AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

10-9-80
Vol. 45 No. 198
Pages 67041-67284

# federal register

Thursday
October 9, 1980

## Highlights

**Seminar on Principles of regulations**—Writing For details on seminar in **Washington, D.C.**, see announcement in the **Reader Aids** section at the end of this issue

67122 **Grant Programs—Education** ED announces that eligible institutions of higher education may apply for fiscal year 1981 funds under the National Direct Student Loan (NDSL), College Work Study (CWS), and Supplemental Educational Opportunity Grant (SEOG) Programs; apply by 11–17–80

67262 **Fraud-Financial Assistance** HHS/Sec'y authorizes debarment and suspension from federal funds where cases of abuse or fraud have occurred; effective 11–10–80 (Part III of this issue)

67160 **Continental Shelf** Interior/Geological Survey publishes receipt of proposed development and production plans (2 documents)

67055 **Banks, Banking** FRS amends Regulation A for the purpose of adjusting discount rates to accommodate commerce and business; effective dates vary

67056 **Banks, Banking** FRS adopts changes to Regulation K which implement the restrictions of branch establishment and acquisition of interest in banks by a foreign bank outside of its "home State"; effective 10–2–80

CONTINUED INSIDE

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

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

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

# Highlights

67059 **Banks, Banking** FHLBB amends its rate mortgage regulations to permit associations to structure a renegotiable rate mortgage; effective 10–8–80

67099 **Energy** USDA/FmHA provides additional information on biomass energy and alcohol fuels loan and loan guarantee program

67127 **Petroleum** DOE/ERA issues its bi–monthly notice of crude oil cost data

67276 **Natural Gas** DOE/FERC provides for implementation of agricultural use exemption from incremental pricing; effective 10–6–80; comments by 11–7–80; hearing on 10–28–80 (Part V of this issue)

67083 **Natural Gas** DOE/FERC releases a rule on the maximum lawful price for pipeline, distributor, or affiliate production; (Amendment to § 154.42 is effective 10–3–80)

67079 **Money Market Funds** SEC adopts an amendment to the registration form to require inclusion of a standardized yield computation in prospectuses; varying effective dates

67062 **Community Facilities** Commerce/EDA changes regulations regarding the Public Works and Development Facilities Program; effective 10–9–80; Comments by 12–8–80

67214 **Aviation Safety** DOT/FHWA upgrades level of safety of airplanes through certification and application rules; effective 1–1–81 (Part II of this issue)

67092 **Veterans** VA eliminates most counseling requirements for persons eligible to receive educational assistance under certain regulations; effective 10–1–80

67091 **Veterans** VA confers veteran status on all former WAAC members who were honorably discharged; effective 3–18–80

67120 **Telecommunications** Commerce/NTIA solicits comments concerning the needs of users of the forthcoming maritime communications satellite system; comments by 11–4–80 and reply comments by 11–18–80

67190 **Sunshine Act Meetings**

**Separate Parts of This Issue**

67214 **Part II, DOT/FAA**
67262 **Part III, HHS/Sec'y**
67272 **Part IV, DOT/FHWA and ICC**
67276 **Part V, DOE/FERC**
67282 **Part VI, DOT/FAA**

# Contents

Federal Register
Vol. 45, No. 198
Thursday, October 9, 1980

**Administrative Committee of the Federal Register**
*See* Federal Register Office.

**Agricultural Marketing Service**
RULES
Milk marketing orders:
67049 Inland Empire; suspension
67047 Oranges, grapefruit, tangerines, and tangelos grown in Fla. and imported grapefruit
67049 Oranges (Valencia) grown in Ariz. and Calif.

**Agriculture Department**
*See* Agricultural Marketing Service; Animal and Plant Health Inspection Service; Farmers Home Administration; Federal Crop Insurance Corporation; Forest Service; Soil Conservation Service.

**Alcohol, Drug Abuse, and Mental Health Administration**
NOTICES
Meetings; advisory committees:
67156 November

**Animal and Plant Health Inspection Service**
RULES
Livestock and poultry quarantine:
67050–67052 Exotic Newcastle disease (3 documents)
NOTICES
Meetings:
67115 Foreign Animal and Poultry Diseases Advisory Committee

**Bonneville Power Administration**
NOTICES
67123 Customer-owned facilities; operating and maintenance charges, adjustments; inquiry

**Civil Rights Commission**
NOTICES
Meetings; State advisory committees:
67118 North Carolina

**Commerce Department**
*See* Economic Development Administration; International Trade Administration; National Technical Information Service; National Telecommunications and Information Administration.

**Community Planning and Development, Office of Assistant Secretary**
NOTICES
Authority delegations:
67157 Indian Programs Offices, Regions V, VI, VIII, IX, and X, Regional Administrators, et al.

**Community Services Administration**
RULES
Energy conservation program, emergency:
67094 Crisis intervention program; funding requirements; stay of effective date; republication

**Defense Department**
*See* Engineers Corps.

**Economic Development Administration**
RULES
Public works and development facilities program:
67062 Maximum grant rates, eligibility review of designated areas, etc.

**Economic Regulatory Administration**
NOTICES
Consent orders:
67124 Consolidated Gas Supply Corp.
Crude oil, domestic; allocation program:
67124 Refiners buy/sell list; October through March; correction
67127 Crude oil, domestic; entitlements program cost data
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
67124 Convent Chemical Corp.
67126 Puget Sound Power & Light Co.

**Education Department**
NOTICES
Grant applications and proposals, closing dates:
67122 National direct student loan, college work study, and educational opportunity grant programs

**Energy Department**
*See also* Bonneville Power Administration; Economic Regulatory Administration; Energy Research Office; Federal Energy Regulatory Commission.
NOTICES
International atomic energy agreements; civil uses; subsequent arrangements:
67122 Canada
67123 Japan
Remedial orders:
67146 Koch Industries, Inc.

**Energy Research Office**
NOTICES
Meetings:
67130 Energy Research Advisory Board

**Engineers Corps**
NOTICES
Environmental statements; availability, etc.:
67121 Neches River and tributaries, saltwater barrier, Beaumont, Tex.
67121 Taylors Bayou, Tex.; drainage and flood control civil works project

**Environmental Protection Agency**
NOTICES
Air pollution; standards of performance for new stationary sources:
67146 Kraft pulp mills; total reduced sulfur emissions; final guidelines availability; correction

Motor vehicle fuel economy:
67146 Retrofit devices; evaluation of W/A WAAG–Injection System

**Environmental Quality Office, Housing and Urban Development Department**
NOTICES
Environmental statements; availability, etc.:
67158 Sienna Plantation Subdivision, Fort Bend County, Tex., et al.

**Farmers Home Administration**
PROPOSED RULES
67099 Biomass energy and alcohol fuels loans and loan guarantees; additional information

**Federal Aviation Administration**
RULES
Air carriers certification and operations:
67064 Large general aviation airplanes, safety requirements
Air traffic operating and flight rules:
67064 Agricultural operation and fire fighting propeller-driven small airplanes; noise abatement operating restriction
67214 Noise limitation standards for U.S. registered large general aviation airplanes
Airworthiness directives:
67067 Bell
67067 Bellanca
67068 Piper
67070 Sikorsky
67072 IFR altitudes
67070, 67071 Transition areas (2 documents)
67071 VOR Federal airways
67072 VOR Federal airways; correction
PROPOSED RULES
Air carriers certification and operations:
67083 Air taxi and commercial operators; flight crewmember flight and duty time limitations and rest requirements; extension of time
67101 Petition for rulemaking; flight operations control system; advance notice
Airworthiness standards, etc.:
67100 Petition for rulemaking; ozone control equipment and avoidance procedures, exemption
67102 Restricted areas
67103 VOR Federal airways

**Federal Communications Commission**
RULES
Radio services, special:
67094 Private operational-fixed microwave service; facilitating operation of low power, limited coverage systems; correction
NOTICES
67190 Meetings; Sunshine Act (3 documents)

**Federal Crop Insurance Corporation**
RULES
Crop insurance; various commodities
67041 Citrus

**Federal Deposit Insurance Corporation**
NOTICES
67190 Meetings; Sunshine Act

**Federal Election Commission**
NOTICES
Indexes; availability:
67148 Statements and reports
67191 Meetings; Sunshine Act

**Federal Energy Regulatory Commission**
RULES
Natural Gas Policy Act of 1978:
67276 Incremental pricing; definition of agricultural use; interim
67083 Pipelines distributor and affiliate production, interstate; pricing; rehearing denied
PROPOSED RULES
Natural Gas Policy Act of 1978:
67115 Incremental pricing; agricultural use to raise steam for manufacturing process of fertilizer, agricultural chemicals, animal feed, and food; exemption; hearing
NOTICES
Hearings, etc.:
67130 Big Country Exxon
67131 Cities Service Gas Co.
67131 Columbia Gas Transmission Corp.
67131 Commercial Pipeline Co., Inc.
67132 Continental Hydro Corp. (2 documents)
67133 Delmarva Power & Light Co.
67134 DeMaria, Peter J.
67130 Erie, Pa., City Council and citizens
67134 Great Lakes Transmission Co.
67135 Kansas Gas & Electric Co. (2 documents)
67135 Mid Louisiana Gas Co.
67136 Montana Power Co.
67136 New England Power Co.
67136 Pacific Gas & Electric Co.
67137 Rick's Green Trails Texaco Service
67137 Texas Eastern Transmission Corp.
67138 Transwestern Pipeline Co.
Natural Gas Policy Act of 1978:
67138 Jurisdictional agency determinations

**Federal Highway Administration**
RULES
67091 Education and training programs; fellowship and scholarship grants, financial support extension
PROPOSED RULES
Motor carrier safety regulations:
67107 Parts and accessories; rear-vision mirrors
NOTICES
Environmental statements; availability, etc.:
67185 Monroe County, N.Y.; intent to prepare
67272 Motor carrier study, interstate; study approach, and meetings

**Federal Home Loan Bank Board**
RULES
Federal savings and loan system:
67059 Renegotiable rate mortgages

**Federal Maritime Commission**
NOTICES
67191 Meetings; Sunshine Act

**Federal Railroad Administration**
NOTICES
Meetings:
67185 Minority Business Resource Center Advisory Committee

**Federal Register Office**
NOTICES
Meetings:
67155 Southern Building Code Conference International (SBCCI); research and education conference

**Federal Reserve System**
RULES
Credit extension by Federal Reserve Banks (Regulation A):
67055 Discount rates changes
International banking operations (Regulation K):
67056 Interstate banking restrictions for foreign banks
NOTICES
Applications, etc.:
67152 Brunswick Bancshares, Inc.
67152 CCB Corp.
67152 CDB Corp.
67152 Central Oklahoma Bancshares, Inc.
67153 Central Trust Investment, Inc.
67151 Chase Manhattan Corp. et al.
67153 Columbus Corp.
67153 FBH Corp.
67153 FCB Corp.
67153 FMB Corp.
67153 Freeport Bancshares, Inc.
67154 Hudson Bancshares Corp.
67150 Manufacturers Hanover Corp. et al.
67154 Pennbancorp
67154 Roswell Bancshares
67154 Ruthven Investment, Ltd.
67154 TGB Corp.
67191 Meetings; Sunshine Act

**Fish and Wildlife Service**
RULES
Hunting:
67097 Cabeza Prieta National Wildlife Refuge, Ariz., et al.

**Forest Service**
NOTICES
Environmental statements; availability, etc.:
67115 Rocky Mountain Region, land and resource management plan; postponed
67115 Salmon National Forest, land and resource management plan, Idaho
Meetings:
67115 Black Hills National Forest Grazing Advisory Board

**General Services Administration**
*See also* Federal Register Office.
NOTICES
Public utilities; hearing, etc.; proposed intervention:
67155 Commonwealth Edison Co.

**Geological Survey**
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
67160 C & K Offshore Co.
67160 Exxon Co., U.S.A.

**Health, Education, and Welfare Department**
*See* Education Department; Health and Human Services Department.

**Health and Human Services Department**
*See also* Alcohol, Drug Abuse, and Mental Health Administration; Public Health Service.
RULES
67262 Financial assistance; debarment and suspension from eligibility

**Heritage Conservation and Recreation Service**
NOTICES
Natural Landmarks National Registry; additions, deletions, etc.:
67161 Missouri et al.

**Housing and Urban Development Department**
*See* Community Planning and Development, Office of Assistant Secretary; Environmental Quality Office, Housing and Urban Development Department.

**Interior Department**
*See* Fish and Wildlife Service; Geological Survey; Heritage Conservation and Recreation Service; Land Management Bureau; Surface Mining Office.

**International Convention Advisory Commission**
NOTICES
67171 Meetings

**International Trade Administration**
NOTICES
Meetings:
67118 Electronic Instrumentation Technical Advisory Committee
67118 Exporters' Textile Advisory Committee

**International Trade Commission**
NOTICES
67181 Meetings; Sunshine Act (2 documents)

**Interstate Commerce Commission**
RULES
Railroad car service orders; various companies:
67096 St. Louis-San Francisco Railway Co.
NOTICES
67272 Motor carrier study, interstate; study approach and meetings
Motor carriers:
67167, 67171 Permanent authority applications (2 documents)

**Justice Department**
NOTICES
Meetings:
67172 Circuit Judge Nominating Commission, U.S.

**Land Management Bureau**
RULES
Public land orders:
67094 Idaho
67093 Oregon; correction

NOTICES
Classification of lands:
67164 Colorado (2 documents)
Environmental statements; availability, etc.:
67166 Southern Appalachian Federal Coal Production Region, Alabama subregion; coal leasing
Meetings:
67161 Grand Gulch management plan, Utah
67164 Safford District Advisory Council
Motor vehicles, off-road, etc.; area closures:
67165 New Mexico (2 documents)
67161 Oregon
Survey plat filings:
67164 California

**Management and Budget Office**
NOTICES
67178 Agency forms under review

**National Aeronautics and Space Administration**
RULES
67079 Privacy Act; implementation, Inspector General investigations case file

**National Highway Traffic Safety Administration**
RULES
Fuel economy standards, average; passenger automobiles; exemptions:
67095 Aston Martin Lagonda Inc.
Motor vehicle safety standards:
67095 Child restraint systems; seat belt assemblies; correction
PROPOSED RULES
Fuel economy standards, average; passenger automobiles; exemptions:
67108 Rolls-Royce Motors, Ltd.
NOTICES
Meetings:
67186 National Highway Safety Advisory Committee
Motor vehicles safety standards; exemption petitions, etc.:
67186 Goodyear Tire & Rubber Co.; retreaded tire sale; petition denied
67186 Mercedes-Benz Owners Club of America, Inc., et al.; lamps, reflective devices, etc.; petition denied

**National Technical Information Service**
NOTICES
67119 Inventions, Government-owned; availability for licensing

**National Telecommunications and Information Administration**
NOTICES
67120 International Maritime Satellite System; needs of users; inquiry

**National Transportation Safety Board**
NOTICES
67173 Accident reports, safety recommendations and responses, etc.; availability

**Nuclear Regulatory Commission**
PROPOSED RULES
Production and utilization facilities, domestic licensing:
67099 Standard review plan deviations; uniform documentation requirements
NOTICES
Applications, etc.:
67178 Union Electric Co.
Environmental statements; availability, etc.:
67177 Uranium milling; final generic statement

**Oceans and Atmosphere, National Advisory Committee**
NOTICES
67172 Meetings (2 documents)

**Public Health Service**
NOTICES
67155 Health maintenance organizations, qualified; list
Meetings:
67156 Health Care Technology National Council

**Securities and Exchange Commission**
RULES
Investment companies:
67082 Indemnification; liability to company or security holders and legal expenses; correction
67079 "Money market" funds; inclusion of standardized yield computation in prospectuses and use in advertisements
NOTICES
Hearings, etc.:
67179 Glasrock Medical Services Corp.
67181 Hartford Variable Annuity Life Insurance Co. et al.
Self-regulatory organizations; proposed rule changes:
67180 Pacific Stock Exchange Inc.
67180 Philadelphia Stock Exchange, Inc.
Self-regulatory organizations, unlisted trading privileges:
67180 Midwest Stock Exchange, Inc.

**Selective Service System**
NOTICES
Organization, functions, and authority delegations:
67185 Armed Services Board of Contract Appeals; hearings and decisions regarding contract disputes

**Soil Conservation Service**
RULES
Contracting, long term:
67047 Rural abandoned mine program; clarification of funding priorities procedures and technical corrections; correction
NOTICES
Environmental statements; availability, etc.:
67116 Bajura Watershed, P.R.
67116 Dead River Watershed, N.H.
67117 Greely High School Land Drainage RC&D Measure, Maine
67117 Salt Lick Creek Watershed, Ky.
67117 Town Creek Watershed, Ala.
Watershed projects; deauthorization of funds:
67117 Eutacutaches Creek Watershed, Miss.

**Surface Mining Office**
PROPOSED RULES
Abandoned mine reclamation program:
67107 Grants to States; filing of quarterly financial and performance reports and identification of application and reporting forms; correction

**Trade Representative, Office of United States**
NOTICES
67188 Generalized System of Preferences; information center

**Transportation Department**
*See also* Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration; National Highway Traffic Safety Administration; Urban Mass Transportation Administration.
NOTICES
Time zone boundaries, standard; exemptions:
67188 Burlington Northern Railroad

**Urban Mass Transportation Administration**
NOTICES
Environmental statements; availability, etc.:
67188 Bay Area Rapid Transit District terminus, Daly City, Calif.; intent to prepare

**Veterans Administration**
RULES
Adjudication; pensions, compensation, dependency, etc.:
67091 Women's Army Auxiliary Corps (WAAC); eligibility
Vocational rehabilitation and education:
67092 Counseling, mandatory; reduction
NOTICES
Meetings:
67189 Educational Allowances Station Committee

## MEETINGS ANNOUNCED IN THIS ISSUE

**AGRICULTURE DEPARTMENT**
Animal and Plant Health Inspection Service—
67115 Foreign Animal and Poultry Diseases Advisory Committee, 10–21–80
Forest Service—
67115 Black Hills National Forest Grazing Board, 11–12–80

**CIVIL RIGHTS COMMISSION**
67118 North Carolina Advisory Committee, 11–5–80

**COMMERCE DEPARTMENT**
International Trade Administration—
67118 Electronic Instrumentation Technical Advisory Committee, 10–28–80
67118 Exporters' Textile Advisory Committee, 10–29–80

**ENERGY DEPARTMENT**
Energy Research Office—
67130 Energy Research Advisory Board, Geothermal Panel, 10–28–80

**GENERAL SERVICES ADMINISTRATION**
Office of the Federal Register—
67155 Southern Building Code Conference International, Research and Education Conference, 10–26 through 10–30–80

**HEALTH AND HUMAN SERVICES DEPARTMENT**
Alcohol, Drug Abuse, and Mental Health Administration—
67156 National Advisory Bodies, November meetings
Office of the Secretary—
67156 National Council on Health Care Technology, Dissemination Subcommittee, 11–7–80

**INTERIOR DEPARTMENT**
Land Management Bureau—
67161 Draft Grand Gulch Management Plan, 11–18 through 11–20–80
67164 Safford District Advisory Council, 11–18–80

**INTERNATIONAL CONVENTION ADVISORY COMMISSION**
67171 Meeting, 10–29–80

**INTERSTATE COMMERCE COMMISSION**
67272 Interstate Motor Carrier Study, November meetings

**OCEANS AND ATMOSPHERE NATIONAL ADVISORY COMMITTEE**
67172 Independent Area Task Force, Marine Transportation Subgroups, 11–6 and 11–7–80
67172 Meeting, 10–23 and 10–24–80

**TRANSPORTATION DEPARTMENT**
Federal Highway Administration—
67272 Interstate Motor Carrier Study, November meetings
Federal Railroad Administration—
67185 Minority Business Resource Center Advisory Committee, 10–16–80
National Highway Traffic Safety Administration—
67186 National Highway Safety Advisory Committee, 10–27 through 10–30–80

**VETERANS ADMINISTRATION**
67189 Station Committee on Educational Allowances, 11–13–80

## HEARINGS

**ENERGY DEPARTMENT**
Federal Energy Regulatory Commission—
67115 Incremental Pricing, 10–28–80

## CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.


**7 CFR**
413 ..... 67041
632 ..... 67047
905 ..... 67047
944 ..... 67047
1133 ..... 67049
**Proposed Rules:**
1990 ..... 67099

**9 CFR**
82 (3 documents) ..... 67050–67052

**10 CFR**
**Proposed Rules:**
50 ..... 67099

**12 CFR**
201 ..... 67055
211 ..... 67056
545 ..... 67059

**13 CFR**
302 ..... 67062
303 ..... 67062
305 ..... 67062
309 ..... 67062

**14 CFR**
21 ..... 67064
36 ..... 67064
39 (4 documents) ..... 67067–67070
43 ..... 67214
71 (4 documents) ..... 67070–67072
91 (2 documents) ..... 67214, 67258
95 ..... 67072
121 ..... 67214
123 ..... 67214
125 ..... 67214
135 ..... 67214
145 ..... 67214
1212 ..... 67079
**Proposed Rules:**
Ch. I ..... 67100
71 ..... 67101
73 ..... 67102
121 (2 documents) ..... 67083, 67103
135 ..... 67083

**17 CFR**
230 ..... 67079
239 ..... 67079
271 ..... 67082
274 ..... 67079

**18 CFR**
154 ..... 67083
270 ..... 67283
282 ..... 67276
**Proposed Rules:**
282 ..... 67115

**23 CFR**
260 ..... 67091

**30 CFR**
**Proposed Rules:**
886 ..... 67102

**38 CFR**
3 ..... 67091
21 ..... 67092

**43 CFR**
**Public Land Orders:**
5752 (corrected) ..... 67093
5768 ..... 67094

**45 CFR**
76 ..... 67262
1061 ..... 67094

**47 CFR**
94 ..... 67094

**49 CFR**
531 ..... 67095
571 ..... 67095
1033 ..... 67096
**Proposed Rules:**
393 ..... 67107
531 ..... 67108

**50 CFR**
32 ..... 67097

# Rules and Regulations

Federal Register
Vol. 45, No. 198
Thursday, October 9, 1980

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.

## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

### 7 CFR Part 413

### Texas Citrus Crop Insurance Regulations

**AGENCY:** Federal Crop Insurance Corporation.

**ACTION:** Final rule.

**SUMMARY:** This rule prescribes procedures for insuring citrus grown in Texas effective with the 1981 crop year. This rule is a revision of the previous regulations for insuring citrus grown in Texas to include several changes and to reissue the regulations in a shorter, clearer, and simpler document which will make the program easier to understand and more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

**EFFECTIVE DATE:** October 9, 1980.

**FOR FURTHER INFORMATION CONTACT:** Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

The Final Impact Statement describing options considered in developing this final rule and the impact of implementing each option is available upon request from the above-named individual.

**SUPPLEMENTARY INFORMATION:** This final action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 (August 25, 1978), to implement Executive Order No. 12044 (March 23, 1978), and has been classified as "not significant".

The Federal Crop Insurance Corporation (FCIC) published a notice of proposed rulemaking in the **Federal Register** on Tuesday, July 1, 1980 (45 F.R. 44311–44317), prescribing procedures for insuring citrus grown in Texas effective with the 1981 crop year. In the notice, FCIC, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), proposed that the Texas Citrus Crop Insurance Regulations (7 CFR Part 413) be revised and reissued effective with the 1981 and succeeding crop years.

It has been determined that revising and reissuing 7 CFR 413 into one shortened, simplified, and clearer regulation would be more effective administratively.

In addition to shortening and simplifying the regulations, 7 CFR Part 413 provides (1) for a new premium adjustment table that provides up to 50 percent premium discount for good insuring experience and premium increases for unfavorable insuring experience, which replaces the present premium discount system, (2) that any premium not paid by the termination date will be increased by a 9 percent charge, with a 9 percent simple interest applying to any unpaid balance at the end of each subsequent 12-month period thereafter, (3) that the 60-day period for filing a claim be eliminated, (4) that the contract shall terminate if no premium is earned for 5 consecutive years, (5) that for the first crop year, if an application is accepted after June 1, insurance shall attach on the later of (a) June 1, or (b) the tenth day after the application is received in the office for the county, and (6) a provision for unit division by written agreement between the policyholder and the Corporation or by applicable guidelines.

In addition, § 413.5, "Good Faith Reliance on Misrepresentation", of the revised Texas Citrus Crop Insurance Regulations increases the limitation from $5,000 to $20,000 in those cases involving good faith reliance on misrepresentation by employees or agents of the Corporation wherein the Manager of the Corporation (FCIC) is authorized to take action to grant relief.

All previous regulations applicable to insuring citrus in Texas as found in 7 CFR Part 413 will not be applicable to the 1981 and succeeding citrus crops but will remain in effect for Federal Crop Insurance Corporation Texas citrus insurance policies issued for the crop years prior to 1981.

Under the provisions of Executive Order No. 12044, and the Administrative Procedure Act (5 U.S.C. 553(b) and (c)), the public was given an opportunity to submit written comments, data, and opinions on the proposed regulations, but none were received. Therefore, with the exception of minor and nonsubstantive corrections to language, the regulations as contained in the proposed rule are hereby issued as a final rule to be effective starting with the 1981 crop year.

In addition, there is hereby added to the final rule an Appendix "B", which lists the counties in Texas where citrus crop insurance is available in accordance with the provisions of 7 CFR Part 413.1, which states in part that before insurance is offered in any county, there shall be published by appendix to this part the names of the counties where such insurance shall be offered.

In compliance with the Secretary's Memorandum No. 1955, the review of these regulations contained in 7 CFR Part 413 for need, currency, clarity, and effectiveness must be completed prior to the sunset date of May 30, 1985.

**Final Rule.**

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises and reissues the Texas Citrus Crop Insurance Regulations (7 CFR 413), with such regulations as are contained in 7 CFR 413 and published in the **Federal Register** at 42 FR 28141 (June 2, 1977), as amended at 44 FR 74796 (December 18, 1979), remaining in effect for FCIC Texas citrus policies issued prior to 1981. The Texas Citrus Crop Insurance Regulations (7 CFR 413) are hereby revised and reissued and shall remain in effect until amended or superseded for the 1981 and succeeding crop years, to read as follows:

## PART 413—TEXAS CITRUS CROP INSURANCE

### Subpart—Regulations for the 1981 and Succeeding Crop Years

Sec.

413.1 Availability of Texas citrus insurance.
413.2 Premium rates and amounts of insurance.,
413.3 Public notice of indemnities paid.
413.4 Creditors.
413.5 Good faith reliance on misrepresentation.
413.6 The contract.
413.7 The application and policy.

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506,. 1516).

## Subpart—Regulations for the 1981 and Succeeding Crop Years

### § 413.1 Availability of Texas citrus insurance.

Insurance shall be offered under the provisions of this subpart on citrus in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which Texas citrus insurance will be offered.

### § 413.2 Premium rates and amounts of insurance.

(a) The Manager shall establish premium rates and amounts of insurance for citrus which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect an amount of insurance per acre from among those amounts shown on the actuarial table for the crop year.

### § 413.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

### § 413.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

### § 413.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the Texas citrus insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable such insured person shall be granted relief the same as if otherwise entitled thereto.

### § 413.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the citrus crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

### § 413.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the citrus crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1977 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a Texas citrus contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Texas Citrus Insurance Policy for the 1981 and succeeding crop years, and the Appendix to the Texas Citrus Insurance Policy are as follows:

**United States Department of Agriculture**

**Federal Crop Insurance Corporation**

Application for 19——— and Succeeding Crop Years Texas Citrus

*Crop Insurance Contract*

Contract Number———————————
Identification Number ———————————
Name and Address———————————
ZIP Code ———————————
County ———————————
State ———————————
Type of Entity ———————————
Applicant is over 18 Yes —— No ——

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the citrus grown on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the amount of insurance per acre. THE PREMIUM RATES AND AMOUNTS OF INSURANCE SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE OFFICE FOR THE COUNTY FOR EACH CROP YEAR.

Amount of insurance per acre election ———

**Example: For the 19—— crop year only (100 percent share)**

| Location/ farm No. | Type | Amount of insurance per acre[1] | Premium per $100[2] | Practice | (A) |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |

[1] Your amount of insurance will be on a unit basis (acres x amount of insurance per acre x share)

[2] Your premium is subject to adjustment in accordance with section 5(c) of the policy.

B. WHEN NOTICE OF ACCEPTANCE OF THIS APPLICATION IS MAILED TO THE APPLICANT BY THE CORPORATION, the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED

as provided in the contract. This accepted application, the following Texas citrus insurance policy, the attached appendix, and the provisions of the county actuarial table showing the amounts of insurance, premium rates, and insurable and uninsurable acreage shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

Signature of Applicant ————————
Date————, 19—— ————————
Code No./Witness to Signature ————————
Address of Office for County: ————————
Phone————————
Location of Farm Headquarters: ————————
Phone————————

**Texas Citrus Crop Insurance Policy**

*Terms and Conditions*

Subject to the provisions in the attached appendix:

1. *Causes of Loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable cirtus fruit loss resulting from freeze, hurricane or tornado occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss or damage, as determined by the Corporation, (1) to the blossoms or trees, (2) due to the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (3) due to failure to follow recognized good grove management practices, or (4) due to any cause not specified as an insured cause in this policy as limited by the acturial table.

2. *Crop and Acreage Insured.* (a) The crop insured shall be any of the insurable citrus types as defined in section 1(n) of the Appendix elected by the insured, located on insured acreage, for which the actuarial table shows an amount of insurance and premium rate, and in which the insured has a share on the date insurance attaches.

(b) The acreage insured for each crop year shall be that acreage of citrus located on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided,* That (1) the citrus fruit can be expected to mature each crop year in the normal maturity period for the type, and (2) the trees have reached at least the fifth growing season after being set out, unless otherwise provided on the actuarial table.

(c) Upon approval of the Corporation, the insured may elect to insure or exclude from insurance for any crop year any reported, described, and designated insurable acreage which has a potential of less than 4 tons of oranges or 5 tons of grapefruit per acre. (1) If the insured elects to insure such acreage, the Corporation will, in determining the amount of loss, increase the potential on such acreage to 4 tons for oranges or 5 tons for grapefruit per acre. (2) If the insured elects to exclude such acreage, the Corporation will disregard such acreage for all purposes of this contract. (3) If the insured does not report, exclude, describe, and designate any such acreage, the Corporation will disregard such acreage if the production is less than 4 tons of oranges or 5 tons of grapefruit per acre: *however,* if the production from such acreage equals or exceeds 4 tons of oranges or 5 tons of grapefruit per acre, the Corporation shall determine the percent of damage on all of the insurable acreage for the unit, but will not permit the percent of damage for the unit to be increased by including such acreage.

3. *Responsibility of the Insured to Report Acreage and Share.* The insured at the time of filing the application shall also file on a form prescribed by the Corporation a report of all the acreage of insured citrus in the county in which the insured has a share and show the share therein. Such report shall also include a designation of any acreage which is uninsurable or excluded under the provisions of section 2 above. This report shall be revised by the insured for any crop year before insurance attaches if the acreage to be insured or share therein has changed, and the latest report filed shall be considered as the basis for continuation of insurance from year to year.

4. *Amounts of Insurance.* For each crop year of the contract, the amounts of insurance per acre shall be those shown on the actuarial table.

5. *Annual Premium.* (a) The annual premium is earned and payable on the date insurance attaches and the amount thereof shall be determined by multiplying the insured acreage times the amount of insurance per acre, times the applicable premium rate, times the insured's share at the time insurance attaches, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

| % ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Numbers of Years Continuous Experience Through Previous Year | | | | | | | | | | | | | | | |
| | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 or more |
| Loss Ratio 1/ Through Previous Crop Year | Percentage Adjustment Factor For Current Crop Year | | | | | | | | | | | | | | | |
| .00 – .20 | 100 | 95 | 95 | 90 | 90 | 85 | 80 | 75 | 70 | 70 | 65 | 65 | 60 | 60 | 55 | 50 |
| .21 – .40 | 100 | 100 | 95 | 95 | 90 | 90 | 90 | 85 | 80 | 80 | 75 | 75 | 70 | 70 | 65 | 60 |
| .41 – .60 | 100 | 100 | 95 | 95 | 95 | 95 | 95 | 90 | 90 | 90 | 85 | 85 | 80 | 80 | 75 | 70 |
| .61 – .80 | 100 | 100 | 95 | 95 | 95 | 95 | 95 | 95 | 90 | 90 | 90 | 90 | 85 | 85 | 85 | 80 |
| .81 – 1.09 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 |
| % ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE | | | | | | | | | | | | | | | | |
| | Number of Loss Years Through Previous Year 2/ | | | | | | | | | | | | | | | |
| | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 |
| Loss Ratio 1/ Through Previous Crop Year | Percentage Adjustment Factor For Current Crop Year | | | | | | | | | | | | | | | |
| 1.10 – 1.19 | 100 | 100 | 100 | 102 | 104 | 106 | 108 | 110 | 112 | 114 | 116 | 118 | 120 | 122 | 124 | 126 |
| 1.20 – 1.39 | 100 | 100 | 100 | 104 | 108 | 112 | 116 | 120 | 124 | 128 | 132 | 136 | 140 | 144 | 148 | 152 |
| 1.40 – 1.69 | 100 | 100 | 100 | 108 | 116 | 124 | 132 | 140 | 148 | 156 | 164 | 172 | 180 | 188 | 196 | 204 |
| 1.70 – 1.99 | 100 | 100 | 100 | 112 | 122 | 132 | 142 | 152 | 162 | 172 | 182 | 192 | 202 | 212 | 222 | 232 |
| 2.00 – 2.49 | 100 | 100 | 100 | 116 | 128 | 140 | 152 | 164 | 176 | 188 | 200 | 212 | 224 | 236 | 248 | 260 |
| 2.50 – 3.24 | 100 | 100 | 100 | 120 | 134 | 148 | 162 | 176 | 190 | 204 | 218 | 232 | 246 | 260 | 274 | 288 |
| 3.25 – 3.99 | 100 | 100 | 105 | 124 | 140 | 156 | 172 | 188 | 204 | 220 | 236 | 252 | 268 | 284 | 300 | 300 |
| 4.00 – 4.99 | 100 | 100 | 110 | 128 | 146 | 164 | 182 | 200 | 218 | 236 | 254 | 272 | 290 | 300 | 300 | 300 |
| 5.00 – 5.99 | 100 | 100 | 115 | 132 | 152 | 172 | 192 | 212 | 232 | 252 | 272 | 292 | 300 | 300 | 300 | 300 |
| 6.00 – Up | 100 | 100 | 120 | 136 | 158 | 180 | 202 | 224 | 246 | 268 | 290 | 300 | 300 | 300 | 300 | 300 |

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3410-08-C

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity: *however,* if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid with 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance Period.* Insurance on insured acreage shall attach each crop year on June 1, except that for the first crop year if the application is accepted by the Corporation after that date, insurance shall attach on the later of (a) June 1, or (b) the tenth day after the application is received in the office for the county, and as to any portion of the citrus crop, shall cease upon the earliest of (1) harvest, (2) May 31, or (3) total destruction of the insured citrus crop.

7. *Notice of Damage or Loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county after insured damage to the citrus becomes apparent, giving the date(s) and cause(s) of such damage.

(b) If an indemnity is to be claimed on any unit, notwithstanding any prior notice of damage the insured shall notify the office for the county of the intended date of harvest at least seven days prior to the start of harvest. If (1) damage occurs within the seven-day period prior to the start of or during harvest, notice of damage must be given immediately to the office for the county or (2) if harvest will begin after the calendar date for the end of the insurance period, the insured shall give written notice thereof to the Corporation at the office for the county not later than the calendar date for the end of the insurance period. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(c) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(d) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. *Claim for Indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) furnish production records of all citrus on the unit, (2) establish that any damage to the citrus crop was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed, and (3) furnish any other information regarding the manner and extent of damage as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) computing the average percent of damage to the citrus crop which (without regard to any percent damage arrived at through prior inspections) shall be the ratio of the citrus lost form an insured cause to the potential: *Provided, however.* That any citrus which (i) is harvested prior to an inspection by the Corporation, (ii) is harvested within 7 days after a freeze, (iii) has lost less than 16 percent of its juice, (iv) is on the ground due to insured damage and is picked up and marketed, or (v) is damaged solely by hurricane or tornado but remains on the tree; shall be considered undamaged potential, (2) multiplying the average percent of damage thus obtained in excess of 10 percent (e.g., average damage 45%—10%=35% payable, (3) times the amount of insurance for the unit which shall be the result of the insured acreage on the unit times the applicable amount of insurance per acre, and (4) multiplying this product by the insured share.

(c) Citrus partially damaged by freeze will be determined by the Corporation by sampling representative fruits by a cut method or any other method which establishes the amount of damage from such cause. The "cut method" of determining the percent of damage shall be as follows: A fruit shall be deemed to have lost at least 16 percent of its juice, and shall be considered as damaged, if all segments are dry as shown on a transverse cut across the axis of the stem-blossom ends when the cut is made one-fourth the distance from the stem toward the blossom end. If this cut shows dryness in all segments, another transverse cut shall be made one-half the distance between the stem-blossom ends of the same fruit. If the second cut shows dryness in one-half or less of the segments, the fruit shall be considered 50 percent damaged. If the second cut shows dryness in more than one-half of the segments, the fruit shall be considered totally lost.

(d) Any citrus on the ground which is not picked up and marketed shall be considered totally lost if the damage was due to any insured cause.

(e) Citrus lost due to hurricane or tornado shall be the amount of citrus blown from the trees or which falls from the trees as a result of such damage and which is not picked up from the ground and marketed.

9. *Misrepresentation and Fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. *Transfer of Insured Share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. *Records and Access to Grove.* The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all citrus produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the grove for purposes related to the contract.

12. *Life of Contract: Cancellation and Termination.* (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance on any type of citrus for any crop year by giving a signed notice to the other on or before the May 31 immediately preceding such crop year.

(b) "Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the May 31 immediately preceding such crop year: *Provided,* That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a) and (b) of this section, and section 6 of the Appendix the contract shall continue in force for each succeeding crop year.

**Appendix (Additional Terms and Conditions)**

1. *Meaning of Terms.* For the purposes of Texas citrus crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the premium rates, amounts of insurance, insurable and uninsurable acreage, and related information regarding citrus insurance in the county.

(b) "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way shall be considered contiguous.

(c) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(d) "Crop year" means the period beginning June 1 and extending through May 31 of the

following year and shall be designated by the calendar year in which the insurance period begins.

(e) "Harvest" means any severance of citrus fruit from the tree either by pulling, or severing by mechanical or chemical means or picking up the marketable fruit from the ground.

(f) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(g) "Insured" means the person who submitted the application accepted by the Corporation.

(h) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(i) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(j) "Potential" means the production which would have been produced before damage from an insured cause of loss occurred and shall include citrus which (1) was picked before the insured damage occurred, (2) remained on the trees after the damage occurred, (3) was lost from an insured cause, and (4) was lost from an uninsured cause. The potential for the unit shall not be less than 4 tons of oranges and 5 tons of grapefruit per acre and shall not include citrus lost before insurance attaches for any crop year or citrus lost by normal dropping.

(k) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured citrus crop at the time insurance attaches as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insured period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(l) "Tenant" means a person who rents land from another person for a share of the citrus crop or proceeds therefrom.

(m) "Ton" means 2,000 pounds.

(n) "Type of citrus" means any of the following types of fruit: Type I—Early and midseason oranges; Type II—Late oranges (including Temples); and Type III—Grapefruit.

(o) "Unit" means all insurable acreage in the county of any one of the citrus types referred to in subsection (n) of this section, located on contiguous land, on the date insurance attaches for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the citrus crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county, or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be bona fide share of the insured or any other person having the bona fide share.

2. *Acreage Insured.* (a) The Corporation reserves the right for any crop year (1) to exclude acreage from insurance or limit the amount of insurance on any acreage which was not insured the previous crop year, and (2) to limit the insured acreage of citrus to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the time insurance attaches.

(b) If the insured does not submit a revised acreage report for any crop year in accordance with the provisions of section 3 of the policy, the Corporaton may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. *Annual Premium.* (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the grove operation, or (3) the contract of the same insured who stops operating a grove in one county and starts operating a grove in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however,* any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

4. *Claim for and Payment of Indemnity.* (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured citrus acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided,* That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However,* in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the insurance attaches for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

5. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate actions as may be necessary to secure such rights.

6. *Termination of the Contract.* (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *however,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interrest are insured jointly, death of one of the persons shall dissolve the joint entity.

7. *Amounts of Insurance.* (a) If the insured has not elected on the application an amount of insurance per acre from among those shown on the actuarial table, the amount of insurance per acre which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the amount of insurance per acre for any crop year on or before the closing date for submitting applications for that crop year.

8. *Assignment of Idemnity.* Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

9. *Contract Changes.* The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county by the May 15 immediately preceding the crop year for which the changes are to become effective, and such mailing or filing shall

constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Appendix B—Counties Designated for Texas Citrus Crop Insurance—7 CFR Part 413

In accordance with the provisions of 7 CFR Part 413.1, the following counties are designated for citrus crop insurance:

Texas

Cameron
Hidalgo
Willacy

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A–40.

This action will not have a significant impact specifically on area and community development; therefore, review as required by OMB Circular A–95 is inapplicable.

Approved by the Board of Directors on May 30, 1980.

Dated: September 30, 1980.

**Doris H. Gips,**

*Assistant Secretary, Federal Crop Insurance Corporation.*

Approved by:

**Everett S. Sharp,**

*Acting Manager.*

[FR Doc. 80–31487 Filed 10–8–80; 8:45 am]

BILLING CODE 3410–08–M

---

## Soil Conservation Service

## 7 CFR Part 632

## Rural Abandoned Mine Program

*Correction*

In FR Doc. 80–30554, appearing at page 65180 in the issue of Thursday, October 2, 1980 the third line of the next to last paragraph in column one on page 65181 should read, "users for the reclamation of up to 320 acres".

BILLING CODE 3410–16–M

---

## Agricultural Marketing Service

## 7 CFR Parts 905 and 944

**[Orange, Grapefruit, Tangerine, and Tangelo Reg. 4; Grapefruit Reg. 4]**

## Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida and Imported Grapefruit

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This action establishes minimum grade and size requirements for Florida oranges, grapefruit, tangerines, and tangelos and imported grapefruit. The action is necessary to assure shipment of ample supplies of fruit of acceptable grade and size in the interests of growers and consumers.

**DATES:** Effective October 13, 1980, through October 18, 1981.

**FOR FURTHER INFORMATION CONTACT:** Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

**SUPPLEMENTARY INFORMATION:** This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant." Notice was published in the September 19, 1980, issue of the **Federal Register** (45 FR 62429) that the Department was considering establishment of minimum grade and size regulations, to be effective under the marketing agreement, and Order No. 905, both as amended (7 CFR Part 905). This marketing agreement and order regulate the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). A conforming regulation for imported grapefruit, effective under section 8e of the act, was also being considered. The notice provided that all written comments be submitted by October 6, 1980. None were received.

The minimum grade and size requirements, herein specified, for domestic and export shipments reflect the Department's appraisal of the need for regulation of the designated varieties of Florida oranges, grapefruit, tangerines, and tangelos during the specified period based on the available supply and current and prospective market demand conditions. Such requirements are necessary to establish and maintain orderly marketing, and such action is consistent with the objectives of the act and the interests of producers and consumers.

The regulations with respect to Florida oranges, grapefruit, tangerines, and tangelos are based upon recommendations of the Citrus Administrative Committee established under the marketing order. The committee estimates the 1980–81 season's crop of Florida round oranges at about 188 million boxes, 9 percent less than last season's production. It estimates grapefruit production at about 52 million boxes, five percent lower than the 1979–80 season production, and that the Temple orange, tangerine, and tangelo crops are somewhat smaller than those harvested last season. The committee reports that groves are generally in excellent condition despite the unusually hot and dry summer. The new crop should be of good quality, with minimum disease and wind damage being reported. The shape of the fruit is considered to be generally good and the absence of late bloom should enhance the overall quality of the citrus crop.

The committee's appraisal indicates fresh market demand at 18,000 carlots of round oranges, 4,000 carlots of Temple oranges, 10 carlots of seeded grapefuit, 35,500 carlots of seedless grapefruit, 3,750 carlots of tangelos, and 6,200 carlots of tangerines. Hence, considering the available supply and the reported size and quality of the fruit, more than ample quantities of each of the specified fruits meeting the grade and size requirements will be available to supply such demands.

