to as the "Special Representative"). The President's authority under section 203(e)(3) of the Trade Act (19 U.S.C. 2253 (e)(3)) to determine that any agreement negotiated pursuant to section 203 (a)(4) or (5) or 203 (e)(2) of the Trade Act (19 U.S.C. 2253 (a)(4)(5) and (e)(2)) is no longer effective is hereby delegated to the Special Representative, to be exercised in conformity with paragraph (4) below. In the event of such a determination the Special Representative shall prepare any proclamations that may be appropriate to implement import relief authorized by section 203(e)(3) of the Trade Act (19 U.S.C. 2253(e)(3)).

(3) The President's authority in section 203(g)(1) and (2) of the Trade Act (19 U.S.C. 2253(g)(1) and (2)) to prescribe regulations governing the entry or withdrawal from warehouse of articles covered by the orderly marketing agreement and to issue rules and regulations governing the entry, or withdrawal from warehouse, for consumption of like articles which are the product of countries not parties to such agreement, has been delegated to the Secretary of the Treasury pursuant to section 5(b) of Executive Order No. 11846. Such authority shall be exercised by the Secretary of the Treasury, upon direction by the Special Representative, in consultation with representatives of the member agencies of the Trade Policy Staff Committee.

(4) In exercising the authority delegated in paragraphs (2) and (3) above, the Special Representative shall, in addition to other necessary actions, institute the following actions:

(a) Statistics on imports from Japan and from all other sources of articles covered by the agreement shall be collected on a monthly basis. Should the export restraint level specified in the orderly marketing agreement with the Government of Japan be exceeded, or should imports from countries not parties to such agreement increase in such quantities so as to disrupt the effectiveness of the orderly marketing agreement, the Special Representative, after consultation with representatives of member agencies of the Trade Policy Staff Committee, may make a determination that for the purposes of section 203(e)(3) of the Trade Act the orderly marketing agreement does not continue to be effective.

(b) With respect to the products of Japan, beginning on July 1, 1977, the Special Representative may direct the Commissioner of Customs to restrict the entry, or withdrawal from warehouse, for consumption of articles subject to the orderly marketing agreement which are not accompanied by a valid export certificate showing authorization for export to the United States pursuant to the provisions of the agreement.

(c) With respect to the products of Japan, entry, or withdrawal from warehouse, for consumption of articles not accompanied by a valid export certificate will be denied for the remainder of a restraint year should the total amount of such articles entered, or withdrawn from warehouse, for consumption in the United

States reach three percent of the level for that restraint period specified in the agreement.

(d) With respect to the products of other countries, beginning on July 1, 1977, if the quantity of imports of all other countries, excluding Japan, of the articles subject to import relief under this proclamation appear likely during a 12 month period to disrupt the effectiveness of the orderly marketing agreement, the Special Representative may initiate consultations with those countries responsible for such disruption and may prevent further entries of such articles for the remainder of the restraint period or otherwise moderate or restrict the imports from such countries pursuant to section 203(g)(2) of the Trade Act, (19 U.S.C. 2253(g)(2)). Before exercising this authority, the Special Representative shall consult with representatives of the member agencies of the Trade Policy Staff Committee.

(e) Should the Special Representative determine to institute import restrictions on articles entered, or withdrawn from warehouse, for consumption from Japan or from other countries pursuant to paragraphs (2) and (4)(d) of this proclamation, such action shall become effective not less than eight days after such determination and any necessary changes in the TSUS have been published in the Federal Register.

(5) The Special Representative shall take such actions and perform such functions for the United States as may be necessary concerning the administration, implementation, modification, amendment or termination of the agreement described in paragraph (1) of this proclamation and any actions and functions necessary to implement paragraphs (2), (3) and (4) of this proclamation. In carrying out his responsibilities under this paragraph the Special Representative

is authorized to delegate to appropriate officials or agencies of the United States authority to perform any functions necessary for the administration and implementation of the agreement or actions. The Special Representative is authorized to make any changes in Part 2 of the Appendix to the TSUS which may be necessary to carry out the agreement or actions. Any such changes in the agreement shall be effective on or after their publication in the Federal Register.