The minimum grade and size requirements for imported grapefruit would be consistent with Section 8e of the act. This section requires that whenever specified commodities, including grapefruit, are regulated under a federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

After consideration of all matters presented, including the proposals in the aforesaid notice and other available information, it is found that the regulation, as set forth herein, is in accordance with said marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of these regulations until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning the regulations, with an effective date of October 13, 1980, was published in the **Federal Register**, and no objection to the regulations or such effective date was received; (2) the recommendation for regulation was developed at an open meeting at which interested persons were afforded an opportunity to submit their views; and (3) the regulations will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time.

It is found that the provisions of the proposed regulations contained in the Notice of Proposed Rulemaking published in the **Federal Register** on September 19, 1980 (45 FR 62429), shall

be and are the terms and provisions of these regulations, and are set forth in full herein.

Accordingly, it is found that requirements for Florida oranges, grapefruit, tangerines, and tangelos and imported grapefruit are as follows:

**§ 905.304 Orange, grapefruit, tangerine and tangelo regulation 4.**

*Order.* (a) During the period specified in Column (2) of Table I, no handler shall ship between the production area and any point outside thereof in continental United States, Canada, or Mexico, any variety of fruit listed in Column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) hereof) specified for such variety in Columns (3) and (4) of such table.

**Table I**

| Variety | Regulation period | Minimum grade | Minimum diameter (inches) |
|---|---|---|---|
| (1) | (2) | (3) | (4) |
| Oranges: | | | |
| Early and Midseason | 10/13/80–10/18/81 | U.S. No. 1 | 2 9/16 |
| Navel | 10/13/80–10/18/81 | U.S. No. 1 Golden | 2 9/16 |
| Valencia and other late type | 10/13/80–10/18/81 | U.S. No. 1 | 2 9/16 |
| Temple | 10/13/80–10/18/81 | U.S. No. 1 | 2 9/16 |
| Grapefruit: | | | |
| Seeded, except pink | 10/13/80–10/18/81 | U.S. No. 1 | 3 13/16 |
| Seeded, pink | 10/13/80–10/18/81 | U.S. No. 1 | 3 13/16 |
| Seedless, except pink | 10/13/80–10/18/81 | Improved No. 2 | 3 5/16 |
| Seedless, pink | 10/13/80–10/18/81 | Improved No. 2 | 3 5/16 |
| Tangerines | | | |
| Robinson | 10/13/80–10/18/81 | U.S. No. 1 | 2 9/16 |
| Dancy | 10/13/80–10/18/81 | U.S. No. 1 | 2 9/16 |
| Honey | 10/13/80–10/18/81 | Florida No. 1 | 2 1/16 |
| Tangelos: | | | |
| Tangelos | 10/13/80–10/18/81 | U.S. No. 1 | 2 9/16 |

(b) During the period specified in Column (2) of Table II, no handler shall ship to any destination outside the continental United States, other than Canada or Mexico, any variety of fruit listed in Column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) hereof) specified for such variety in Columns (3) and (4) of such table.

**Table II**

| Variety | Regulation period | Minimum grade | Minimum diameter (inches) |
|---|---|---|---|
| (1) | (2) | (3) | (4) |
| Oranges: | | | |
| Early and Midseason | 10/13/80–10/18/81 | U.S. No. 1 | 2 9/16 |
| Navel | 10/13/80–10/18/81 | U.S. No. 1 Golden | 2 9/16 |
| Valencia and other late type | 10/13/80–10/18/81 | U.S. No. 1 | 2 9/16 |
| Temple | 10/13/80–10/18/81 | U.S. No. 1 | 2 9/16 |
| Grapefruit: | | | |
| Seeded, except pink | 10/13/80–10/18/81 | U.S. No. 1 | 3 9/16 |
| Seeded, pink | 10/13/80–10/18/81 | U.S. No. 1 | 3 9/16 |
| Seedless, except pink | 10/13/80–10/18/81 | Improved No. 2 | 3 5/16 |
| Seedless, pink | 10/13/80–10/18/81 | Improved No. 2 | 3 5/16 |
| Tangerines | | | |
| Robinson | 10/13/80–10/18/81 | U.S. No. 1 | 2 9/16 |
| Dancy | 10/13/80–10/18/81 | U.S. No. 1 | 2 9/16 |
| Honey | 10/13/80–10/18/81 | Florida No. 1 | 2 9/16 |
| Tangelos: | | | |
| Tangelos | 10/13/80–10/18/81 | U.S. No. 1 | 2 9/16 |

(c) Size Tolerances: In the determination of minimum size as prescribed in Tables I and II, the following tolerances are permitted (1) for *oranges,* as set forth in § 2851.1152 of the U.S. Standards for Grades of Florida Oranges and Tangelos, except that such tolerances for other than Navel and Temple oranges shall be based only on the oranges in the lot measuring 2 1/16 inches or smaller in diameter, and the tolerances for Honey tangerines shall be as specified in § 2851.1818 of the U.S. Standards for Grades of Florida Tangerines; (2) for *grapefruit,* as specified in § 2851.761 of the U.S. Standards for Grades of Florida Grapefruit; (3) for *tangerines,* as specified in § 2851.1818 of the U.S. Standards for Grades of Florida Tangerines; and (4) for *tangelos,* as set forth in § 2851.1152 of the U.S. Standards for Grades of Florida Oranges and Tangelos.

(d) Terms used in the marketing order, including Improved No. 2 grade for grapefruit, when used herein, mean the same as is given to the terms in the order; Florida No. 1 grade for Honey tangerines means the same as provided in Rule No. 20–35.03 of the Regulations of the Florida Department of Citrus, and terms relating to grade, except Improved No. 2 grade for grapefruit, and diameter shall mean the same as is given to the terms in the U.S. Standards for Grades of Florida Oranges and Tangelos (7 CFR 2851.1140–2851.1180), the U.S. Standards for Florida Tangerines (7 CFR 2851.1810–2851.1835), or the U.S. Standards for Grades of Florida Grapefruit (7 CFR 2851.750–2851.784).

**§ 944.104 Grapefruit Regulation 4.**

(a) *Applicability to imports.* Pursuant to Section 8e of the act and Part 944—Fruits; Import regulations, during the period specified in Column (2) of Table I, in § 905.304, the importation into the United States of any variety of grapefruit listed in Column (1) of said table is prohibited unless such variety meets the applicable minimum grade and size specified for such variety in Columns (3) and (4) of said table. In the determination of minimum size as prescribed in table I, a tolerance is permitted as specified in paragraph (c) of § 905.304.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Quality Division, Food Safety and Quality Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of grapefruit that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official

inspection certificate, issued by the respective service, applicable to the particular shipment of grapefruit, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 2851) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Required Inspection and Certification (7 CFR Part 944).

(c) Notwithstanding any other provisions of this regulation, any importation of grapefruit which, in the aggregate, does not exceed ten standard packed cartons, equivalent to four-fifths (⅘) of a United States bushel of grapefruit, each, or equivalent quantity, may be imported without regard to the requirements specified herein.

(d) No provisions of this section shall supersede the restrictions or prohibitions on grapefruit under the Plant Quarantine Act of 1912.

(e) Nothing contained in this section shall be deemed to preclude any importer from reconditioning, prior to importation, any shipment of grapefruit for the purpose of making it eligible for importation. Any lot of grapefruit or portion thereof which subsequently fails to meet the grade or size requirements specified herein may not be imported. Disposal of such fruit at the port of entry shall be certified by the Federal or Federal-State Inspection Service. Costs of certifying the disposal of rejected grapefruit shall be borne by the importer.

(f) It is determined that imports of grapefruit, during the effective time of this regulation, are in most direct competition with grapefruit grown in the State of Florida. The requirements of this section are the same as those being made effective for grapefruit grown in Florida.

(g) Terms used herein relating to grade, except Improved No. 2 grade, and diameter shall have the same meaning as in the United States Standards for Grades of Florida Grapefruit (7 CFR 2851.750–2851.784). Improved No. 2 shall mean the same as in the marketing agreement and Order No. 905, both as amended (7 CFR Part 905). Importation means release from custody of the United States Customs Service.

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

Dated: October 7, 1980; to become effective October 13, 1980.

**Charles R. Brader,**

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

[FR Doc. 80–31687 Filed 10–8–80; 8:45 am]

BILLING CODE 3410–02–M

---

## 7 CFR Part 1133

## Milk in the Inland Empire Marketing Area; Order Suspending Certain Provisions

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Suspension of rule.

**SUMMARY:** This action suspends certain order provisions relating to how much milk not needed for fluid (bottling) use may be moved directly from farms to manufacturing plants and still be priced under the order. The suspension removes the limit on such movements of milk for September and October 1980. The suspension was requested by a cooperative association to assure the efficient disposition of milk not needed for fluid use and still maintain producer status under the order for its dairy farmer members regularly associated with the market.

**EFFECTIVE DATE:** October 9, 1980.

**FOR FURTHER INFORMATION CONTACT:** Maurice M. Martin, Marketing Specialist, Dairy Division, United States Department of Agriculture, Washington, D.C. 20250 (202–447–7183).

**SUPPLEMENTARY INFORMATION:** Prior document in this proceeding: Notice of Proposed Suspension: Issued September 16, 1980; published September 19, 1980 (45 FR 62431).

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Inland Empire Marketing area.

Notice of proposed rulemaking was published in the **Federal Register** (45 FR 62431) concerning a proposed suspension of certain provisions of the order. Interested persons had an opportunity to comment in writing on the proposed suspension. The proponent of the suspension and two producers filed comments concerning the suspension. The comments of the proponent and one of the two producers supported the suspension. The other producer opposed the suspension.

After considering all relevant material, including the proposal in the notice, the comments received and other available information, it is hereby found and determined that for the months of September and October 1980 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1133.13(c) (1) and (2), the words "70 percent in any of the months of September through February, and".

**Statement of Consideration**

This action removes the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants during the months of September and October 1980. The order now provides that a cooperative association may divert up to 70 percent of its total member milk received at all pool plants or diverted therefrom during the months of September through February and 80 percent during all other months. Similarly, the operator of a pool plant may divert up to 70 percent of its receipts of producer milk (for which the operator of such plant is the handler during the month) during the months of September through February and 80 percent during all other months.

The suspension was requested by a cooperative association that supplies the market with a substantial part of its fluid needs and handles much of the market's reserve milk supplies. The basis for the request is that current marketing conditions require the proponent cooperative to handle an increasing quantity of reserve milk supplies during September and October 1980 because of the substantial increase in milk production by its member producers regularly associated with the market. It indicated that this situation is aggravated by the fact that in recent months Class I sales in the market have remained about the same.

The cooperative states that its reserve milk supplies are customarily moved directly from member farms to nonpool manufacturing plants. However, because of current marketing conditions, the cooperative expects its reserve milk supplies during September and October 1980 to exceed the quantity of producer milk that may be diverted to nonpool manufacturing plants under the order's present diversion limitations. Without the suspension, the cooperative indicated that some of the milk of its member producers who have regularly supplied the fluid market would have to be moved uneconomically, first to pool plants and then to nonpool manufacturing plants, in order to still maintain producer status for such milk during September and October 1980.

On the basis of the data, views and arguments filed, it is concluded that reserve milk supplies in this market during September and October 1980 are expected to exceed the quantity of milk that could be diverted to nonpool manufacturing plants under the present diversion limitations and still maintain producer milk status. Accordingly, the suspension is necessary because it will facilitate the efficient disposition of reserve milk supplies and thus avoid the need for the cooperative to make uneconomic movements of milk for the purpose of maintaining pool status for its member producers involved.

Oppositions to the proposed suspension was limited to the comments filed by a single producer. The producer opposed the suspension on the basis that it would help the proponent cooperative "to gain control of the fluid milk in the Inland Empire" market. No explanation of this contention was provided. Thus, there is no basis for judging whether the point is relevant to the requested suspension.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that the most efficient method of handling reserve milk supplies is by direct movement from producers' farms to manufacturing outlets. This suspension allows such economical movement of milk while the dairy farmers involved retain producer status;

(b) This suspension does not require of persons affected substantial or extensive preparations prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

It is therefore ordered, that the aforesaid provisions of the order are hereby suspended for September and October 1980.

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

Effective date: October, 9, 1980.

Signed at Washington, D. C., on: October 6, 1980.

**P. R. "Bobby" Smith,**

*Assistant Secretary for Marketing and Transportation Services.*

[FR Doc. 80-31501 Filed 10-8-80; 8:45 am]

BILLING CODE 3410-02-M

## Animal and Plant Health Inspection Service

## 9 CFR Part 82

## Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Areas Quarantined

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The purpose of these amendments is to quarantine a portion of Kane County in Illinois, a portion of Atlanta County in Georgia, a portion of Lancaster County in Nebraska, and a portion of Klamath County in Oregon because of the existence of exotic Newcastle disease. Exotic Newcastle disease was confirmed in such portion of Kane County, Illinois, on September 29, 1980; Atlanta County, Georgia, on September 27, 1980; Lancaster County, Nebraska, on September 27, 1980; and Klamath County, Oregon, on September 27, 1980. Therefore, in order to prevent the dissemination of exotic Newcastle disease it is necessary to quarantine the affected areas. Further surveillance activity indicates that exotic Newcastle disease no longer exists in a portion of Broward County in Florida.

**EFFECTIVE DATE:** October 3, 1980.

**FOR FURTHER INFORMATION CONTACT:**

C. G. Mason, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, 6505 Belcrest Road, Federal Building, Room 751, Hyattsville, MD 20782, 301–436–8073.

**SUPPLEMENTARY INFORMATION:** These amendments quarantine a portion of Kane County in Illinois, a portion of Atlanta County in Georgia, a portion of Lancaster County in Nebraska, and a portion of Klamath County in Oregon because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psttacine birds, and birds of all other species under any form of confinement and their carcasses, and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined areas.

These amendments also release a portion of Broward County in Florida from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the released area.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

**§ 82.3 [Amended]**

1. In § 82.3(a)(1) relating to the State of Florida, paragraph (ii) relating to the premises of Bill's Bird Boutique, 4122 SW 64th Avenue, Davie, Broward County is deleted.

2. § 82.3(a)(7) relating to the State of Illinois, a new paragraph (ii) relating to Kane County is added to read:

(a) * * *

(7) *Illinois.*

* * * * *

(ii) the premises of Zoological Enterprises, Inc., 135 N. 11th Street, Saint Charles, Kane County.

3. In § 82.3, the introductory portion of paragraph (a) is amended by adding thereto the name of the State of Georgia and a new paragraph (15) relating to the State of Georgia is added to read:

(a) * * *

* * * * *

(15) *Georgia.* The premises of Cady Management, Inc., 3880 Oakcliff Industrial Court, Doraville, Atlanta County.

4. § 82.3, the introductory portion of paragraph (a) is amended by adding thereto the name of the State of Nebraska and a new paragraph (a)(16) relating to the State of Nebraska is added to read:

(a) * * *

* * * * *

(16) *Nebraska.* The premises of Pet Ark, 3860 South Street, Lincoln, Lancaster County.

5. In § 82.3, the introductory portion of paragraph (a) is amended by adding thereto the name of the State of Oregon and a new paragraph (a)(17) relating to the State of Oregon is added to read:

(a) * * *

* * * * *

(17) *Oregon.* The premises of White Whale Pet Shop, 2848 C. Jefferson Mall, Klamath Falls, Klamath County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

These amendments impose certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish their purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

The amendment releasing the quarantined area relieve certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease. It should be made effective immediately in order to permit affected persons to move poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles interstate from such area without unnecessary restrictions. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. C. Jefferies, Acting Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for prior public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 3rd day of October 1980.

**R. P. Jones,**

*Acting Deputy Administrator, Veterinary Services.*

[FR Doc. 80-31439 Filed 10-8-80; 8:45 am]

BILLING CODE 3410-34-M

---

**9 CFR Part 82**

## Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Areas Quarantined

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The purpose of these amendments is to quarantine a portion of Dade County, portions of Broward County, and a portion of Palm Beach County in Florida, a portion of Harris County in Texas, and a portion of Kansas City County in Missouri because of the existence of exotic Newcastle disease. Exotic Newcastle disease was confirmed in such portion of Dade County, Florida, on September 14, 1980; portions of Broward County, Florida, on September 13, 1980 and September 16, 1980; a portion of Palm Beach County, Florida, on September 25, 1980; a portion of Harris County, Texas, on September 29, 1980; and a portion of Kansas City County, Missouri, on September 30, 1980. Therefore, in order to prevent the dissemination of exotic Newcastle disease it is necessary to quarantine the affected areas. Further surveillance activity indicates that exotic Newcastle disease no longer exists in a portion of Dade County, Florida.

**EFFECTIVE DATE:** October 3, 1980.

**FOR FURTHER INFORMATION CONTACT:** C. G. Mason, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, 6505 Belcrest Road, Federal Building, Room 751, Hyattsville, MD 20782, 301–436–8073.

**SUPPLEMENTARY INFORMATION:** These amendments quarantine a portion of Dade County in Florida, portions of Broward County in Florida, a portion of Palm Beach County in Florida, a portion of Harris County in Texas, and a portion of Kansas City County in Missouri because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement and their carcasses, and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined areas.

These amendments also release a portion of Dade County in Florida from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the released area.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

**§ 82.3 [Amended]**

1. In § 82.3(a)(1) relating to the State of Florida, paragraph (iii) relating to the premises of South Florida Bird Farm, 4444 S.W. 14th Avenue, Miami, Dade County is deleted.

2. In § 82.3(a)(1) relating to the State of Florida, new paragraphs (v) relating to Dade County, (vi) relating to Broward County, (vii) relating to Broward County, and (viii) relating to Palm Beach County are added to read:

(a) * * *

(1) *Florida.*

* * * * *

(v) The premises of Fernwood Gardens, (Robert Wiener), 7800 S.W. 117th Avenue, Miami, Dade County.

(vi) The premises of House of Hamsters 282 N.W. 2nd Street, Deerfield Beach, Broward County.

(vii) The premises of Shawn Cadwallader, 704 N. Crescent Drive, Hollywood, Broward County.

(viii) The premises of Ed Lundgren, 888 Auleria Street, Boca Raton, Palm Beach County.

3. In § 82.3(a)(3) relating to the State of Texas, a new paragraph (iv) relating to Harris County is added to read:

(a) * * *

(1) *Texas.*

* * * * *

(iv) The premises of Phillip Baker, D/B/A Clay Pot Nursery, 203 and 207 Wahl Street, Crosby, Harris County.

4. In § 82.3(a)(4) relating to the State of Missouri, a new paragraph (iii) relating to Kansas City County is added to read:

(a) * * *

(4) *Missouri.*

* * * * *

(iii) The premises of Wild Woody Decorators (Richard Spaeth), 10003 East 6th Street, Raytown, Kansas City County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

These amendments impose certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish their purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

The amendment releasing the quarantined area relieve certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease. It should me made effective immediately in order to permit affected persons to move poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles interstate from such area without unnecessary restrictions. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by J. C. Jefferies, Acting Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for prior public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 3rd day of October 1980.

**R. P. Jones,**

*Acting Deputy Administrator, Veterinary Services.*

[FR Doc. 80-31440 Filed 10-8-80; 8:45 am]

**BILLING CODE 3410-34-M**

---

**9 CFR Part 82**

**Exotic Newcastle Disease**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This document amends the regulations to specify Veterinary Services policy and procedures in cooperative programs concerning the eradication of velogenic viscerotrophic Newcastle disease (exotic Newcastle disease) from populations of birds including poultry. This action is necessary to clarify the procedures used for the control and eradication of exotic Newcastle disease.

**DATES:** Effective date: October 9, 1980.

Comments must be received on or before: December 8, 1980.

**ADDRESS:** Written comments to Deputy Administrator, USDA, APHIS, VS, Room 748, Federal Building, Hyattsville, MD 20782.

**FOR FURTHER INFORMATION CONTACT:** Dr. C. G. Mason, APHIS, Emergency Programs, Room 748, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8065. This final action has been reviewed under procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant." The emergency nature of this action warrants publication of this final action without completion of a Final Impact Statement. A Final Impact Statement will be developed after public comments have been received.

**SUPPLEMENTARY INFORMATION:** Dr. G. J. Fichtner, Acting Assistant Deputy Administrator, Animal Health Programs, Veterinary Services, Animal and Plant Health Inspection Service, has determined that an emergency situation exists which warrants publication

without opportunity for a public comment period on this action because the Department is not able to predict when an outbreak of exotic Newcastle disease may occur in the United States and must be prepared to apply the policy and procedures contained in this document immediately.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Domestic poultry in the United States are currently not known to be infected with exotic Newcastle disease virus. However, on several occasions, exotic Newcastle disease had entered the United States in birds and subsequently spread to poultry. One such outbreak in southern California in 1972 cost $56 million to eradicate; therefore, the policy of the Department is to control and eradicate all outbreaks of exotic Newcastle disease in birds and poultry.

The disease has entered this country on 14 other occasions since 1972. The Regional Emergency Animal Disease Eradication Organization (READEO), a group of trained disease eradication and control experts from Veterinary Services, USDA, State cooperators and other Federal agencies, was activated on most of those notices of entry. The READEO is under the direction, locally, of the task force director. The task force director during emergency disease outbreaks is the Assistant Regional Director of Veterinary Services, USDA, or a person designated by the Regional Director, for that region where the disease is diagnosed.

The Secretary of Agriculture, pursuant to the provisions of section 1 of the Act of March 3, 1905, as amended (21 U.S.C. 123), is authorized to quarantine any State or Territory, or the District of Columbia, or any portion thereof when he determines that any animals and/or live poultry in such State or Territory or the District of Columbia are affected with any contagious, infectious, or communicable disease of livestock or poultry or that the contagion of any such disease exists or that vectors which may disseminate any such disease exist in such State or Territory or the District of Columbia. Further, the Secretary of Agriculture, pursuant to the provisions of sections 3 and 11 of the Act of May 29, 1884, as amended (21 U.S.C. 114 and 114a, respectively), is authorized to cooperate with the States or political subdivisions thereof to control and eradicate any communicable disease of livestock or poultry, including the payment of claims growing out of the destruction of animals (including poultry) and materials affected by or exposed to any such disease.