(6) The Commissioner of Customs shall take such actions as the Special Representative shall determine are necessary to carry out the agreement described in paragraph (1) of this proclamation and to implement any import relief pursuant to paragraphs (2), (3) and (4) of this proclamation, or any modification thereof, with respect to the entry or withdrawal from warehouse, for consumption into the United States of products covered by such agreement or by such other import relief.

(7) The USITC shall issue reports and conduct the following surveys with respect to color television receivers and related products:

(a) Quarterly. Surveys by calendar quarter to obtain from producers in the United States monthly data on production, shipments, inventories, employment man-hours, and prices, and other economic factors indicative of conditions in the U.S. industry. The initial surveys shall cover the fourth quarter of 1976 and the first two quarters of 1977. Subsequent surveys shall cover individual quarters with the last such survey covering the quarter which ends not less than 60 days prior to the termination of the import relief.

The USITC shall publish the results of the initial surveys by September 1, 1977 and the results of later surveys within 45 days of the end of the surveyed quarter.

(b) Annual. Annual surveys to obtain data from producers in the United States by calendar quarter on profits, capacity, and annual data on capital expenditures and research and development expenditures; and to obtain from importers data by calendar quarter on prices, orders, and inventories. The initial surveys shall cover the calendar year 1976 and the calendar year 1977, and the results shall be published by March 31, 1978. The results of subsequent surveys shall be published by March 31 of each year thereafter so long as the import relief is in effect.

(8) The proclamation shall be effective as of July 1, 1977, and shall continue in force through June 30, 1980, unless the period of its effectiveness is earlier expressly modified or terminated.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of June in the year of our Lord, nineteen hundred and seventy seven, and of the Independence of the United States of America the two hundred and first.

Jimmy Carter

[FR Doc.77-18579 Filed 6-24-77;12:28 pm]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

COLOR TELEVISION RECEIVERS

Directive to U.S. Customs Service on Implementation of Orderly Marketing Agreement With Japan

Set forth below is a copy of a letter to the U.S. Customs service regarding the implementation of an Orderly Marketing Agreement concluded with the Government of Japan on May 20, 1977 effective July 1, 1977 concerning trade in color television receivers. These directives are given pursuant to the Presidential Proclamation implementing the Orderly Marketing Agreement which is published in todays FEDERAL REGISTER.

THE SPECIAL REPRESENTATIVE FOR
TRADE NEGOTIATIONS
Washington, D.C., June 23, 1977.

Hon. G. R. DICKERSON,
Acting Commissioner of Customs, Department of the Treasury, Washington, D.C.

DEAR MR. COMMISSIONER: On May 20, 1977 an Orderly Marketing Agreement was signed between the Government of Japan and the Government of the United States of America which will reduce the volume of color television imports from Japan to the United States. Pursuant to the terms of the Agreement and in accordance with the Presidential Proclamation implementing this import relief, it is requested that you take the actions described as follows:

1. Monitor all complete and incomplete color television receivers and subassemblies thereof, entered, or withdrawn from warehouse, for consumption on of after July 1, 1977 and through June 30, 1980, which are classified under any of the following items of the Tariff Schedules of the United States Annotated (TSUSA) as amended, effective July 1, 1977: TSUSA 685.2025 through 685.2046, 685.2055, and 685.2061 through 685.2067 (copy of amended TSUSA is attached). The monitoring shall be by TSUSA item and by country of origin.

2. Monitoring reports shall be provided to this Office on a monthly basis. These reports shall contain information on quantity of imports by TSUSA item and country of origin. For Japan, these reports shall also include separate enumeration for such merchandise exported from Japan on or after July 1, 1977 with and without official certification for export provided under the authority of the Government of Japan and for those imports exported prior to July 1, 1977.