The Department in reliance on these various authorities, has promulgated regulations (9 CFR Parts 53 and 82) regarding the imposition of Federal quarantines and the payment of indemnities for animals and materials destroyed because of the existence of exotic Newcastle disease.

The primary means of eradicating exotic Newcastle disease is through epidemiological evaluation and testing of birds located on a premises which has been placed under quarantine. When exotic Newcastle disease virus is isolated by means of diagnostic tests from one or more birds in a group, or determined on the basis of epidemiological or clinical evidence to be infected with exotic Newcastle disease, the entire group is classified as an infected group. In order to remove any Federal quarantine on an infected group of birds, such birds must be destroyed, buried, incinerated or otherwise properly disposed of as the Deputy Administrator of Veterinary Services may direct. This is necessary to insure that the virus is not spread by the birds. The owner of any birds which are destroyed is eligible for indemnity payments in accordance with Title 9, Code of Federal Regulations, Part 53.

Movement of birds, personnel, feed, supplies and other material from an infected group to other groups of birds (which are classified as exposed groups) is the most frequent means of spreading exotic Newcastle disease virus. The disease can also be spread by movement of birds or material from such an exposed group of birds to another group of birds also classified as an exposed group. The birds in such groups have the potential to spread the disease and, therefore, because of similar disease risk, the groups are both labeled as exposed groups; the birds or material are vectors which may disseminate the disease. When such movements occur, the premises to which such birds have been moved may be quarantined pursuant to 21 U.S.C. 123. In order to remove the quarantine, the birds on the quarantined premises are evaluated epidemiologically and/or sampled and tested. If any of the birds in the exposed group are determined by the Director of the Task Force, either through clinical or epidemiological evidence or through diagnostic tests, to be infected with exotic Newcastle disease virus, the group is redesignated as an infected group and handled in the manner specified above for an infected group.

Exotic Newcastle disease (velogenic viscerotropic Newcastle disease is an infectious and contagious virus disease affecting all species of poultry and birds. In poultry, the clinical evidence of the disease is severe respiratory distress, depression, and death up to 100 percent of the poultry in infected flocks. Post mortem lesions include hemorrhage and ulceration in the viscera and edema of the head and neck. Many birds, particularly of the psittacine families may survive the acute infection. However, they still may shed the virus. Survivors may exhibit central nervous system manifestations (twisted neck, leg or wing paralysis, convulsions, spasms.)

Certain families of birds, other than poultry, are known to be nonclinical carriers of the virus for several months, thereby posing increased hazard of further spread of the disease.

Epidemiology is a scientific method used by trained veterinarians and scientists to evaluate whether or not a disease is present. It involves weighing various factors and it is an essential aspect in establishing a diagnosis.

Epidemiology is considered to be the history and study of a disease and the effect of the disease on the population which may be affected by the disease.

Some of the factors to be considered in making the epidemiological determination include the following:

1. Clinical evidence and/or postmortem lesions compatible with the disease,

2. Evidence of death losses and rapid spread of the disease within a population,

3. The isolation of a Newcastle disease virus not yet characterized as exotic Newcastle disease virus,

4. The number and percentage of birds which move from a known infected premises to the group of birds being evaluated, and

5. The numbers and proximity of populations of other avian species, the probability of rapid spread of the virus and the possibility of spread of the virus to these other avian populations if depopulation is delayed.

If exotic Newcastle disease is determined epidemiologically to be present in an exposed group of poultry

or birds, the group is classified as infected.

Laboratory tests for exotic Newcastle disease involve the collection of cloacal and/or tracheal swabs and sera from the poultry or birds being evaluated. These swabs, along with tissues taken from dead birds, are sent to an approved diagnostic laboratory for isolation of the virus and/or the determination of antibodies against exotic Newcastle disease.

Virus isolation is accomplished by growth in embryonated chicken eggs and identification of the virus through selective laboratory procedures.

Protocol for the standard tests used in virus isolation and determining the presence of antibodies can be found in the "Recommended Uniform Diagnostic Procedures," published by the Committee of the American Association of Veterinary Laboratory Diagnosticians. Copies may be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782.

Both State and Federal personnel have been trained as poultry disease diagnosticians and epidemiologists. These persons assist in the investigations, diagnosis and epidemiology of exotic Newcastle disease outbreaks to determine infected and/or exposed groups.

Epidemiological evaluation of exposed groups determined to be infected are made in consultation with the local trained personnel of the task force and Emergency Programs Staff. While ultimately, the Director of the Task Force is responsible for making a final determination concerning a particular group of birds or poultry, this decision is based on the consultation and opinions of trained disease diagnosticians and epidemiologists.

When endangered species of birds are involved as being in an exotic Newcastle disease-infected group, the Department of the Interior will be consulted before disposition is made. Special provision is made for endangered species in the Department's attempt to comply with disease control procedures and effectuate as much as possible the requirements of § 7 of the Endangered Species Act, as amended, (16 U.S.C. 1538), in the operation of this program.

The Department intends by these procedures to provide protection to the poultry and bird industries with minimal disruption to owners, producers, dealers and other aviculturists.

In order to clarify and identify the positions delegated the responsibilty for the determination of the disease status of groups of birds and the procedures involved, definitions are provided for "Infected group," "exposed group," "Veterinarian in Charge," "State Animal Health Official," "Director of the Task Force," "Deputy Administrator," "Birds" and "Task Force."

Further, certain minor non-substantive editorial changes have been made for the purposes of clarifying the regulations.

Accordingly, Part 82, Title 9, Code of Federal Regulations is amended in the following respects:

1. The heading of Part 82 is amended to read:

## PART 82—EXOTIC NEWCASTLE DISEASE IN ALL BIRDS AND POULTRY; PSITTACOSIS AND ORNITHOSIS IN POULTRY

2. In § 82.1, paragraph (a) is amended by adding new subparagraphs (1) (i) and (ii), and new paragraphs (k), (l), (m), (n), (o) and (p).

### § 82.1 Definitions.

* * * * *

(a)(1) * * *

(i) *Infected group.* A flock or group of birds or poultry, determined by the Director of the Task Force, in his judgment, as being infected with exotic Newcastle disease on the basis of clinical evidence,[1] epidemiological evidence,[2] or diagnostic tests.[3]

(ii) *Exposed group.* A flock or group of birds or poultry which, through the movement of poultry, birds, personnel, feed or other vectors has been determined by a Federal or State Inspector to have had contact, directly or indirectly, with an exotic Newcastle disease infected flock or group, or to have the potential to spread the disease.

* * * * *

(k) *State animal health official.* The animal health official of a State responsible for livestock and poultry disease control and eradication programs.

(l) *Veterinarian in charge.* The veterinary official of Veterinary Services who is delegated by the Deputy Administrator, to supervise and perform the official animal health work of the Animal and Plant Health Inspection Service in the State concerned.

(m) *Director of the task force.* The veterinary official of Veterinary Services who is delegated by the Deputy Administrator to supervise and perform the disease control and eradication work of the task force.

(n) *Deputy Administrator.* The Deputy Administrator, Veterinary Services, or any other official to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

(o) *Bird.* Any member of the class aves other than poultry.

(p) *Task Force.* Special force of Federal and State personnel designated by the Deputy Administrator to control and eradicate exotic diseases from the United States.

3. In § 82.2, the first sentence in paragraph (a), up to the first comma, is amended to read:

### § 82.2 General restrictions.

(a) Notice is hereby given that poultry, psittacine and mynah birds, and birds of all other species are susceptible to Exotic Newcastle Disease and that the Administrator has determined that, * * *

4. Section 82.3 is amended by revising its heading, by redesignating paragraph (a) as paragraph (c) and adding new paragraphs (a) and (b) to read:

### § 82.3 Imposition and removal of quarantine.

(a) *Infected group.* (1) Any premises on which an infected group exists shall be quarantined.

(2) *Removal of quarantine.* In order for the premises to be released from a quarantine imposed under paragraph (a)(1) of this section, the following conditions must be satisfied:

(i) All poultry or birds on the quarantined premises must be destroyed, buried, incinerated, or otherwise properly disposed of as the Deputy Administrator may direct to prevent the spread of communicable diseases of poultry. When an infected group includes endangered species of birds, as determined by the U.S. Department of the Interior, the U.S. Department of the Interior will be consulted on final disposition.

(ii) Vehicles, premises and accessories determined by Federal or State inspectors to have come in contact with an infected group shall be cleaned and disinfected in accordance with § 71.7 of this subpart. Any such items which are not suitable for disinfection shall be destroyed.

---

[1] Clinical evidence—symptoms, post mortem lesions and history of the disease occurrence.

[2] Epidemiological evidence—evaluation of clinical evidence and the degree of risk posed by the potential spread of infection based on population and exposure factors.

[3] Protocol for such diagnostic tests can be found in the "Recommended Uniform Diagnostic Procedures," published by the Committee of the American Association of Veterinary Laboratory Diagnosticians. Copies of the test protocols may be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782.

(3) Repopulation of the premises with birds or poultry shall not occur until after the premises and surrounding areas have been evaluated by the Veterinarian in Charge or State animal health official or Director of the task force and is found to be free from the disease.

(b) *Exposed group.* (1) Any premises on which an exposed group exists shall be quarantined.

(2) Should any bird in an exposed group be determined by the Director of the Task Force, in his judgment based upon clinical [1] or epidemiological evidence [2] or diagnostic tests [3] to be infected with exotic Newcastle disease, that group shall be declared an infected group and shall thereafter be handled as required for an infected group in this part.

(3) For premises to be released from quarantine imposed under paragraph (b)(1) of this section, the exposed group must be determined by the Director of the Task Force, in his judgment, through clinical [1] and epidemiological evidence [2] and diagnostic tests [3] to be free from exotic Newcastle disease; *Provided,* That the Director of the Task Force may determine diagnostic tests are not necessary if sufficient clinical and epidemiological evidence exists to make such a determination of freedom from exotic Newcastle disease.

**§ 82.4 [Amended]**

5. In § 82.4, the first paragraph is amended to read:

No poultry or birds, eggs, poultry carcasses, or parts thereof, or manure from poultry or birds, or litter, coops, containers, or other accessories used in the handling of poultry or birds in any quarantined area shall be moved interstate from such area, except as provided in this section:

* * * * *

6. In § 82.4, the first sentence of paragraph (d) is amended by adding the term "or bird" after the word poultry.

7. In § 82.4, the first sentence of paragraph (e) is amended by deleting the word "is" after "poultry", and by inserting in its place "or birds are."

8. In § 82.4, present footnotes 1, 2, 3, are redesignated 4, 5, and 6, respectively.

**§ 82.5 [Amended]**

9. In § 82.5(a), the first sentence is amended by adding the term "or birds" after the word "poultry."

10. In § 82.5(a), the second proviso is amended by deleting the word "is" after "poultry," and by inserting in its place "or birds are."

(Sec. 4–7, 23 Stat. 32, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 114, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 748, Hyattsville, MD during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 6th day of October 1980.

**Pierre A. Chaloux,**

*Deputy Administrator, Veterinary Services.*

[FR Doc. 80-31532 Filed 10-8-80; 8:45 am]

**BILLING CODE 3410-34-M**

## FEDERAL RESERVE SYSTEM

## 12 CFR Part 201

## Extensions of Credit by Federal Reserve Banks; Changes in Discount Rates

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board of Governors has amended its Regulation A, "Extensions of Credit By Federal Reserve Banks," for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country.

**EFFECTIVE DATE:** The changes were effective on the dates specified below.

**FOR FURTHER INFORMATION CONTACT:** Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452–3257).

**SUPPLEMENTARY INFORMATION:**

Pursuant to the authority of 5 U.S.C. Sec. 553(b)(3)(B) and (d)(3), these amendments are being published without prior general notice of proposed rulemaking, public participation, or deferred effective date. The Board has for good cause found that current economic and financial considerations required that these amendments must be adopted immediately.

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), Part 201 is amended as set forth below:

1. Section 201.51 is revised to read as follows:

**§ 201.51 Short term adjustment credit for depository institutions.**

The rates for short term adjustment credit provided to depository institutions under § 201.3(a) of Regulation A are:

| Federal Reserve Bank of | Rate | Effective |
|---|---|---|
| Boston | 11 | Sept. 26, 1980. |
| New York | 11 | Sept. 26, 1980. |
| Philadelphia | 11 | Sept. 26, 1980. |
| Cleveland | 11 | Sept. 26, 1980. |
| Richmond | 11 | Sept. 26, 1980. |
| Atlanta | 11 | Sept. 26, 1980. |
| Chicago | 11 | Sept. 26, 1980. |
| St. Louis | 11 | Sept. 26, 1980. |
| Minneapolis | 11 | Sept. 26, 1980. |
| Kansas City | 11 | Sept. 26, 1980. |
| Dallas | 11 | Sept. 26, 1980. |
| San Francisco | 11 | Sept. 26, 1980. |

2. Section 201.52 is revised to read as follows:

**§ 201.52 Extended credit to depository institutions.**

(a) The rates for seasonal credit extended to depository institutions under § 201.3(b)(1) of Regulation A are:

| Federal Reserve Bank of | Rate | Effective |
|---|---|---|
| Boston | 11 | Sept. 26, 1980. |
| New York | 11 | Sept. 26, 1980. |
| Philadelphia | 11 | Sept. 26, 1980. |
| Cleveland | 11 | Sept. 26, 1980. |
| Richmond | 11 | Sept. 26, 1980. |
| Atlanta | 11 | Sept. 26, 1980. |
| Chicago | 11 | Sept. 26, 1980. |
| St. Louis | 11 | Sept. 26, 1980. |
| Minneapolis | 11 | Sept. 26, 1980. |

| Federal Reserve Bank of | Rate | Effective |
|---|---|---|
| Kansas City | 11 | Sept. 26, 1980. |
| Dallas | 11 | Sept. 26, 1980. |
| San Francisco | 11 | Sept. 26, 1980. |

(b) The rates for other extended credit provided to depository institutions where there are exceptional circumstances or practices involving a particular institution under § 201.3(b)(2) of Regulation A are:

| Federal Reserve Bank of | Rate | Effective |
|---|---|---|
| Boston | 12 | Sept. 26, 1980. |
| New York | 12 | Sept. 26, 1980. |
| Philadelphia | 12 | Sept. 26, 1980. |
| Cleveland | 12 | Sept. 26, 1980. |
| Richmond | 12 | Sept. 26, 1980. |
| Atlanta | 12 | Sept. 26, 1980. |
| Chicago | 12 | Sept. 26, 1980. |
| St. Louis | 12 | Sept. 26, 1980. |
| Minneapolis | 12 | Sept. 26, 1980. |
| Kansas City | 12 | Sept. 26, 1980. |
| Dallas | 12 | Sept. 26, 1980. |
| San Francisco | 12 | Sept. 26, 1980. |

3. Section 201.53 is revised to read as follows:

**§ 201.53 Emergency credit for other than depository institutions.**

The rates for emergency credit to individuals, partnerships, or corporations other than depository institutions under § 201.3(c) of Regulation A are:

| Federal Reserve Bank of | Rate | Effective |
|---|---|---|
| Boston | 14 | Sept. 26, 1980. |
| New York | 14 | Sept. 26, 1980. |
| Philadelphia | 14 | Sept. 26, 1980. |
| Cleveland | 14 | Sept. 26, 1980. |
| Richmond | 14 | Sept. 26, 1980. |
| Atlanta | 14 | Sept. 26, 1980. |
| Chicago | 14 | Sept. 26, 1980. |
| St. Louis | 14 | Sept. 26, 1980. |
| Minneapolis | 14 | Sept. 26, 1980. |
| Kansas City | 14 | Sept. 26, 1980. |
| Dallas | 14 | Sept. 26, 1980. |
| San Francisco | 14 | Sept. 26, 1980. |

(12 U.S.C. 248 (i). Interprets or applies 12 U.S.C. 357)

By order of the Board of Governors, September 30, 1980.

**Griffith L. Garwood,**

*Deputy Secretary of the Board.*

[FR Doc. 80-31465 Filed 10-8-80; 8:45 am]

BILLING CODE 6210-01-M

**[Regulation K; Docket No. R-0258]**

## 12 CFR Part 211

## International Banking Operations; Interstate Banking Restrictions for Foreign Banks

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The International Banking Act of 1978 limits the expansion of the interstate domestic deposit-taking capabilities of foreign banks by restricting the establishment of branches and the acquisition of interests in banks by a foreign bank outside of its "home State." The Board has adopted amendments to Regulation K (International Banking Operations) to implement these provisions of the International Banking Act.

**EFFECTIVE DATE:** October 2, 1980.

**FOR FURTHER INFORMATION CONTACT:** C. Keefe Hurley, Jr., Senior Counsel (202/452-3269), or James S. Keller, Senior Attorney (202/452-3582), Legal Division, Board of Governors of the Federal Reserve System.

**SUPPLEMENTARY INFORMATION:** Section 5(a) of the International Banking Act of 1978 (12 U.S.C. 3101 *et seq.*) ("IBA") provides that, with the exception of grandfathered offices, no foreign bank may directly or indirectly establish and operate either a Federal or a State branch outside its "home State" unless the foreign bank enters into an agreement or undertaking with the Board to accept only such deposits at the out-of-home State branch as would be permissible for an Edge Corporation. Under the Edge Act (12 U.S.C. 611 *et seq.*), Edge Corporations may only receive deposits in the U.S. as may be "incidental to or for the purpose of carrying out transactions in foreign countries or dependencies or insular possessions of the United States." In addition to the requirement of an agreement to restrict deposit-taking, a *Federal* branch or agency may be established or operated outside a foreign bank's home State only if the operation of such an office is expressly permitted by the receiving State, while a *State* branch, agency or commercial lending company may be established outside a foreign bank's home State only if it is approved by the bank regulatory authority of the receiving State. A foreign bank is also prohibited from acquiring directly or indirectly an interest in a bank located outside of the foreign bank's home State if the acquisition would be prohibited under section 3(d) of the Bank Holding Company Act ("BHCA") if the foreign bank were a bank holding company whose State of principal banking operations was the foreign bank's home State.

Subsection 5(b) grandfathers for purposes of the interstate banking restrictions, any branch, agency, subsidiary bank or commercial lending company subsidiary that commenced operation or for which an application to commence business had been filed on or before July 27, 1978. Subsection 5(c) provides that the home State of a foreign bank that has any combination of branches, agencies, subsidiary lending companies, or subsidiary banks, in more than one State, is whichever State is chosen by the foreign bank (or by the Board in the event the foreign bank does not make a choice).

On October 30, 1979, the Board requested public comment on proposed amendments to Regulation K to implement the provisions of section 5 of the IBA (44 Fed. Reg. 62,902). The period for public comment ended on February 3, 1980. After consideration of the 32 comments received, including those on behalf of the Institute of Foreign Bankers whose membership includes more than 170 U.S. offices and

subsidiaries of foreign banks from 42 countries, the Board adopted the amendments to Regulation K substantially in the form proposed. However, certain modifications were made, as discussed below, relating to out-of-home State mergers and the attribution of home State. In addition certain technical changes were made in order to clarify the regulations.

*Selection of home State.* The Board proposed that a foreign bank with more than one office as of the grandfather date, one of which accepts domestic deposits, be required to select a home State within 90 days after the Board's regulations on this matter become final. In the event a foreign bank failed to select a home State, the Board proposed to exercise its authority to determine on the basis of total deposits as of the latest report of condition a foreign bank's home State.

The Board's final regulation with respect to selection of home State is the same as that originally proposed by the Board except for a modification allowing a foreign bank to file its declaration within 180 days, rather than 90 days, of the regulation's effective date, i.e., by March 31, 1981.

*Change of home State.* No provision in the IBA explicitly allows a foreign bank to change its home State. Nevertheless, it is clear from the legislative history of this section that Congress intended that the Board provide by regulation "a suitable procedure for registering with the Federal Reserve the home State and for changing it." The Board recognized that the ability of a foreign bank to change its home State could, if unrestricted, afford a foreign bank a significant advantage over a domestic bank. A domestic bank is, for the most part, restricted to operating in the State in which it is organized and, depending upon State law, may be restricted to a particular city or county. In order to afford a foreign bank some flexibility in its operations without causing undue competitive imbalance, the Board proposed that a foreign bank be permitted to change its home State only *once*, and that such a change in home State be conditioned upon the foreign bank: (1) either closing branches opened in reliance on its original home State designation, converting the branches to agencies or entering into an agreement with the Board regarding deposit-taking activities of such branches as prescribed in section 5(a) of the IBA, and (2) divesting any interests acquired in banks in reliance upon its original home State designation. This procedure was intended to be self-implementing in that it would require notification to the Board but no Board action (unless divestiture should require a control determination under section 2(g)(3) of the BHCA).

A number of commenters contended that the Board's proposal was too restrictive and that there should be no limit upon the number of times that a foreign bank could change its home State. The Board did consider an alternative proposal that would have allowed a foreign bank to change its home State an unlimited number of times but would have required that both grandfathered an non-grandfathered deposit-taking offices in its previous home State be relinquished in order that the number of States in which the foreign bank engaged in deposit taking activities not be increased. The Board, however, concluded that its proposed provision for change of home State affords foreign banks the degree of flexibility contemplated by the legislative history of the IBA and at the same time preserves the IBA's concepts of grandfathering and competitive balance between foreign and domestic banks. Accordingly, the Board adopted its proposed provision for change of home State. However, the Board noted, in its September 17, 1980 report to Congress on implementation of the IBA required by section 7(d) of that Act, that Congress might wish to reconsider section 5 in the light of the issues raised by the Board in its report and make any changes in that section Congress feels are necessary.

*Out-of-home State mergers.* Under section 5(a) of the IBA and section 3(d) of the BHCA, a foreign bank with a subsidiary bank in one State (State X) and a branch or agency in another State (State Y) that declares State Y as its home State is prohibited from: (1) acquiring more than 5 per cent of the shares of an additional bank in State Y (by the provisions of section 3(d) of the BHCA); or (2) acquiring more than 5 per cent of the shares of an additional bank in State X (by the provisions of Section 5(a)(5) of the IBA). The Board is concerned that a foreign bank in this situation that selects Y as its home State might be able to acquire an additional bank *by merger* in State X and at the same time continue to expand its deposit-taking capabilities in State Y by further branching.

The ability of a foreign bank to continue to expand its deposit-taking capabilities significantly in more than one State through mergers appears to contravene the intent of section 5. Accordingly, the Board proposed that a foreign bank with a subsidiary bank (or banks) and branches located in different States that chooses as its home State a State other than that in which a subsidiary bank is located be required to give the Board 60 days' notice prior to acquiring all or substantially all of the assets of a bank outside its home State. The Board would then make a determination whether the foreign bank should be required to show cause why its home State should not be changed to the State where its subsidiary bank is located. Absent an adequate showing by the foreign bank, the Board would redesignate the foreign bank's home State upon consummation of the transaction. Redesignation would require that the foreign bank terminate any domestic deposit-taking operations undertaken as a result of its original home State selection. In addition, the foreign bank would be precluded from future expansion of its domestic deposit-taking capability in its original home State. Such a procedure would enable the Board to ensure that home State selection is not used in a manner to circumvent the domestic deposit limitations of the IBA.

Several commenters contended that the Board lacked authority under the IBA to adopt such a provision. However, the Board believes that it is consistent with the legislative history of section 5 to prevent a foreign bank from undertaking significant expansion of its domestic-deposit taking business in two States by branching in its home State and acquiring other banks by merger in its subsidiary bank State. The Board has modified its original proposal by requiring notice under this provision only when the bank to be acquired by merger is larger (in terms of deposits) than the acquiring bank. The Board believes that this modification will serve to differentiate between those merger acquisitions that are more analogous to *de novo* branching, which is permissible, and those that might be considered a manipulation of the home State selection process.

There are seven domestic bank holding companies and five foreign bank holding companies that have multi-State operations grandfathered under the BHCA. Under the BHCA, these bank holdings companies may acquire an additional bank by merging it into a subsidiary bank located outside of the bank holding company's principal State of banking operations. The regulations adopted by the Board give a foreign multi-State bank holding company treatment parallel to that for a domestic multi-State bank holding company in that such a foreign organization would not be required to follow the out-of-home State merger provisions if the

foreign bank selects as its home State one of the States in which it owns or controls a subsidiary bank.

In its September 17, 1980 report to Congress, referred to above, the Board noted that the merger acquisition issue could be better addressed by a legislative solution applicable to both foreign bank and domestic bank holding companies. The Board recommended in that report that section 3(a)(4) of the Bank Holding Company Act be amended so as, in effect, to prohibit acquisitions by merger outside of both a bank holding company's principal State of banking operations and a foreign bank's home State.

*Credit balances.* The Board proposed minimum criteria by which an account would be presumed to be a credit balance and not a deposit. Several commenters stated that the determination of what constitutes a credit balance should be left to the appropriate State or Federal licensing authority. The Board believes, however, that, absent a workable Federal standard for determining whether an obligation at an office of a foreign bank is a credit balance or a deposit, the interstate banking restrictions of the IBA would be difficult to enforce. The adopted minimum criteria are generally consistent with standards that have been applied by the Board as well as by States through their statutes, regulations and practices governing credit balances. The States and the Comptroller of the Currency remain free to adopt more specific limits on credit balances that are deemed necessary for their own regulatory purposes. It is to be noted that these criteria do not affect the reservability of a credit balance obligation under Regulation D.

*Attribution of home State.* Section 5 of the IBA states that "no foreign bank may directly or *indirectly* establish and operate a [State or] Federal branch outside of its home State." (emphasis added). In the view of the Board, a foreign organization and the institutions that it controls should be entitled to only one home State. It is necessary, therefore, to determine which elements of a foreign organization are under common control. Under section 2(a)(2)(A) of the BHCA, a company is considered to control a bank or another company if it directly or indirectly owns, controls or has the power to vote 25 per cent or more of any class of voting shares of the bank or company. The Board believes that, in recognition of the differences between banking in foreign countries and banking in the United States, this statutory test for determining control of banks and companies should not be imposed upon foreign organizations. Rather, the Board proposed that the test for what constitutes acting indirectly under section 5 of the IBA be ownership or control of a majority of the voting shares. While majority ownership would be conclusive presumption of ownership or control, the Board would reserve the right to determine administratively whether the ownership of less than a majority of the voting shares constituted acting indirectly. Under its regulation, the Board would treat as one organization entitled to one home State a foreign bank or foreign banking organization and its majority owned subsidiaries. Also treated as part of the same organization would be those less than majority owned banks or companies that the Board determines after notice and opportunity for a hearing are actually controlled by the foreign organization.

The proposed regulation would have established a presumption that a 10 per cent interest in another organization constitutes control. In response to comments received, this aspect of the original proposal has been eliminated. This provision had been intended to obtain an inventory of potential control relationships. This information will be obtained through the Board's forthcoming annual reporting form for foreign banking organizations.

The Board also adopted an interpretation, which is attached, stating that for purposes of section 5 of the IBA certain offices of foreign banks that accept foreign source deposits but not domestic deposits will be regarded as agencies rather than branches.

In its proposed amendments to Regulation K dealing with the nonbanking activities of foreign bank holding companies and foreign banks that have banking offices in the United States (45 F.R. 30,082), the Board indicated that Regulation K would be reorganized into two Subparts: Subpart A would contain what are currently sections 211.1 through 211.7, dealing with international operations of United States banking organizations, and Subpart B would include the regulations concerning interstate banking operations of foreign banks and bank holding companies and the regulations regarding nonbanking activities of foreign banking organizations. Accordingly, the organization of these final regulations will correspond to the revised format of Regulation K. A form for selection of home State and a model agreement for foreign banks operating or establishing out-of-home State branches will be available at the Federal Reserve Banks in 15 days.

Pursuant to its authority under the International Banking Act of 1978 (12 U.S.C. § 3101 *et seq.*), the Board has amended Regulation K (12 C.F.R. Part 211) as follows:

1. Regulation K is amended by adding "Subpart A—International Operations of United States Banking Organizations." Within Subpart A, the current sections 211.1 through 211.7 are retained.

2. Regulation K is amended by adding Subpart B. Within Subpart B, new sections 211.21 and 211.22 are added as follows:

## Subpart B—Foreign Banking Organizations

### § 211.21 Authority, purpose, and scope.

(a) *Authority.* This Subpart is issued by the Board of Governors of the Federal Reserve System ("Board") under the authority of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) ("BHCA"); and the International Banking Act of 1978 (92 Stat. 607) ("IBA").

(b) *Purpose and Scope.* This Subpart is in furtherance of the purposes of the BHCA and the IBA. It applies to foreign banks and foreign banking organizations with respect to the limitations on interstate banking under section 5 of the IBA (12 U.S.C. 3103); and to foreign banks and foreign bank holding companies with respect to the exemptions from the nonbanking prohibitions of the BHCA and the IBA afforded by sections 2(h) and 4(c)(9) of the BHCA (12 U.S.C. 1841(h) and 1843(c)(9)).

### § 211.22 Interstate banking operations of foreign banking organizations.

(a) *Definitions.* The definitions of section 211.2 in Subpart A apply to this section subject to the following:

(1) "Agency" means any office or any place of business of a foreign bank located in any State of the United States or the District of Columbia at which credit balances are maintained, checks are paid, or money is lent, but at which deposits may not be accepted from a citizen or resident of the United States. Obligations shall not be considered credit balances unless they: (i) are incidental to, or arise out of the exercise of other lawful banking powers; (ii) are to serve a specific purpose; (iii) are not solicited from the general public; (iv) are not used to pay routine operating expenses in the United States such as salaries, rent, or taxes; (v) are withdrawn within a reasonable period of time after the specific purpose for

which they were placed has been accomplished; and (vi) are drawn upon in a manner reasonable in relation to the size and nature of the account.

(2) "Banking subsidiary," with respect to a specified foreign bank, means a bank that is a subsidiary as the terms "bank" and "subsidiary" are defined in section 2 of the BHCA (12 U.S.C. 1841).

(3) "Commercial lending company" means any organization, other than a bank or an organization operating under section 25 of the FRA, organized under the laws of any State of the United States or the Districit of Columbia, that maintains credit balances as may be maintained by an agency and engages in the business of making commercial loans.

(4) "Domestic branch" means any office or any place of business of a foreign bank located in any State of the United States or the District of Columbia that may accept domestic deposits and deposits that are incidental to or for the purpose of carrying out transactions in foreign countries.

(5) "Foreign Bank," for purposes of this section, is an organization that is organized under the laws of a foreign country and that engages in the business of banking.

(b) *Determination of home State.* (1) A foreign bank selecting its home State shall do so by filing with the Board a declaration of home State within 180 days of the effective date of this subpart. In the absence of such selection, the Board shall designate a foreign bank's home State. Within one year after the home State of a foreign bank has been determined, unless the Board authorizes a longer period:

(i) the foreign bank shall close domestic branches whose activities are not permissible under section 5(b) of the IBA, convert such domestic branches to agencies, or enter into an agreement with the Board regarding the deposits of such branches as prescribed in section 5(a) of the IBA; and

(ii) the foreign bank shall divest voting shares of interests in, or assets of banks that are not permissible under section 5(b) of the IBA.

(2) A foreign bank that currently does not operate a domestic branch or banking subsidiary shall not be required to select a home State and shall not have its home State designated by the Board.

(3) A foreign bank (except a foreign bank to which paragraph (b)(5) of this section applies) that has any combination of domestic branches, banking subsidiaries, agencies, or commercial lending company subsidiaries that, before July 27, 1978, were established or applies for in more than one State may select its home State only from those States in which the foreign bank has continuously operated such offices.

(4) A foreign bank that established or applied for one domestic branch or one banking subsidiary before July 27, 1978, and that was not otherwise engaged in banking in the United States on that date, shall have as its home State the State in which such domestic branch or banking subsidiary is located.

(5) A foreign bank that before July 27, 1978, had no domestic branches or banking subsidiaries or had only agencies or commercial lending companies, and, after that date, has established or establishes any domestic branch or banking subsidiary shall have as its home State that State in which its initial domestic branch or banking subsidiary is located.

(c) *Change of home State.* A foreign bank may change its home State once if:

(1) 30 days' prior notification of the proposed change is filed with the Board; and

(2) Domestic branches established and investments in banks acquired in reliance on its original home State selection are conformed to those that would have been permissible had the new home State been selected as its home State originally.

(d) *Bank mergers.* (1) A foreign bank with one or more banking subsidiaries that selects as its home State a State other than that in which a banking subsidiary is located, and that proposes to acquire through its subsidiary bank all or substantially all of the assets of a bank larger than its subsidiary bank (in terms of deposits) located outside the foreign bank's home State shall give 60 days' notification to the Board prior to consummation of the proposed transaction.

(2) If, after receiving the notification, the Board makes a preliminary determination within that period that the proposed acquisition would be inconsistent with the foreign bank's home State selection, the foreign bank shall:

(i) Redesignate as its home State the State in which its subsidiary bank is located; or

(ii) Show cause why in the facts and circumstances of its case its home State should not be redesignated (the foreign bank's submission may include a request for a hearing).

(3) On the basis of information available, the Board shall:

(i) Direct the foreign bank redesignate as its home State the State in which its subsidiary bank is located; or

(ii) Take no action with respect to the foreign bank's home State.

(4) Factors to be considered by the Board in making its preliminary and final determinations include the size of the proposed acquisition relative to the foreign bank's other operations in the United States and the ability of the foreign bank to change its home State.

(e) *Attribution of home State.* (1) A foreign bank or organization and the other foreign banks or organizations over which it exercises actual control shall be regarded as one foreign bank and shall be entitled to one home State.

(2) Actual control shall be conclusively presumed to exist in the case of a bank or organization that owns or controls a majority of the voting shares of another bank or organization.

(3) Where it appears to the Board that a foreign bank or organization exercises actual control over the management or policies of another foreign bank or organization, the Board may inform the parties that a preliminary determination of control has been made on the basis of the facts summarized in the communication. In the event of a preliminary determination of control by the Board, the parties shall within 30 days (or such longer period as may be permitted by the Board):

(i) Indicate to the Board a willingness to terminate the control relationship; or

(ii) Set forth such facts and circumstances as may support the contention that actual control does not exist (and may request a hearing to contest the Board's preliminary determination); or

(iii) Accede to the Board's preliminary determination, in which event the parties shall be regarded as one foreign bank and shall be entitled to one home State.

By order of the Board of Governors, October 2, 1980.

**Theodore E. Allison,**

*Secretary of the Board.*

[FR Doc. 80-31271 Filed 10-8-80; 8:45 am]

BILLING CODE 6210-01-M

## FEDERAL HOME LOAN BANK BOARD

### 12 CFR Part 545

**[No. 80-611]**

### Operations; Renegotiable Rate Mortgages

Dated: September 30, 1980.

**AGENCY:** Federal Home Loan Bank Board.

**ACTION:** Final regulations.

**SUMMARY:** This regulatory action amends the Board's renegotiable rate mortgage regulations (12 CFR 545.6-4a)

to permit Federal associations to structure a renegotiable rate mortgage (RRM) as either a short-term renewable note secured by a long-term mortgage or as a single, adjustable, long-term note secured by a mortgage of a similar term. The Board believes this authorization is appropriate in view of the fact that the short-term note, because it is automatically renewable, operates, in practical effect, like a long-term, adjustable rate note.

**EFFECTIVE DATE:** October 8, 1980.

**FOR FURTHER INFORMATION CONTACT:** Kenneth F. Hall, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street N.W., Washington, D.C. 20552. Telephone No. (202) 377–6466.

**SUPPLEMENTARY INFORMATION:** Effective April 3, 1980, the Board authorized Federally-chartered savings and loan associations to offer renegotiable rate mortgages (FHLBB Res. No. 80–231; 45 FR 24108 (1980)). Under the current regulation, a renegotiable rate mortgage loan is a loan issued for a term of three to five years, secured by a long-term mortgage of up to 30 years, and automatically renewable at equal intervals. At renewal, the interest rate on the loan may be increased or decreased, subject to specified limitations on the interest rate movement, in accordance with a national average mortgage rate index calculated by the Board.

The renewability feature of the RRM loan is unique in that the association must renew the loan unless the borrower has prepaid the loan or the loan is in foreclosure. As such, the RRM loan does not really become "due," in the usual sense of the word, at the end of the loan term. Rather, the borrower simply has the opportunity to prepay the loan should the borrower not wish to renew at the new interest rate. In addition, the RRM loan is structured so that the borrower need take no action to renew. Renewal takes place automatically unless the borrower prepays.

Because of the automatic renewability requirement, the RRM loan operates, in practical effect, like a long-term adjustable-rate mortgage. In veiw of this fact, the Board believes it is appropriate to permit Federal associations to structure the RRM as a single, long-term note on which the interest rate may be adjusted at intervals of three, four or five years. Such action will clarify that, with regard to the operation of the RRM, it makes no difference whether the loan is structured as a renewable short-term note or as a single, adjustable, long-term note. In addition, such action will provide greater flexibility to associations.

The Board is also making certain technical amendments relating to the required notification of renewal or adjustment. In addition to some minor changes in wording, the notice forms for renewal and adjustment have been amended to divulge what the principal balance of the loan will be on the date of renewal or adjustment. Without this information, which was inadvertently omitted from the final regulation published on April 3, 1980, the borrower would not know what amount to pay in order to prevent renewal of the note or adjustment of the interest rate.

Finally, the Board is taking this opportunity to codify its position on the maximum period of time that may elapse between notification and renewal or adjustment. The purpose of the notification is to inform borrowers that, unless they pay their loans by the stated date, the interest rate will be adjusted as set out in the notice. The Board intended that the interest rate should reflect the movement of the index rate since origination of the RRM so that calculation of the interest rate would be standardized and objective. A 90–day notice period was established because it was felt a borrower would need that time to shop and possibly arrange for an alternative source of financing (45 FR 24110–111 (1980)).

The Board believes it would be undesirable to permit notice to be given unreasonably far in advance for several reasons. First, the adjusted interest rate would not accurately reflect the index rate's movement since origination. Second, because the index rates for the months preceding the minimum notification period would already be published, an association would be able to choose which index rate would result in an adjusted interest rate most favorable to the association. The regulation was not intended to give associations this leverage. Finally, giving notification too far in advance of the minimum notice period might result in the borrower forgetting that a rate adjustment is to occur.

In order to ensure that the Board's objectives are met, the Board believes that associations must adhere to a maximum notice period. Therefore, the Board has determined to amend paragraph (e) of the regulation to require that notification be given no earlier than 120 days in advance of the time of the impending interest rate adjustment. The disclosure form contained in paragraph (f) is also being amended to reflect the change.

The Board finds that notice and public procedure with respect to the amendments pursuant to 5 U.S.C. § 553(b) and 12 CFR 508.11 are unnecessary because (1) they are merely technical amendments to the regulation and (2) it is in the public interest to implement the amendments without delay since they clarify the manner in which an RRM is structured and operates, and provide greater flexibility to associations.

Accordingly, the Federal Home Loan Bank Board hereby amends § 545.6–4a of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 549.6–4a) by revising paragraphs (b), (c), (d), (e), and (f) in their entirety to read as set forth below:

## PART 545—OPERATIONS

**§ 545.6–4a Renegotiable rate mortgage instruments.**

(a) *Authorization.* * * *

(b) *Description.* For purposes of this section, a renegotiable rate mortgage loan is a loan (1) issued for a term of three, four or five years, secured by a long-term mortgage of up to thirty years, and automatically renewable at equal intervals except as provided in subparagraph (c)(1) of this section, or (2) issued for a term of up to thirty years, secured by a mortgage of equal term, on which the rate is adjusted at intervals of three, four of five years except as provided in subparagraph (c)(1) of this section. The loan must be repayable in equal monthly installments of principal and interest during the loan term or adjustment period in an amount at least sufficient to amortize a loan with the same principal and at the same interest rate over the remaining term of the mortgage. At renewal of adjustment, no change other than in the interest rate (and, correspondingly, in the monthly installment amount) may be made in the terms or conditions of the loan. Prepayment in full or in part of the loan balance secured by the mortgage may be made without penalty at any time after the beginning of the minimum notice period for the first renewal or adjustment, or at any earlier time specified in the loan contract.

(c) *Interest-rate changes at renewal or adjustment.*

(1) The interest rate offered at renewal or adjustment shall reflect the movement, in reference to the date of the loan, of the contract interest rate on the purchase of previously-occupied homes in the Board's most recent monthly national average mortgage rate index for all major lenders, *provided* that an association may alter the initial terms of initial adjustment periods of loans originated within a six-month peroid so that they mature or adjust on

the same date three, four or five years after the end of that period, in which case the interest rate offered at renewal or adjustment shall reflect the movement of the index from the end of that period (that is, as though all loans in the group had originated at the end of the period).

(2) The maximum rate increase or decrease shall be one-half of one percent (0.5%) per year multiplied by the number of years in the loan term or adjustment period, with a maximum increase or decrease of five percent (5%) over the life of the mortgage. Associations may offer a borrower a renegotiable rate mortgate loan with maximum annual and total interest rate decreases smaller than the maximum set out in this subparagraph; provided, however, that in such a case the maximum annual and total interest rate increases offered shall not exceed the maximum annual and total decreases set out in the loan contract.

(3) Interest rate decreases from the previous loan term or adjustment period are mandatory. Interest rate increases are optional with the association, but the association may obligate itself to a third party to take the maximum increase permitted by this paragraph.

(d) *Cost of renewal or adjustment.* The borrower may not be charged any costs or fees in connection with the renewal of such loan or adjustment of the interest rate.

(e) *Notice to borrower.*

(1) If the loan is structured as a renewable, short-term note, at least ninety (90) and not more than one-hundred twenty (120) days before the due date of the note, the association shall send written notification in the following form to the borrower:

Notice

Your loan with ———— Federal Savings and Loan Association, secured by a [mortgage/deed of trust] on property located at [address], is due and payable on [date of renewal]. The outstanding balance of your loan on that date, based on the remaining monthly payments due by that date, will be $————.

Unless you elect to pay the loan in full by that date, your loan will be renewed automatically for ——— years, upon the same terms and conditions as the current loan, except that the interest rate will be ———%.

Your monthly payment, based on that rate, will be $————, beginning with the payment due on ————, 19——.

You may pay off the entire loan or a part of it without penalty at any time.

If you have questions about this notice, please contact *title and telephone number of association employee].*

(2) If the loan is structured as a long-term note, at least ninety (90) and not more than one-hundred twenty (120) days before adjustment of the interest rate, the association shall send written notification to the borrower in the following form:

Notice

The interest rate on your loan with ———— Federal Savings and Loan Association, secured by a [*mortgage/deed of trust*] located at [*address*], is scheduled to be adjusted on [*date of adjustment*]. The outstanding balance of your loan on that date, based on the remaining monthly payments due by that date, will be $————. As of [*date of adjustment*], the rate on your loan for the next ——— years will be ——%, unless you elect to pay the loan in full by that date.

Your monthly payment, based on that rate, will be $————, beginning with the payment due on ————, 19——.

You may pay off the entire loan or a part of it without penalty at any time.

If you have questions about this notice, please contact [*title and telephone number of association employee*].

(f) *Application disclosure.* An applicant for a renegotiable rate mortgage loan must be given, at the time of receipt of an application, a disclosure notice in the following form (underlined, bracketed language should be substituted for bracketed language if the loan is structured as a long-term note):

Information About the Renegotiable-Rate Mortgage

You have received an application form for a renegotiable-rate mortgage ("RRM"). The RRM differs from the fixed-rate mortgage with which you may be familiar. [In the fixed-rate mortgage the length of the loan and the length of the underlying mortgage are the same, but in the RRM the loan is short-term (3–5 years) and is automatically renewable for a period equal to the mortgage (up to 30 years). Therefore, instead of having an interest rate that is set at the beginning of the mortgage and remains the same, the RRM has an interest rate that may increase or decrease at each renewal of the short-term loan.] [*Instead of having an interest rate that is set at the beginning of the mortgage and remains the same, the RRM has an interest rate that may increase or decrease every three, four or five years.*] This means that the amount of your monthly payment may also increase or decrease.

[The term of the RRM loan is ——— years, and the length of the underlying mortgage is ——— years. The initial loan term may be up to six months longer than later terms.]