3. The aggregate quantity of merchandise of Japanese origin in the TSUSA items 685.2025 through 685.2046 and 685.2055, the category of complete color television receivers, and 685.2061 through 685.2064, the category of incomplete color television receivers, permitted to be entered, or withdrawn from warehouse, for consumption on or after July 1, 1977, and exported on or after July 1, 1977, without the appropriate or correct certification by category shall be limited to 52,500 units of color televisions and subassemblies for each period covered by the agreement. A facsimile of such certification is attached. Any uncertified imports up to this amount may be subject to denial of entry or withdrawal from warehouse, for consumption, under the discretional authority of this Office pursuant to the Presidential Proclamation. The periods covered by the Agreement, based on date of export, are July 1, 1977 through June 30, 1978; July 1, 1978 through June 30, 1979; and July 1, 1979 through June 30, 1980. Reports on uncertified imports shall be provided to this Office weekly. These reports shall be by shipment and include adequate identifying information. If it appears in any period covered by the Agreement that the 52,500 unit limitation on uncertified exports will be reached before the end of that period, prompt notification shall be given to this Office.

4. The importation of a single product classified within the TSUSA items described in paragraph 1 above and for the personal use of the importer shall not be monitored or subject to the limitations contained in paragraph 3, above.

5. A monthly press release shall be issued showing, for those TSUSA items in paragraph 1 above, the quantity of imports from each of the following: Canada, Japan, Mexico, Republic of China, Republic of Korea, Singapore, and other countries of origin. For Japan, imports shall further be categorized as certified, uncertified, and imports exported prior to the current export restraint period. Appropriate totals and subtotals should be provided.

This letter will be published in the FEDERAL REGISTER.

Sincerely,

Robert S. Strauss.

TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1976)

SCHEDULE 6. - METALS AND METAL PRODUCTS
Part 5. - Electrical Machinery and Equipment

G S P	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty 2
			PART 5. ELECTRICAL MACHINERY AND EQUIPMENT			
			Part 5 headnotes:			
			1. This part does not cover -- (i) electrical insulators or insulating materials (classifiable in other schedules according to materials of which made); (ii) certain carbons, electrodes, and brushes provided for in part 1E of schedule 5; (iii) ceramic electrical ware (part 2D of schedule 5); (iv) electric blankets and other electrically warmed bedding (see part 5B of schedule 3); (v) washing machines, ironing machines, sewing machines, and other machines provided for in parts 4 or 6 of this schedule; or (vi) electrical instruments and apparatus provided for in schedule 7.			
			2. For the purposes of this part (items 682.05 and 682.07), the rated kva of a transformer is the kilovolt-ampere output on a continuous duty basis at the rated secondary voltage for emborage, when applicable) and at the rated frequency without exceeding the rated temperature limitations.			
			Part 5 statistical headnotes:			
			1. For statistical reporting purposes in this part (item 685.40), "audio machines" are those machines designed specifically for recording, reproducing, or recording and reproducing frequencies in the sound spectrum only.			
			2. For statistical reporting purposes in this part (item 685.40), "video machines" are those designed specifically for recording or recording and reproducing video signals. An audio track may or may not be included on the recording medium.			
			3. For statistical reporting purposes in this part, "stereo" apparatus will be considered to be capable of reproducing two (and no more) discrete audio signals.			
			4. The provisions of this headnote apply to "television apparatus and parts thereof" provided for in item 685.20 of this part. *(a) the term "complete", as used to describe television receivers, means a television receiver, fully assembled, whether or not packaged or tested for distribution to the ultimate purchaser.* *(b) for the purposes of items 685.2064, 685.2066 and 685.2067 --* *(i) each subassembly that contains as a component, or is covered in the same entry with, one or more of the following television components, viz., tuner, channel selector assembly, antenna, deflection yoke, degaussing coil, picture tube mounting bracket, grounding assembly, parts necessary for fixing the picture tube or tuner in place, remote operated controls, or speaker, shall be reported in item 685.2066 or 685.2068; and*			

G S P	Item	Stat Suf-fix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty 2
			(ii) In reporting units of quantity, each subassembly shall be counted as a single unit, except that two or more different printed circuit boards or ceramic substrates covered by the same entry and designed for assembly into the same television models shall be counted as one unit. (c) For purposes of determining the viewing screen diagonal, measurements shall be taken of the maximum straight line dimension across that part of the faceplate used for displaying video, and shall be rounded to the nearest inch. Measurements falling exactly on the 1/2 inch shall be rounded to the next larger integer.			

TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1976)

SCHEDULE 6. - METALS AND METAL PRODUCTS
Part 5. - Electrical Machinery and Equipment

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty 2
			Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and television cameras; record players, phonographs, tape recorders, dictation recording and transcribing machines, record changers, and tone arms; all of the foregoing, and any combination thereof, whether or not incorporating clocks or other timing apparatus, and parts thereof:			
A	685.10		Television cameras, and parts thereof		6% ad val.	35% ad val.
		20	Color cameras	No.		
		40	Other cameras	No.		
		60	Parts	X		
			Radiotelegraphic and radiotelephonic transmission and reception apparatus; radiobroadcasting and television transmission and reception apparatus, and parts thereof:			
	685.20		Television apparatus, and parts thereof		5% ad val.	35% ad val.
			Television receivers and parts thereof:			
			Having a picture tube:			
			Complete television receivers:			
			Monochrome, having a viewing screen diagonal of 1/:			
		08	*10 inches and under*	No.		
		09	*11 and 12 inches*	No.		
		10	*13 through 17 inches*	No.		
		11	*18 inches*	No.		
		12	*19 inches and over*	No.		
			Color, having a viewing screen diagonal of 1/:			
		05	*10 inches and under*	No.		
		06	*11 and 12 inches*	No.		
		07	*13 inches*	No.		
		08	*14 and 15 inches*	No.		
		09	*16 and 17 inches*	No.		
		01	*18 inches*	No.		
		02	*19 inches*	No.		
		03	*20 inches and over*	No.		
			Kits consisting of all parts necessary for assembly into complete receivers:			
		04	*Monochrome*	No.		
		05	*Color*	No.		
			Other assemblies:			
		06	*Monochrome*	No.		
			Color, having a viewing screen diagonal of 1/:			
		01	*17 inches and under*	No.		
		02	*19 inches and over*	No.		
			Not having a picture tube:			
			Printed circuit boards and circuit subassemblies with components mounted thereon, for color receivers; subassemblies containing one or more of such boards or subassemblies, except tuners or convergence assemblies:			
			Printed with components enumerated in statistical headnote 4(b)(i):			
		09	*Mounted with all or part of a chassis frame*	No. 2/		
		10	*Other*	No. 2/		
		07	*Other*	No. 2/		
			Other:			
		73	*Cabinets*	No.		
		76	*Tuners*	No.		
		78	*Antennas*	No.		
		77	*Deflection yokes, convergence assemblies, flybacks, focus coils, and degaussing coils*	No.		
		78	*Other*	X		
		070	*Other television apparatus and parts thereof*	X		

1/ *See part 5 statistical headnote 4(a).*
2/ *See part 6 statistical headnote 4(b)(ii).*

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

CERTIFICATE FOR EXPORT OF COLOR TELEVISION RECEIVERS TO THE U.S.A.

Date .....
Certificate No. .....
1. Name of exporter.
2. Name of importer.
3. Description of commodity.
Category .....
Quantity .....

4. Scheduled shipping date: The Japan Machinery Exporters' Association hereby certifies in compliance with the directive of the Government of Japan that the above export commodities ultimately destined for the United States of America are within the limit of the first year restraint level specified in the Notes exchanged between Japan and the United States of America regarding trade in color television receivers. This certificate shall become null and void unless the certified commodities are shipped not later than 30 days from the date of issue.

S. OTSUKA,
Executive Director, Japan
Machinery Exporters' Association.

ROBERT S. STRAUSS,
Special Representative
for Trade Negotiations.

[FR Doc.77-18438 Filed 6-24-77;8:45 am]

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