[*The term of the RRM is ——— years. The interest rate may be adjusted every ——— years. The initial adjustment period may be up to six months longer than later periods.*]

[The lender must offer to renew the loan, and the only loan provision that may be changed at renewal is the interest rate. The interest rate offered at renewal is based on changes in an index rate.] [*Adjustments to the interest rate are based on changes in an index rate.*] The index used is computed monthly by the Federal Home Loan Bank Board, an agency of the Federal government. The index is based on the national average contract rate for all major lenders for the purchase of previously-occupied, single-family homes.

[At renewal, if the index has moved higher than it was at the beginning of the mortgage, the lender has the right to offer a renewal of the loan at an interest rate equalling the original interest rate plus the increase in the index rate.] [*At the time of interest rate adjustment, if the index has moved higher than it was at the beginning of the mortgage, the lender has the right to adjust the interest rate to a rate equalling the original interest rate plus the increase in the index rate.*] This is the maximum increase permitted to the lender. Although taking such an increase is optional with the lender, you should be aware that the lender has this right and may become contractually obligated to exercise it.

If the index has moved down, the lender must [at renewal] [*at the time of adjustment*] reduce the original interest rate by the decrease in the index rate. No matter how much the index rate increases or decreases, the lender, [at renewal] [*at the time of adjustment*], may not increase or decrease the interest rate on your RRM loan by an amount greater than ———— of one percentage point per year of the [loan] [*adjustment period*], and the total increase or decrease over the life of the mortgage may not be more than ——— percentage points.

[As the borrower, you have the right to decline the lender's offer of renewal. If you decide not to renew, you will have to pay off the remaining balance of the mortgage. Even if you decide to renew, you have the right to prepay the loan in part or in full without penalty at any time after the beginning of the minimum notice period for the first renewal. To give you enough time to make this decision, the lender, at least ninety (90) but not more than one-hundred twenty (120) days before renewal, will send a notice stating the due date of the loan, the principal balance as of that date, the new interest rate and the monthly payment amount. If you elect not to pay the loan in full by the due date, the loan will be automatically renewed at the new rate. You will not have to pay any fees or charges at renewal time.] [*As the borrower, you have the right to prepay the loan in part or in full without penalty at any time after the beginning of the minimum notice period of the first interest rate adjustment. To give you enough time to make this decision, the lender, at least ninety (90) but not more than one-hundred twenty (120) days before interest rate adjustment, will send a notice stating the date of adjustment, the principal balance as of that date, the new interest rate and the monthly payment amount. If you pay the loan in full by the due date the interest rate will be adjusted to the new rate. You will not have to pay any fees or charges at the time of interest rate adjustment.*]

The maximum interest-rate increase at the first [renewal] [*adjustment*] is ——— percentage points. On a $50,000 mortgage with an original [term] [*adjustment period*] of ——— years and an original interest rate of (lender's current commitment rate) percent, this rate change would increase the monthly payment (principal and interest) from $———

to $———. Using the same example, the highest interest rate you might have to pay over the life of the mortgage would be ——— percent, and the lowest would be ——— percent.

(Sec. 5, 48 Stat. 132, as amended, 12 U.S.C. 1464; Reorg. Plan No. 3 of 1947; 3 CFR, 1943–1948 Comp., p. 1071)

By the Federal Home Loan Bank Board.

**Robert D. Linder,**

*Acting Secretary.*

[FR Doc. 80-31503 Filed 10-8-80; 8:45 am]

BILLING CODE 6720-01-M

## DEPARTMENT OF COMMERCE

### Economic Development Administration

### 13 CFR Parts 302, 303, 305, 309

### Public Works and Development Facilities Program; Miscellaneous Amendments

**AGENCY:** Economic Development Administration (EDA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** This rule publishes in final several amendments to regulations regarding the Public Works and Development Facilities Program. These amendments clarify requirements concerning certain types of projects which EDA may fund under that program. In addition, this rule publishes in final two minor technical amendments to §§ 309.4 and 315.23.

**DATES:** Effective date: October 9, 1980. Comments By: December 8, 1980.

**ADDRESSES:** Send comments to the Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

**FOR FURTHER INFORMATION CONTACT:** Information concerning changes to § 302.41, § 303.4–1, and § 305.5: Victor A. Hausner, Deputy Assistant Secretary for Policy and Planning, (202) 377–3121.

Information concerning other changes: Charles W. Coss, Director, Office of Public Investments, (202) 377–5265.

**SUPPLEMENTARY INFORMATION:** EDA is amending these regulations for the following reasons:

1. 13 CFR 302.41. EDA is amending this rule to change the timing for conducting the annual review of area eligibility. Under the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121) (henceforth, "Act"), EDA is authorized to extend assistance to applicants located in distressed areas of the Nation. As set forth in 13 CFR Part 302, EDA designates areas on the basis of various indicia of economic distress. 42 U.S.C. 3162 requires EDA to review the designation status of areas annually. Currently, § 302.41 provides that EDA will conduct the annual review during the month of the anniversary of the area's designation or qualification for designation. This rule amends § 302.41 to provide that EDA will conduct the review during the calendar quarter containing the anniversary of the designation or notification of qualification. For example, under the amended rule, areas designated in January, February and March will be reviewed annually during the first calendar quarter of the year, and results will be put into effect in April. EDA is making this change for administrative reasons. By reviewing area eligibility on a quarterly basis, EDA will be able to concentrate the workload from 12 reviews to 4 reviews each year. In addition, the new annual review schedule will coincide with the delivery of statistics from the Department of Labor.

2. 13 CFR 303.4–1. On August 21, 1980, EDA published regulations regarding the organization of economic development districts (45 FR 55696). Paragraph (d)(3) of § 303.4–1 requires district organizations to provide for representation of private citizens. Districts designated or authorized before June 6, 1979 were given one year following the date of publication of the final rule to comply with the private citizen representation requirement. This regulation is unchanged except to substitute "August 21, 1981" for "one year from the date that this regulation is published as a final rule".

3. 13 CFR 305.5. The Economic Development Administration (EDA) establishes maximum grant rates for public works projects according to the relative need for the designated area in which the projects are located. These maximum rates are set forth in § 305.5(b)(3) of Title 13 of the Code of Federal Regulations.

This rule adds a new subsection (f) to § 305.5. This paragraph applies to certain municipalities of over 25,000 population which are located in areas which have already been designated as redevelopment areas under Title IV of the Act (42 U.S.C. 3161 *et seq.*) and 13 CFR Part 302. If these municipalities can qualify for designation under Title IV on their own merits, this new paragraph would allow them to be eligible for the maximum grant rate under § 305.5(b) for which they would be eligibile if they had been designated independently. They would be eligible for this rate notwithstanding their location in a designated redevelopment area which is eligible for a lower maximum grant rate. For example, if City "A", a city with 100,000 population, qualified for designation as a redevelopment area on the basis of substantial unemployment under section 401(a)(8) of the Act and 13 CFR 302.11, but was located in an area currently designated, this new paragraph would enable City 'A' to be eligible for the maximum grant rate which it would have received if it were designated on its own. Thus, if City 'A' met the criteria of § 305.5(b)(3)(vi) (its median annual family income was $3,743 or below, or its average unemployment rate for the preceding 24 months was 12 percent or higher), City 'A' would be eligibile for a maximum grant rate of 80 percent under § 305.5(b)(3)(vi), even if the designated area in which it was located was eligible for a maximum grant rate of only 70 percent under § 305.5(b)(3)(vii).

EDA currently does not have separate maximum grant rates for projects located in statistically qualified municipalities of over 25,000 population which are part of a designated area. By setting forth separate maximum grant rates for these municipalities, EDA will avoid needless duplication of designation actions by allowing such municipalities the primary benefit of independent designation without requiring actual designation. In addition, since such municipalities remain within the existing designated areas, this change will allow for a unified planning process between the statistically qualified municipality and the redevelopment area in which the municipality is situated.

4. 13 CFR 305.8. Section 305.8 sets forth provisions regarding the funding of construction costs increases. Provided the Federal share of the project remains the same (e.g., 80% of project costs), this regulation allows EDA to increase the amount of a grant when the cost of the project has increased because of increases in costs based on the original designs and specifications. Since most projects funded by EDA do not have final plans and specifications at the time the grant is awarded, some grantees have been confused whether § 305.8 applies when the cost of their projects at the time of bid opening exceed the initial cost estimates provided prior to the time of grant approval. This rule revises paragraphs (b)(1) and (2) of this section to clarify that this regulation also applies to cost overruns when final plans and specifications were not ready at the time of grant approval, provided that the project retains the original intent and purpose and otherwise meets the requirements of § 305.8.

5. 13 CFR 305.95 and 309.28. These regulations currently set forth certain requirements regarding procurement standards for grantees. EDA published these regulations to set forth the requirements of Office of Management and Budget (OMB) Circular No. A–102, Attachment O and OMB Circular No. A–110, Attachment O. Since § 305.95 was published, OMB has revised Attachment O of Circular No. A–102 (August 15, 1979, 44 FR 47874). As a result, § 305.95 is now out of date. In order to avoid unnecessary duplication and to avoid confusion concerning the interpretation of EDA's regulations where they do not follow the requirements of the circulars verbatim, this rule amends these regulations to note the grantees must follow the procurement standards set forth in those circulars.

6. 13 CFR 309.4. This regulation sets forth various restrictions concerning the funding of projects involving gas and electric facilities. This section implements the requirements of 42 U.S.C. 3214(e). The final sentence of 42 U.S.C. 3214(e) prohibits EDA from expending more than $7,000,000 annually under titles I and II of the Act for such projects. Subsection (c) of § 309.4 sets forth this limitation but omits the reference to titles I and II. This rule amends § 309.4(c) to note explicitly that the $7,000,000 limitation applies to projects funded under the authority of titles I and II.

*Executive Order 12044 Determinations.* Executive Order 12044 requires EDA to review its regulations with respect to the "significance" of the regulations. "Significant regulations" must be developed in accord with the detailed procedural requirements of the Order. Since these regulations do not reflect a major policy decision, are not anticipated to be a matter of public concern or controversy and do not otherwise meet the criteria of the Order, EDA has determined that this rulemaking is not significant. In order to provide the public with the opportunity to participate, however, EDA is publishing these amendments in interim form. EDA invites all interested persons and organizations to comment on the regulations to the Assistant Secretary at the above address. EDA will consider all comments prior to publishing the rule in final and make such changes as necessary.

According, EDA amends §§ 302.41, 303.4–1, 305.5, 305.8, 305.95, 309.4 and 309.28 as follows:

## PART 302—DESIGNATION OF AREAS

1. 13 CFR 302.41 is amended by revising subsection (b) to read as follows:

**§ 302.41 Review of area eligibility and termination of designation.**

* * * * *

(b) *Annual review of previously qualified areas and of previously designated areas.* The Assistant Secretary shall conduct an annual review of area eligibility for areas currently designated and for areas previously qualified but not designated. The Assistant Secretary shall conduct this review during the calendar quarter in which the anniversary of the area's designation occurs or in which the anniversary of the notification to an area of its qualification for designation occurs. This review will be made to determine:

(1) * * *

(2) * * *

* * * * *

## PART 303—ECONOMIC DEVELOPMENT DISTRICTS

2. 13 CFR 303.4–1, as published on August 21, 1980 (45 FR 55701), is amended by revising paragraph (d)(3) to read as follows:

**§ 303.4–1 District organizations.**

* * * * *

(d) *Representation requirements.*

* * *

(3) There is at least one-fifth of its membership who are private citizens who are neither elected officials of a general purpose unit of local government nor employees of such a government who have been appointed to represent that government. All districts which have been authorized or designated before June 6, 1979, must comply with this provision no later than August 21, 1981.

(i) * * *

(ii) * * *

* * * * *

## PART 305—PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

3. 13 CFR 305.5 is amended by adding a new paragraph (f) to read as follows:

**§ 305.5 Supplementary grant rates.**

* * * * *

(f) Where municipalities over 25,000 population qualify for designation under Title IV of the Act and Part 302 of this chapter, but are located in areas already designated thereunder, such municipalities are eligible for the maximum grant under paragraph (b)(3) of this section as if they were designated independent of the existing redevelopment area. In determining the maximum grant rate for such municipalities, EDA will use the appropriate statistical information for the municipality involved: *Provided,* That consideration of such information will work to the municipality's advantage.

4. 13 CFR 305.8 is amended by revising paragraphs (b)(1) and (2) to read as follows:

**§ 305.8 Grants for construction cost increases.**

* * * * *

(b) * * *

(1) The project is being or will be constructed in accord with the original designs and specifications or in accord with final plans and specifications which reflect the original intent and purpose;

(2) The project's total cost has increased because of increases in costs based on the original designs and specifications (or based on final plans and specifications reflecting the original intent and purpose); and

* * * * *

5. 13 CFR 305.95 is amended to read as follows:

**§ 305.95 Procurement standards.**

Grantees shall procure supplies, equipment, construction and other services in accordance with the procurement standards set forth in Attachment O of Office of Management and Budget Circular No. A–102 (State and local governments) or No. A–110 (nonprofit organizations), as appropriate.

## PART 309—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

6. 13 CFR 309.4 is amended by revising subsection (c) to read as follows:

**§ 309.4 Electric and gas facilities.**

* * * * *

(c) Not more than seven million dollars of the funds appropriated to carry out title I and II of the Act may be expended annually for projects described in paragraphs (a)(2) and (b)(2) of this section.

7. 13 CFR 309.28 is amended to read as follows:

**§ 309.28 Grantee procurement standards.**

Grantees shall procure supplies, equipment, construction and other services in accord with the procurement standards set forth in Attachment O of Office of Management and Budget

(OMB) Circular No. A–110 (nonprofit organizations) or Attachment O of OMB Circular No. A–102 (State and local governments), as appropriate.

(Sec. 701, Pub. L. 89–136, 79 Stat. 570 (42 U.S.C. 3211), Department of Commerce Organization Order 10–4, as amended (40 FR 56702, as amended))

Dated: October 6, 1980.

**Robert T. Hall,**

*Assistant Secretary for Economic Development.*

[FR Doc. 80-31467 Filed 10-8-80; 8:45 am]

BILLING CODE 3510-24-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Parts 21, 36, and 91

**[Docket No. 16382; Amdts. 21–52; 36–11; 91–168]**

## Operating Limitations and Related Requirements for Certain Propeller-Driven, Small Airplanes Designed for Agricultural Aircraft Operations or Fire Fighting Purposes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment prescribes requirements governing operation of certain propeller-driven, small airplanes, that are excluded from the applicability of noise level rules because they are designed for agricultural aircraft operations or for dispensing fire fighting materials. It applies to operation of newly produced airplanes (without flight time before January 1, 1980), and acoustically changed airplanes (without flight time in the changed design before January 1, 1980), that have not been shown to comply with Part 36 noise levels. It prohibits operation of the affected airplanes except for those operations that are directly associated with the work activity for which they are designed. The amendment also requires that an operating limitation be appropriately provided to the pilot. Under the amendment, on and after its effective date, the FAA will not issue an original standard airworthiness certificate or approve any "acoustical change" of those airplanes unless the operating limitation is provided as required. Experience indicates that this amendment is needed to ensure that the affected newly produced and acoustically changed aircraft that take advantage of the agricultural and fire fighting exception in the noise certification rule, are not used for purposes for which the exception was not intended.

**DATES:** Effective date: November 10, 1980.

Applicability date: For operation of affected airplanes that do not have flight time, as specified, before January 1, 1980, and for which certificates and approvals are issued after the effective date of this rule.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard N. Tedrick, Noise Policy and Regulatory Branch (AEE–110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591: telephone (202) 755–9027.

**SUPPLEMENTARY INFORMATION:**

### Regulatory History

This amendment is based upon a notice of proposed rule making (Notice No. 76–27) published in the **Federal Register** on December 23, 1976 (41 FR 56065). As discussed in that notice, it was issued in response to the U.S. Environmental Protection Agency's (EPA) recommended noise regulations for propeller-driven, small airplanes (adopted in part under amendments also published in the **Federal Register** on December 23, 1976 (41 FR 56056)). Pursuant to § 611(b) of the Federal Aviation Act of 1958, as amended, the FAA has consulted with the Secretary of Transportation and EPA concerning this amendment.

### Background

Part 36 of the Federal Aviation Regulations (FAR) contains noise standards for type design and airworthiness certification, and approvals of acoustical changes of certain propeller-driven, small airplanes. Those standards, contained in Subpart F and Appendix F of Part 36, do not apply to airplanes designed for agricultural aircraft operations (as defined in FAR § 137.3, effective January 1, 1966) or for dispensing fire fighting materials (see, § 36.1(a)(2)). Complementary procedural provisions are prescribed in §§ 21.93(b) and 21.183(e)(2) of FAR Part 21.

For aircraft in those two classes, the rules permit certification and changes in certification without showing compliance with the noise limits under Appendix F. However, the environmental impact of the exclusion is minimized for aircraft in the restricted category because those aircraft are subject to FAR § 91.39 which prohibits operations other than those necessary for the accomplishment of the work activity for which the restricted category airplanes were designed. That limitation does not apply to agricultural and fire fighting airplanes that are type certificated in categories other than restricted and, thus, have standard airworthiness certificates. That allows those propeller-driven, small airplanes with standard airworthiness certificates to engage in operations not related to the accomplishment of agricultural or fire fighting activities even though they were excepted from Part 36 noise requirements solely because of the strong public interest in agricultural and fire fighting activity. This has the potential for circumventing the reason for the limited exception for agricultural and fire fighting airplanes in § 36.1(a)(2).

Therefore, the FAA proposed this amendment to limit operation of utility, acrobatic, and transport category airplanes that take advantage of that exception to those associated with the work activity for which they were designed. The affected airplanes, under this amendment, may still engage in operations other than those directly associated with the activity for which they were designed but only if they, like other propeller-driven, small airplanes, have been shown to comply with the otherwise applicable noise standards of Appendix F of Part 36. This rulemaking also amends the certification procedures in Part 21 and the noise regulation in Part 36, to reflect the new operating limitation under new § 91.56 under Part 91. Those amendments to §§ 21.93(b) and 21.183(e)(2) govern the original issuance of standard airworthiness certificates and acoustical change approvals for the affected airplanes that do not have flight time before January 1, 1980. Under the rule, those certificates will not be issued and those approvals will not be given after the effective date of this rule unless the statement required under FAR § 36.1583 is provided. Those changes are discussed in more detail in the "section-by-section analysis," below.

### Discussion of Comments

Interested persons were invited to participate in this rulemaking proceeding by submitting their written comments to the regulatory docket on or before February 28, 1977. Due consideration has been given to the two comments received in the regulatory docket regarding Notice No. 76–27.

One commenter expressed concern about the proposal as it affects airplanes designed for agricultural purposes that are type certificated in categories other than restricted, and that have been expected under § 36.1(a)(2). The commenter stated that there may be a need or desire to type certificate such aircraft in the normal category for sale in the United States, as well as for export. The FAA agrees. This amendment does not prohibit

manufacturers from certificating an affected airplane in the normal category if they should choose to do so. However, for airplanes without flight time before January 1, 1980, that have not been shown to comply with Part 36 noise standards, this amendment imposes an operating limitation that precludes their use in the United States for other than the purpose for which their certification was approved.

The EPA submitted a comment supporting this amendment for the reasons stated in proposing the rule.

**Evaluation of Impacts**

The economic and technological impacts of this amendment have been considered pursuant to § 611(d) of the Federal Aviation Act of 1958, as amended. Since this amendment only limits the use of a small number of airplanes to the agricultural and fire fighting operations for which they were designed, its regulatory and economic impact is minor. In deciding whether to purchase or modify an airplane covered by the rule, the operator should consider the impact of limiting the operation of the airplane to its special purpose. That restriction is the reasonable consequence of operating an airplane which has not been shown to meet the otherwise applicable noise level requirements. One anticipated consequence is an increased incentive to show, whenever possible, that the airplane complies with those requirements rather than accept the operating limitation. Such a result is fully consistent with the noise control objectives of § 611 of the FA Act.

The environmental benefit of this rule is the limiting of a small class of agricultural and fire fighting airplanes to those operations for which they are designed (unless they comply with the otherwise applicable noise standards). This will result in slight reductions in noise exposure, but should have little or no effect on aircraft emissions or fuel consumption compared with the effects of current rule.

**Section-by-Section Analysis**

*Part 21.* Part 21 contains the procedures for the certification of products and parts. Subparts D and H of Part 21 prescribe procedures that govern the FAA approval of changes to type certificates and issuance of airworthiness certificates, respectively. Section 21.93 governs the different classes of type certificate changes. For propeller-driven, small airplanes in the normal, utility, acrobatic, transport, and restricted categories, § 21.93(b)(3) defines those changes in type design that are "acoustical changes" (and that must, therefore, be shown not to increase the noise levels of the airplanes above specified limits). The applicability of "acoustical change" provisions currently exclude "airplanes that are designed for 'agricultural aircraft operations' . . . or for dispensing fire fighting materials." Section 21.183(e)(2), concerning original issue of standard airworthiness certificates, contains an identical exclusion. The effect of those exclusions is that any type design change, which would otherwise be an 'acoustical change' may be approved and standard airworthiness certificates may be issued for those special purpose airplanes without showing compliance with the otherwise applicable noise standards for propeller-driven, small airplanes. The FAA has found that those exclusions are warranted by the strong public interest in agricultural and fire fighting aircraft operations and the need for high power levels for the safe conduct of those operations. However, aircraft excepted from compliance with Part 36 solely because of their agricultural and fire fighting capabilities should be limited to activities related to agricultural and fire fighting operations. Thus, under this amendment to Part 91, in order to conduct operations not related to agricultural and fire fighting operations, those airplanes are required to comply with the noise limits that apply to airplanes that do not qualify for the exclusion.

Notice No. 76–27 did not expressly propose to regulate the original issue of standard airworthiness certificates as it did acoustical change approvals. However, since under the amendment noncomplying airplanes certificated in the categories that have standard airworthiness certificates cannot be operated in the United States if the airplane did not have flight time before January 1, 1980, FAA's original issuance of a standard airworthiness certificate could be misunderstood as authorizing operation contrary to the prescribed operating limitation. Thus, this amendment includes amendments to §§ 21.93(b) and 21.183(e)(2) to reflect the Part 91 operating limitation by precluding FAA issuances and approvals covered by those sections for the affected airplanes unless the operating limitation required under § 36.1583 is provided. By so doing, the regulation of the issuance of the type certificates is unnecessary since the operator of each affected airplane will have been provided the applicable operating limitation. Notice No. 76–27 proposed to add the words "and for which no requirements are prescribed in Part 36 of this chapter" to reflect the limitation on the operation of those airplanes provided in the required operating limitation under § 36.1583. The intent and significance of that addition is clarified in this amendment by express reference to the applicability of § 36.1583 requirements, including flight time before January 1, 1980, rather than to Part 36 generally.

In Amendment 36–7 (42 FR 12360; March 3, 1977), the acoustical change provisions for propeller-driven, small airplanes were redesignated as § 36.9. Inadvertently, the cross reference to those provisions under § 21.115(a) was not also changed at that time to fully reflect for the effects of Amendment 36–7. Thus, § 21.115(a) is editorially amended to achieve that result.

*Part 36.* Part 36 contains noise standards for the certification of aircraft. This amendment changes the applicability of Part 36 noise standards concerning the issuance of changes to type certificates (acoustical changes) and original standard airworthiness certificates for the affected propeller-driven, small airplanes. Thus, § 36.1(a)(2) is amended to reflect the applicability of Part 36, to those agricultural and fire fighting propeller-driven, small airplanes to which the Part 36 operating limitation provisions apply.

Subpart G of Part 36 contains operating limitations and information requirements for aircraft certificated under Part 36. In part, the purpose of operating limitations issued under Subpart G is to establish, during certification of the airplane, noise related requirements that must later be complied with by the operator of the airplane. As proposed in the notice, this amendment adds a new § 36.1583, entitled "[n]oncomplying agricultural and fire fighting airplanes." This new section provides that a specified statement must be provided in each noncomplying airplane that does not have flight time before January 1, 1980 (for newly produced airplanes), or flight time before January 1, 1980, in the changed configuration (for acoustically changed airplanes). The statement indicates that the airplane has not been shown to comply with the applicable noise limits in FAR Part 36 and must be operated in accordance with FAR § 91.56. That statement must be furnished in the manner prescribed in § 36.1581, which specifies the conditions under which information must be furnished in the approved portion of the Airplane Flight Manual or in other approved manual material, markings, or placards. Under the rule before this amendment, the only information required to be furnished under § 36.1581

is that approved under § 36.1501. The statement required by new § 36.1583 is in addition to that information. To assure consistency, § 36.1581 is also amended by adding a reference to the statement required by § 36.1583. It should be noted that the operating limitation will be required by § 36.1583 only for airplanes for which an original issue standard airworthiness certificate is issued or an acoustical change approval is given after the effective date of this amendment.

*Part 91.* This amendment adds a new § 91.56 to Subpart A of Part 91, the general rules that govern the operation of aircraft. In a manner similar to the rules for restricted category aircraft in § 91.39, new § 91.56 requires that agricultural and fire fighting, propeller-driven, small airplanes (having standard airworthiness certificates) that have not been shown to comply with the noise limits in Part 36, may not be operated except as specified. Three situations are provided which prescribe how the noncomplying airplane may be used—(1) to the extent necessary to the work activity directly asociated with the agricultural or fire fighting purpose for which it is designed; (2) to provide flight crewmember training in the "special purpose operation for which the airplane is designed"; and (3) to conduct "nondispensing aerial work operations" in accordance with the requirements under § 137.29(c) of Part 137. Aircraft operations between bases of operation and work sites for the sole purpose of conducting the special purpose operation (and returning) are considered under the rule as part of the permissible "work activity."

**Adoption of the Amendment**

Accordingly, Parts 21, 36, and 91 of the Federal Aviation Regulations (14 CFR Parts 21, 36, and 91) are amended, effective November 10, 1980, as follows:

## PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

**§ 21.93 [Amended]**

**§ 21.183 [Amended]**

1. By amending §§ 21.93(b)(3) and 21.183(e)(2), in each case by deleting the words between the parentheses in the first sentence and substituting for them the words "except for those airplanes that are designed for 'agricultural aircraft operations' (as defined in § 137.3 of this chapter, as effective on January 1, 1966) or for dispensing fire fighting materials to which § 36.1583 of this chapter does not apply."

**§ 21.115 [Amended]**

2. By amending § 21.115(c) by deleting the words "§ 36.7" and substituting for them the words "§§ 36.7 or 36.9."

## PART 36—NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

**§ 36.1 [Amended]**

3. By amending § 36.1(a)(2) to read as follows:

(a) * * *

(2) Type certificates and changes to those certificates, standard airworthiness certificates, and restricted category airworthiness certificates, for propeller-driven, small airplanes, except those airplanes that are designed for "agricultural aircraft operations" (as defined in § 137.3 of this chapter, as effective on January 1, 1966) or for dispersing fire fighting materials to which § 36.1583 of this part does not apply.

* * * * *

**§ 36.1581 [Amended]**

4. By amending § 36.1581, after the words "approved under § 36.1501" and before the period, by adding the words "and, as applicable, under § 36.1583 of this part."

5. By amending Subpart G by adding a new § 36.1583 to read as follows:

**§ 36.1583 Noncomplying agricultural and fire fighting airplanes.**

(a) This section applies to propeller-driven, small airplanes that—

(1) Are designed for "agricultural aircraft operations" (as defined in § 137.3 of this chapter, effective on January 1, 1966) or or dispensing fire fighting materials; and

(2) Have not been shown to comply with the noise levels prescribed under Appendix F of this part—

(i) For which application is made for the original issue of a standard airworthiness certificate and that do not have any flight time before January 1, 1980; or

(ii) For which application is made for an acoustical change approval, for airplanes which have a standard airworthiness certificate after the change in the type design, and that do not have any flight time the changed configuration before January 1, 1980.

(b) For airplanes covered by this section an operating limitation reading as follows must be furnished in the manner prescribed in § 36.1581:

Noise Abatement: This airplane has not been shown to comply with the noise limits in FAR Part 36 and must be operated in accordance with the noise operating limitation prescribed under FAR § 91.56.

## PART 91—GENERAL OPERATING AND FLIGHT RULES

5. By amending Subpart A of Part 91 by adding a new § 91.56 to read as follows:

**§ 91.56 Agricultural and fire fighting airplanes; noise operating limitations.**

(a) This section applies to propeller-driven, small airplanes having standard airworthiness certificates, that are designed for "agricultural aircraft operations" (as defined in § 137.3 of this chapter, as effective on January 1, 1966) or for dispensing fire fighting materials.

(b) If the Airplane Flight Manual, or other approved manual material, information, markings, or placards for the airplane indicate that the airplane has not been shown to comply with the noise limits under Part 36 of this chapter, no person may operate that airplane, except—

(1) To the extent necessary to accomplish the work activity directly associated with the purpose for which it is designed;

(2) To provide flight crewmember training in the special purpose operation for which the airplane is designed; and

(3) To conduct "nondispensing aerial work operations" in accordance with the requirements under § 137.29(c) of this chapter.

(Sec. 307(c), 313(a), 601(a), and 611(b), Federal Aviation Act of 1958, as amended (49 U.S.C. §§ 1348(c), 1354(a), 1421, and 1431(b)); Sec. 6(c), Department of Transportation Act (49 U.S.C. §1655(c)); Title I of the National Environmental Policy Act of 1969 (42 U.S.C. § 4321, et seq.); and Executive Order 11514, March 5, 1970)

Note.—The Federal Aviation Administration has determined that since this document involves a regulation based on a notice of proposed rulemaking issued before the effective date of the Department of Transportation Regulatory Policy and Procedures (44 FR 11034; February 26, 1979) implementing Executive Order 12044, the Department of Transportation Order does not apply. Further, this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 or 11949 or OMB Circular A-107, which were superseded by Executive Order 12044.

Issued in Washington, DC, on September 30, 1980.

**Langhorne Bond,**

*Administrator.*

[FR Doc. 80-31097 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Airworthiness Docket No. 76-SW-28; Amdt. 39-3931]

## Airworthiness Directives; Bell Models 205A-1 and 212 Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) which requires removal of certain float landing gear forward and aft cross tubes within 50 hours' time in service after the effective date of the AD by requiring installation of cross tubes having clamp-on saddle support fittings on Bell Models 205A-1 and 212 helicopters. The AD is prompted by a recent report of a fatigue fracture of a forward cross tube on a float equipped Bell Model 205A-1 helicopter which could have resulted in loss of helicopter control.

**DATES:** Effective October 15, 1980.

Compliance required within 50 hours' time in service after the effective date of the AD.

**ADDRESSES:** A copy of information in the docket file may be obtained from Regional Counsel, Attn: Docket No. 76-SW-28, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

**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 515.

**SUPPLEMENTARY INFORMATION:** The FAA has received from the National Transportation Safety Board a report of a fatigue crack and failure of the forward cross tube on a float landing gear equipped Bell Model 205A-1 helicopter at approximately 440 hours' total time in service. A fatigue crack existed in the upper forward part of this cross tube, P/N 205-050-114-9, where the right-hand saddle fitting was riveted. The tube fatigue crack was reportedly located between two saddle rivet holes under the saddle. Since other forward and aft cross tubes having riveted saddles may have cracks in the cross tubes of float gear equipped Models 205A-1 and 212 helicopters, an airworthiness directive is being issued which requires installation of cross tube assemblies having clamp-on saddle support fittings within 50 hours' time in service after the affective date of this AD on Bell Models 205A-1 and 212 helicopters.

The National Transportation Safety Board recommended the FAA issue an AD requiring an immediate X-ray or equipment inspection of the forward cross tubes for possible hidden cracks under the rivet saddle fittings in addition to subsequently requiring installation of cross tubes having clamp-on saddle fittings within 50 hours' time in service for Bell Models 205A-1 and 212 helicopters.

AD 76-14-03, Amdt. 39-2665 (41 FR 28509) established a 500-hour life for certain specified float gear cross tubes having riveted saddles, because of possible fatigue cracks in the cross tubes on Bell Models 205A-1 and 212 helicopters. Other cross tubes of a later design having riveted saddles have a 1000-hour retirement time. The FAA believes requiring the installation of the cross tubes having clamp-on saddle fittings within 50 hours' time in service, in conjunction with proper compliance with AD 76-14-03 is sufficient to maintain airworthiness of the approximately 35 or more Models 205A-1 and 212 helicopters having cross tubes with riveted saddles. Consequently, an immediate X-ray inspection of these cross tubes with riveted saddles is not required.

In consideration of the foregoing, an AD is being issued which requires installation of float landing gear cross tubes having clamp-on saddle fittings within 50 hours' time in service after the effective date of this AD.

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

### Adoption of the Amendment

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

BELL: Applies to Model 205A-1 and 212 helicopters equipped with fixed float landing gears. (Airworthiness Docket No. 76-SW-28)

Compliance required within 50 hours' time in service after the effective date of this AD unless already accomplished.

To preclude possible fatigue cracks from occurring in the landing gear cross tubes under the riveted saddle fittings, install forward and aft cross tube assemblies, P/N 205-050-114-23 and -25 respectively or higher dash numbers that have clamp-on saddle fittings.

Float kit installation, P/N 205-706-050-101, uses cross tubes having clamp-on saddle fittings.

(Bell Helicopter Textron Alert Service Bulletin Nos. 212-80-18 and 205-80-13 also pertain to this subject.)

This amendment becomes effective October 15, 1980.

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

Note.— The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Fort Worth, Texas, on September 23, 1980.

**F. E. Whitfield,**

*Acting Director, Southwest Region.*

[FR Doc. 80-31098 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-13-M

---

[Docket No. 80-GL-16-AD, Amdt. 39-3939]

14 CFR Part 39

## Bellanca (Champion) Model 7GC, 7GCB, 7HC, 7KC, 7GCA, 7GCBA, 7ECA, 7GCAA, 7KCAB, 7GCBC, and 8KCAB airplanes; Airworthiness Directives

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new Airworthiness Directive (AD) which requires a repetitive visual inspection of the baffle installation within the muffler core and body assemblies, Bellanca (Champion) P/Ns 3-1079 and 3-1493, on Bellanca (Champion) Models 7GC, 7GCB, 7HC, 7KC, 7GCA, 7GCBA, 7ECA, (Serial Numbers prior to 985-74), 7GCAA (Serial Numbers prior to 280-74), 7GCBC (Serial Numbers prior to 604-74), 7KCAB (Serial Numbers prior to 405-74), and 8KCAB (Serial Numbers prior to 120-74). The AD is needed to prevent the possibility of partial engine power loss or a degradation of induction system icing protection.

**DATES:** Effective—October 16, 1980. Compliance schedule—As prescribed in body of AD.

**FOR FURTHER INFORMATION CONTACT:** Kevin Mullin, Engineering and Manufacturing Branch, AGL-214, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois

60018, telephone number (312) 694–4500, extension 308.

**SUPPLEMENTARY INFORMATION:** There have been reports of partial engine power loss due to muffler blockage when the baffle within the muffler breaks loose and blocks the outlet. Since this condition is likely to exist or develop on other airplanes of the same type design, an Airworthiness Directive is being issued which requires repetitive visual inspections of the baffle installation within the muffler core and body assembly, Bellanca (Champion) P/Ns 3–1079 or 3–1493, on Bellanca (Champion) Models 7GC, 7GCB, 7HC, 7KC, 7GCA, 7GCBA, 7ECA, (Serial Numbers prior to 985–74), 7GCAA (Serial Numbers prior to 280–74), 7GCBC (Serial Numbers prior to 604–74), 7KCAB (Serial Numbers prior to 405–74), and 8KCAB (Serial Numbers prior to 120–74).

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.

### Adoption of the Amendment

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

**Bellanca (Champion).** Applies to Bellanca (Champion) Models 7GC, 7GCB, 7HC, 7KC, 7GCA, 7GCBA, 7ECA, (Serial Numbers prior to 985–74), 7GCAA (Serial Numbers prior to 280–74), 7GCBC (Serial Numbers prior to 604–74), 7KCAB (Serial Numbers prior to 405–74), and 8KCAB (Serial Numbers prior to 120–74).

Compliance is required within the next 25 hours time in service, or 60 days after the effective date of this AD, whichever occurs first, and thereafter at intervals not to exceed 100 hours time in service, or 12 months from the last inspection, whichever occurs first. To prevent a degradation of the induction system icing protection or partial engine power loss, accomplish the following:

(1) Visually inspect the baffle installation within the muffler core and body assemblies, Bellanca (Champion) P/Ns 3–1079 or 3–1493, for cracking or deterioration, with the mufflers removed from the aircraft. Replace any muffler where baffle cracking or deterioration is evident, with an airworthy muffler core and body assembly of the same of other FAA approved part number.

(2) If an airplane is at an unsuitable base when compliance with this AD is required, the airplane may be issued a special flight permit in accordance with FAR 21.197 and 21.199 for the purpose of flying to a base where the required inspection may be performed.

(3) Equivalent methods of complying with this AD, including the installation of different exhaust systems, must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Great Lakes Region.

This amendment becomes effective October 16, 1980.

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

**Note.**—Due to the nature of this AD, it is impracticable to follow the regulatory procedures prescribed by Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Des Plaines, Ill., on September 25, 1980.

**Wm. S. Dalton,**

*Acting Director, Great Lakes Region.*

[FR Doc. 80-31489 Filed 10-8-80; 8:45 am]

**BILLING CODE 4910-13-M**

---

**14 CFR Part 39**

**[Docket No. 80-SO-44; Amdt. No. 39-3936]**

## Piper Model PA-31 and PA-31-325 Series Airplanes; Airworthiness Directives

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new Airworthiness Directive (AD) which requires changes to the Takeoff Configuration; Takeoff, Climb and One Engine Inoperative Emergency Procedures for certain PA–31 and PA–31–325 airplanes. It also requires changes to the Takeoff Performance Data published in the current "FAA Approved Airplane Flight Manual" or "Pilots' Operating Handbook and FAA Approved Airplane Flight Manual" applicable to these airplanes. These changes are required because service experience has shown that a potentially unsafe condition exists for the subject aircraft under certain combinations of weight, configuration, ambient conditions and airspeeds in the event an engine fails immediately after liftoff.

**DATES:** Effective October 10, 1980. Compliance required within the next 25 hours time in service after the effective date of this AD, unless already accomplished.

**ADDRESSES:** The applicable service bulletin may be obtained from Piper Aircraft Corporation, 820 E. Bald Eagle Street, Lock Haven, Pennsylvania 17745.

A copy of the service bulletin is also contained in the Rules Docket, FAA, Southern Region, Engineering and Manufacturing Branch, Room 275, 3400 Norman Berry Drive, East Point, Georgia 30344.

**FOR FURTHER INFORMATION CONTACT:** R. J. Sample, Flight Test Section, ASO–216, Flight Standards Division, FAA, Southern Region, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone (404) 763–7446.

**SUPPLEMENTARY INFORMATION:** At the time the Piper PA–31 and PA–31–325 airplanes were certified, they were only required to show a positive rate of climb with one engine inoperative and with the remaining engines operating at not more than maximum continuous power, the inoperative propeller in the minimum drag position, landing gear retracted, wing flaps in the most favorable position and cowl flaps in the position used in cooling tests. The One Engine Inoperative Emergency Procedures/Performance in certain Piper PA–31 and PA–31–325 airplanes have been reevaluated by Piper Aircraft Corporation and the FAA. The results of this reevaluation show the airplane meets the one engine inoperative performance requirements of CAR 3. Service experience has shown, however, that a potentially unsafe condition can exist under certain combinations of weight, configuration, ambient conditions and airspeeds in the event an engine fails immediately after liftoff.

This AD revises the takeoff configuration and relevant procedures in order to provide improved climb performance in the flight regime between liftoff speed and the attainment of best rate of climb speed with one engine inoperative in the configuration defined above. These simplified procedures minimize the time required to attain best rate of climb speed. These new procedures include the use of 0° flaps, increased rotation and liftoff speeds with resulting changes in takeoff and accelerate/stop distances. The revised operating procedures and performance data must be added to the "FAA Approved Airplane Flight Manual" or "Pilots' Operating Handbook and FAA Approved Airplane Flight Manual" for certain Piper PA–31 and PA–31–325 series 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.

### Adoption of the Amendment

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

**Piper Aircraft Corporation:** Applies to Model PA–31 and PA–31–325 airplanes, Serial Numbers 31–2 through 31–8012086 certificated in all categories.

Compliance required within the next 25 hours time in service, unless already accomplished. To reduce a potential unsafe condition in the event of engine failure at liftoff, accomplish the following:

(a) Incorporate the applicable revision as listed below, into the "FAA Approved Airplane Flight Manual" or "Pilot's Operating Handbook and FAA Approved Airplane Flight Manual" as appropriate for these airplanes:

Piper PA–31 Series: (1) Airplane Serial Numbers: 31–2 through 31–659 and 31–661 through 31–771. FAA Approved Airplane Flight Manual (PAC Report No. 1362), Revision 30.

(2) Airplane Serial Numbers: 31–712 through 31–751. FAA Approved Airplane Flight Manual (PAC Report 1655), Revision 11.

(3) Airplane Serial Numbers: 31–712 through 31–751. (PA–31 with nacelle wing lockers and T10–540–A2C engines) FAA Approved Flight Manual (PAC Report 1686), Revision 9.

(4) Airplane Serial Numbers: 31–752 through 31–7612110. FAA Approved Airplane Flight Manual (PAC Report 1702), Revision 21.

(5) Airplane Serial Numbers: 31–7712001 through 31–7912124. Pilot's Operating Handbook and FAA Approved Airplane Flight Manual (PAC Report 2045), Revision 9.

(6) Airplane Serial Numbers: 31–8012001 through 31–8012086. Pilot's Operating Handbook and FAA Approved Airplane Flight Manual (LK–1206), Revision 3.

Piper PA–31–325 Series:

(1) Airplane Serial Numbers: 31–7300932 through 31–7612110. FAA Approved Flight Manual (PAC Report 1860), Revision 10.

(2) Airplane Serial Numbers: 31–7712001 through 31–7912124. Pilot's Operating Handbook and FAA Approved Airplane Flight Manual (PAC Report 1964), Revision 8.

(3) Airplane Serial Numbers: 31–8012001 through 31–8012086. Pilot's Operating Handbook and FAA Approved Airplane Flight Manual (LK–1207), Revision 3.

(b) Inspect the airplane's flap position indicator:

(1) If the words "TAKE OFF RANGE" do not appear on the flap position indicator, no modification is required.

(2) If the words "TAKE OFF RANGE" are marked on the face of the flap position indicator:

(i) Replace the flap position indicator with a like unit not having the "TAKE OFF RANGE" marking or

(ii) Remove the flap position indicator from the airplane for modification by any person authorized in accordance with FAR 43.3. The following indicators are to be modified or replaced with a new indicator:

| Existing indicator PAC part No. | Replacement indicator | |
|---|---|---|
| | PAC part No. | PAC code No. |
| 1. 55567–2 | 55567–3 | 548–554 |
| 2. 55650–2 | 55650–3 | 548–553 |
| 3. 55991–3 | 55991–6 | 548–556 |
| 4. 55991–4 | 55991–7 | 548–557 |
| 5. 71128–5 | 71128–9 | 548–545 |
| 6. 71128–6 | 71128–10 | 548–546 |

(A) For indicators of the AC or Rochester type Piper Part Number 55650–2, 55567–2, 55991–3, and –4, use the following modification instructions:

1. Place indicator "face down" on a firm, protected surface.

2. Use a standard slot head screwdriver (approximately ⅜" wide) and progressively work around the perimeter of the bezel until crimp is removed enough to allow the bezel and lens to be removed.

Caution—Be very careful when removing and reinstalling the crimping of the bezel. Excessive pressure could crack glass lens or plastic instrument case.

3. Remove or cover up the words "TAKEOFF RANGE" with flat black paint that matches the instrument dial.

4. Inspect instrument for foreign material contamination.

5. Clean glass lens.

6. Reinstall bezel and lens.

7. Very carefully, work progressively around the perimeter and recrimp the bezel using the flat side of the screwdriver or a piece of hard wood. Check that the crimp is adequate to prevent lens rattle.

8. Check indicator calibration per the following instructions.

*AC Indicator*

(a) Connect 28 volt DC power supply as follows:

- Positive lead of power supply to indicator ignition terminal.
- Negative lead of power supply to a 30 ohm resistor.
- Connect other side of resistor to indicator sender terminal.
- Connect indicator case terminal to power supply negative lead.

(b) Apply 28 volts with 30 ohm resistor connected. The indicator should read at the "DOWN" position.

(c) Apply 28 volts with 30 ohm resistor removed and indicator sender terminal connected directly to power supply negative lead. The indicator should read at the "UP" position.

(d) Needle should move slowly during all travel.

*Rochester Indicator*

Calibrate the Rochester indicator the same as the AC unit except connect the negative lead of the power supply to the indicator center terminal.

Note.—Rochester indicator case is plastic.

(B) For the indicators of the Hickok type, P/N 71128–5, and –6, use the following modification instructions:

1. Remove the four screws located around the case near the base of the indicator.

2. Place indicator on its base (glass face up).

3. Slide the case vertically off the indicator while holding the base connector. (Note: The glass and bezel will lift off as a separate unit.)

4. Revise dial markings by covering the words "Takeoff Range" with flat black paint that matches the indicator face.

5. Inspect the indicator for foreign material contamination.

6. Reassemble unit.

7. Check indicator calibration per the following instructions:

(a) Connect the 28 volt DC power supply positive lead to the indicator positive (+) terminal.

(b) Connect the power supply negative lead to the indicator negative (−) terminal.

(c) With no voltage applied, the indicator should read "OFF."

(d) With five volts applied, the indicator should read "DN."

(e) If subparagraph (b)(2), (i) or (ii) cannot be accomplished within 25 hours time in service after the effective date of this AD, a placard may be installed directly above the flap position indicator, which reads: "Takeoff Flaps—0°." The placard may be fabricated from any suitable material with letters not less than ¼" high. If this placard is installed, compliance with subparagraph (b) above must be accomplished not later than November 28, 1980. When action in subparagraph (b) is accomplished, remove placard.

(f) Make an appropriate maintenance record entry.

An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region.

Note.—Piper Service Bulletin 697 pertains to this subject and contains the appropriate revisions for the "FAA Approved Airplane Flight Manual" or "Pilot's Operating Handbook and FAA Approved Airplane Flight Manual."

This amendment becomes effective October 10, 1980.

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

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in East Point, Ga., on September 26, 1980.

**Seymour Oberlander,**

*Acting Director, Southern Region.*

[FR Doc. 80–31497 Filed 10–8–80; 8:45 am]

BILLING CODE 4910–13–M

**14 CFR Part 39**

**[Docket No. 80-NE-20; Amdt. 39-3941]**

## Sikorsky S-76A Helicopters Certificated in All Categories; Airworthiness Directives

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment amends an existing airworthiness directive (AD), 80-14-16, Amendment 39-3837, applicable to Sikorsky S-76A helicopters certificated in all categories. The amendment is needed in order to provide a permanent installation for preventing full displacement of main rotor blade spindle shear bearing inner races in place of the existing interim means of "Cable-TYs."

**DATE:** Effective October 9, 1980. Compliance schedule—as prescribed in body of AD.

**ADDRESSES:** The applicable service bulletin may be obtained from Sikorsky Aircraft, Division of United Technologies Corporation, Stratford, Connecticut 06602. A copy of the service bulletin is contained in the Rules Docket at the FAA New England Region Headquarters, Burlington, Massachusetts.

**FOR FURTHER INFORMATION CONTACT:** Stephen J. Soltis, ANE-212, Engineering and Manufacturing Branch, Flight Standards Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7336.

**SUPPLEMENTARY INFORMATION:** This amendment amends Amendment 39-3837 (45 FR 47130), AD 80-14-16, which requires the installation of two "Cable-TYs" acting as spacers on the main rotor blade spindle shaft to prohibit full displacement of the shear bearing inner race. The TYs were intended to be used as an interim procedure until a permanent solution could be found. The FAA has determined the manufacturer's new design of a bonded sleeve type retainer encased in an outer wrap-around bonded metal strap is satisfactory as a permanent solution. Therefore, the FAA is amending Amendment 39-3837 by requiring removal of the "Cable-TYs" and their replacement with a bonded sleeve type retainer encased in an outer wrap-around bonded metal strap on Sikorsky S-76A aircraft.

In addition, this amendment serves as a terminating action for AD 80-14-16 and refers owners/operators to the Maintenance Manual for mandatory inspections.

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

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-3837 (45 FR 47130) (AD 80-14-16) as follows:

1. Add note after paragraph 1c.

**Note.**—The requirements of this paragraph are an interim action which must be utilized until the components for the required modification described in paragraph 1d herein become available.

2. By the addition of Subparagraph d under Paragraph 1.

d. Prior to February 15, 1981, remove from service all "Cable-TYs" installed on main rotor blade spindle assemblies in accordance with Sikorsky Alert Service Bulletin 76-65-13A, Paragraph G(4), and replace with sleeve type retainers 76102-08055-101 and sleeve straps 76102-08055-103 in accordance with Paragraph 2C of Sikorsky Service Bulletin 76-65-15, dated September 17, 1980.

Accomplishment of the modification in accordance with paragraph 1d contained herein constitutes terminating action for this AD. Refer to Chapters 4 and 5 of the Sikorsky S-76 Maintenance Manual, SA 4047-76-2, for mandatory inspections.

3. Revise the Note listing Sikorsky references as follows:

Add:

c. Sikorsky Service Bulletin 76-65-15, dated September 17, 1980.

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 Sikorsky Aircraft, Division of United Technologies Corporation, Stratford, Connecticut 06602. These documents may also be examined at FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, 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 FAA, New England Region Headquarters, Burlington, Massachusetts.

This amendment becomes effective October 9, 1980.

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

**Note.**—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Mass., on September 30, 1980.

**Robert E. Whittington,**

*Director, New England Region.*

**Note.**—The incorporation by reference provisions of this document were approved by the Director of the **Federal Register** on June 19, 1967.

[FR Doc. 80-31498 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-13-M

**14 CFR Part 71**

**[Airspace Docket No. 80-ASW-31]**

## Designation of Transition Area; Rocksprings, Tex.

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The nature of the action being taken is to designate a transition area at Rocksprings, Tex. The intended effect of the action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Four Square Ranch Airport. The circumstance which created the need for the action is the proposed establishment of an Area Navigation (RNAV) approach to Runway 18. Coincident with this action, the airport is changed from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR).

**EFFECTIVE DATE:** December 25, 1980.

**FOR FURTHER INFORMATION CONTACT:** Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

**SUPPLEMENTARY INFORMATION:**

### History

On August 4, 1980, a notice of proposed rulemaking was published in the **Federal Register** (FR 51587) stating that the Federal Aviation Administration proposed to designate the Rocksprings, Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections.

Except for editorial changes this amendment is that proposed in the notice.

### The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates the Rocksprings, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing an RNAV proposed instrument approach procedure to the Four Square Ranch Airport.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended, effective 0901 G.m.t., December 25, 1980, as follows.

In Subpart G, § 71.181 (45 FR 445), the following transition area is designated:

*Rocksprings, Texas*

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Four Square Ranch Airport (latitude 30°05'47"N., longitude 100°24'15"W.); and within 2.5 miles each side of the 010° bearing from the Four Square Ranch Airport, extending from the 7-mile radius area to 9.5 miles north of the airport.

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

**Note.**—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on September 30, 1980.

**C. R. Melugin, Jr.,**

*Director, Southwest Region.*

[FR Doc. 80-31490 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-13-M

---

**14 CFR Part 71**

**[Airspace Docket No. 80-ASW-32]**

## Designation of Transition Area: Littlefield, Tex.

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The nature of the action being taken is to designate a transition area at Littlefield, Tex. The intended effect of the action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Littlefield Municipal Airport. The circumstance which created the need for this action is the proposed establishment of a non-Federal nondirectional radio beacon (NDB) on the airport with associated Instrument Flight Rules (IFR) approach procedures.

**EFFECTIVE DATE:** December 25, 1980.

**FOR FURTHER INFORMATION CONTACT:** Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

**SUPPLEMENTARY INFORMATION:**

### History

On August 4, 1980, a notice of proposed rulemaking was published in the **Federal Register** (FR 51588) stating that the Federal Aviation Administration proposed to designate the Littlefield, Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

### The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates the Littlefield, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing proposed NDB instrument approach procedures to the Littlefield Municipal Airport.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended, effective 0901 G.M.T., December 25, 1980, as follows:

In Subpart G, § 71.181 (45 FR 445), the following transition area is designated:

*Littlefield, Texas*

That airspace extending upward from 700 feet above the surface within a 7-statute mile radius of the Littlefield Municipal Airport (latitude 33°55'25"N., longitude 102°23'10"W.) and within 3 statute miles each side of the 208° bearing from the Littlefield NDB (latitude 33°55'07"N., longitude 102°23'11"W.) extending from the 7-statute mile radius area to 8.5 statute miles southwest of the NDB.

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

**Note.**—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on September 30, 1980.

**C. R. Melugin, Jr.,**

*Director, Southwest Region.*

[FR Doc. 80-31491 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-13-M

---

**14 CFR Part 71**

**[Airspace Docket No. 80-ASO-29]**

## Revocation of Federal Airways

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action revokes Federal Airways, V-51E, between Louisville, Ky., and Livingston, Tenn., and V-140N, between Nashville, Tenn., and London, Ky. Use of these airways has steadily declined for the last several years. In 1979, less than one percent of the aircraft in the area utilized these airway segments. This action simplifies charting and reduces storage requirements for the ATC automation data base.

**EFFECTIVE DATE:** December 25, 1980.

**FOR FURTHER INFORMATION CONTACT:** Charles R. Horne, 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) 426-8525.

**SUPPLEMENTARY INFORMATION:**

### History

On August 7, 1980, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke Federal Airways, V-51E between Louisville, Ky., and Livingston, Tenn., and V-140N between Nashville, Tenn., and London, Ky. (45 FR 52396). Use of these airways has steadily declined for the last several years. In 1979, less than one percent of the aircraft in the area

utilized these airway segments. This action simplifies charting and reduces storage requirements for the air traffic control automation data base. Interested persons were invited to participate in the rulemaking procedure by submitting comments on the proposal to the FAA. The only comments received expressed no objections. Section 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) was republished in the **Federal Register** on January 2, 1980, (45 FR 307).

### Adoption of the Amendment

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 (45 FR 307) is amended, effective 0901 GMT, December 25, 1980, as follows:

1. Under V–51 after "Livingston, Tenn.; Louisville, Ky., including" delete "an E alternate and also"

2. Under V–140 after "London, Ky." delete ", including a north alternate from Nashville to London via INT Nashville 049° and London 258° radials"

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

**Note.**—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on October 2, 1980.

**B. Keith Potts,**

*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc. 80-31493 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-13-M

---

## 14 CFR Part 71

**[Airspace Docket No. 80-ASO-38]**

## Alteration of Federal Airways, Orlando, Fla.; Correction

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Correction to final rule.

**SUMMARY:** On Monday, September 22, 1980, the FAA published in the **Federal Register**, FR Document 80–29167, at Vol. 45, No. 185, page 62795, an amendment to alter Victor Airways V–3, V–152, V–159, V–267 and V–441 in the vicinity of Orlando, Fla. This correction alters the effective date of this action from October 30 to December 25, 1980, because all data were not available for charting on the earlier date. Further, it makes minor adjustments to the rule by adding a new definition for V–3 and V–51 (which overlie each other) between Vero Beach and Ormond Beach, Fla., and replaces a V–152 south alternate which was inadvertently left out.

**EFFECTIVE DATE:** October 9, 1980.

**FOR FURTHER INFORMATION CONTACT:** C. Horne, 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) 426–8525.

**SUPPLEMENTARY INFORMATION:** On August 14, 1980, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter Victor Airways V–3, V–152, V–159, V–267 and V–441 in the vicinity of Orlando, Fla. (45 FR 54074). Alteration of these routes provides a "bypass" airway system for the congested Orlando terminal area and will reduce radio frequency congestion. The primary use of the "bypass" airway system will be for routing low altitude en route aircraft around the Herndon and Orlando International Airports, and areas of nonlimited radar coverage during peak traffic periods.

Interested persons were invited to participate in the rulemaking procedures by submitting comments on the proposal to the FAA. The only comments received expressed no objections.

This change further realigns V–51 and V–3 (which overlie each other) between Vero Beach and Ormond Beach, Fla. These two airways are altered 2 degrees so that they will pass over Melbourne VORTAC instead of 2 miles west. This change will depict the route flown by most pilots and eliminate a possibly confusing situation. Accordingly, I find that these corrections are minor matters for which notice and public procedure are not necessary.

### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 80–29167 as published in the **Federal Register** on September 22 is corrected as follows:

1. Effective 0901 G.m.t., December 25, 1980.

2. Under V–3, amend after "Vero Beach, Fla." to read "Vero Beach 343° INT Melbourne, Fla., 161° radials Melbourne; Melbourne 341° radials INT Ormond Beach, Fla., 161° radials Ormond Beach; including a W alternate from Vero Beach to Ormond, via INT Vero Beach 341° and Melbourne, Fla., 321° radials, INT Melbourne 321° and Ormond Beach 211° radials;"

3. Add V–51, amend after "Vero Beach;" to read "Vero Beach 343° INT Melbourne, Fla., 161° radials, Melbourne; Melbourne 341° INT Ormond Beach, Fla., 161° radials Ormond Beach;"

4. Delete V–152.

5. Add V–152, all after "St. Petersburg, Fla." is deleted and "via INT St. Petersburg 060° and Ormond Beach, Fla., 211° radials; Ormond Beach, including a S alternate via Lakeland, Fla., Orlando, Fla.; INT Orlando 048° and Ormond Beach 160° radials;" is substituted therefor.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 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 involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on October 2, 1980.

**B. Keith Potts,**

*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc. 80-31499 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-13-M

---

## 14 CFR Part 95

**[Docket No. 20814; Amdt. No. 95-294]**

## IFR Altitudes; Miscellaneous Amendments

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum enroute authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to

provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

**EFFECTIVE DATE:** October 30, 1980.

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

**SUPPLEMENTARY INFORMATION:** This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) describes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, or contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

### Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.m.t.

(Secs. 307, 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on October 2, 1980.

John S. Kern,

*Acting Chief, Aircraft Programs Division.*

BILLING CODE 4910-13-M

**§95.1001 DIRECT ROUTES—U.S.**
**is amended to delete:**

| FROM | TO | MEA |
|---|---|---|
| Abilene, Tex. VOR | Lometa, Tex. VOR | 4000 |
| INT 109 M rad Oklahoma City VOR & 275 M rad McAlester VOR<br>*2900—MOCA | INT 075 M rad McAlester VOR & 275 M rad Little Rock VOR | *3000 |
| Wink, Tex. VOR<br>Via INK 090/MAF 190 | Midland, Tex. VOR | 4600 |

**§95.1001 DIRECT ROUTES—U.S.**
**is amended to read:**

| FROM | TO | MEA |
|---|---|---|
| Duluth, Minn. VOR<br>*3100—MOCA | U. S. Canadian Border<br>Winnipeg | *18000 |

**§95.1001 DIRECT ROUTES—U.S.**
**is amended by adding:**

| FROM | TO | MEA |
|---|---|---|
| Abilene, Tex. VOR | Llano, Tex. VOR<br>COP 40 LLO | 7000 |
| Lake Charles, La. VOR | Esler, La. VOR | 2000 |
| Lake Charles, La. VOR<br>Via LCH 337/POE 200 | Polk, La. VOR | 2000<br>MAA—8000 |
| San Angelo, Tex. VOR | Lampassas, Tex. VOR | 5000 |

**§95.6008 VOR FEDERAL AIRWAY 8**
**is amended to read in part:**

| FROM | TO | MEA |
|---|---|---|
| Akron, Colo. VOR | Hayes Center, Neb. VOR | 6000 |
| Akron, Colo. VOR<br>Via S alter.<br>*5700—MOCA | Passe Int. Kans.<br>Via S alter. | *6500 |
| Passe INT Kans.<br>Via S alter.<br>*5600—MOCA | Hayes Center, Neb. VOR<br>Via S alter. | *7000 |
| Akron, Colo. VOR<br>Via N alter. | Holyo INT, Colo.<br>Via N alter. | 6400 |

**§95.6009 VOR FEDERAL AIRWAY 9**
**is amended to read in part:**

| FROM | TO | MEA |
|---|---|---|
| New Orleans, La. VOR | Macaw INT, La. | 1900 |

**§95.6010 VOR FEDERAL AIRWAY 10**
**is amended to read in part:**

| FROM | TO | MEA |
|---|---|---|
| Pueblo, Colo. VOR | Lamar, Colo. VOR | 7000 |

**§95.6012 VOR FEDERAL AIRWAY 12**
**is amended to read in part:**

| FROM | TO | MEA |
|---|---|---|
| Tucumcari, N. M. VOR<br>*6500—MRA | *Vegge INT, N. M. | 6000 |
| Tucumcari, N. M. VOR<br>Via N alter. | Amarillo, Tex. VOR<br>Via N alter. | 6500 |
| Tucumcari, N. M. VOR<br>Via S alter. | Moser INT, Tex.<br>Via S alter. | 6000 |

**§95.6013 VOR FEDERAL AIRWAY 13**
**is amended to read in part:**

| FROM | TO | MEA |
|---|---|---|
| Solon INT, Tex. | Corpus Christi, Tex. VOR | 1600 |
| Corpus Christi, Tex. VOR<br>*3000—MRA | *Austs INT, Tex. | 1700 |
| Humble, Tex. VOR | Cleep INT, Tex. | 1900 |
| Lufkin, Tex. VOR<br>*2000—MOCA | Carth INT, Tex. | *3800 |
| Noria INT, Tex.<br>Via W alter.<br>*1600—MOCA | Jetty INT, Tex.<br>Via W alter. | *4000 |
| Cheso INT, Ark. | Boyle INT, Ark. | 3500 |
| Boyle INT, Ark. | Razorback, Ark. VOR | 3000 |
| Spiro INT, Okla.<br>Via W alter. | Chela INT, Okla.<br>Via W alter. | 3000 |

**§95.6014 VOR FEDERAL AIRWAY 14**
**is amended to read in part:**

| FROM | TO | MEA |
|---|---|---|
| Winns INT, Tex. | Shalo INT, Tex. | 5500 |
| Shalo INT, Tex. | Lubbock, Tex. VOR | 4900 |
| Waste INT, Okla. | Oklahoma City, Okla. VOR | 3000 |
| Falis INT, Okla. | Tulsa, Okla. VOR | 3000 |
| Tulsa, Okla. VOR<br>Via S alter.<br>*2900—MRA | *Pryor INT, Okla.<br>Via S alter. | 2700 |
| Pryor INT, Okla.<br>Via S alter. | Neosho, Mo. VOR<br>Via S alter. | 2900 |

**§95.6015 VOR FEDERAL AIRWAY 15**
**is amended to read in part:**

| FROM | TO | MEA |
|---|---|---|
| Barba INT, Tex.<br>Via W alter. | Bosel INT, Tex.<br>Via W alter. | 2800 |
| Bosel INT, Tex.<br>Via W alter. | Waco, Tex. VOR<br>Via W alter. | 2700 |

**§95.6016 VOR FEDERAL AIRWAY 16**
**is amended to read in part:**

| FROM | TO | MEA |
|---|---|---|
| Anima INT, N. M. | *Darce INT, N. M.<br>E-bound<br>W-bound | 9000<br>11000 |
| *11000—MCA Darce INT, W-bound | | |
| Merge INT, Tex. | Big Spring, Tex. VOR | 4400 |
| Milsap, Tex. VOR | Acton, Tex. VOR | 2800 |
| Acton, Tex. VOR | Scurry, Tex. VOR | 2800 |
| Sparo INT, Ark.<br>*8000—MRA<br>**1600—MOCA | *Bunns INT, Ark. | **8000 |
| Bunns INT, Ark.<br>*1800—MOCA | Sulph INT, Ark. | *8000 |
| Pine Bluff, Ark. VOR<br>*1900—MOCA | Holly Springs, Ms. VOR | *5000 |

**§95.6017 VOR FEDERAL AIRWAY 17**
**is amended to read in part:**

| FROM | TO | MEA |
|---|---|---|
| Kahan INT, Tex. | Cotulla, Tex. VOR | 2200 |
| Austin, Tex. VOR<br>Via E alter. | Hutto INT, Tex.<br>Via E alter. | 2700 |
| Barba INT, Tex.<br>Via E alter. | Bosel INT, Tex.<br>Via E alter. | 2800 |
| Bosel INT, Tex.<br>Via E alter. | Waco, Tex. VOR<br>Via E alter. | 2700 |
| Waco, Tex. VOR<br>*4000—MRA | *Willi INT, Tex. | 2300 |
| Acton, Tex. VOR | Bridgeport, Tex. VOR | 3000 |

| | | |
|---|---|---|
| San Antonio, Tex. VOR | Dents INT, Tex. | |
| Via W alter. | Via W alter. | 3000 |
| Odins INT, Okla. | Camar INT, Okla. | 4000 |

§95.6018 VOR FEDERAL AIRWAY 18

is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Quitman, Tex. VOR | Cadoz INT, Tex. | 2400 |
| Altos INT, La. | *Bolts INT, Ms. | |
| Via S alter. | Via S alter. | 2300 |
| *3400-MRA | | |
| Bolts INT, Ms. | Jackson, Ms. VOR | |
| Via S alter. | Via S alter. | 2000 |

§95.6019 VOR FEDERAL AIRWAY 19

is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Albuquerque, N. M. VOR | *Santa Fe, N. M. VOR | 9000 |
| *11600-MCA Santa Fe VOR, E-bound | | |
| Pueblo, Colo. VOR | Hanko INT, Colo. | 8000 |

§95.6020 VOR FEDERAL AIRWAY 20

is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| U. S. Mexican Border | McAllen, Tex. VOR | 2000 |
| Solon INT, Tex. | Corpus Christi, Tex. VOR | 1600 |
| Latex INT, Tex. | Ascot INT, Tex. | *4000 |
| *1600-MOCA | | |

§95.6062 VOR FEDERAL AIRWAY 62

is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Fluty INT, N. M. | Texico, Tex. VOR | 6500 |
| Rotan INT, Tex. | Abilene, Tex. VOR | 3700 |
| Polka INT, Tex. | Acton, Tex. VOR | 2900 |

§95.6063 VOR FEDERAL AIRWAY 63

is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Blue Ridge, Tex. VOR | Mc Alester, Okla. VOR | 3000 |

§95.6066 VOR FEDERAL AIRWAY 66

is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Douglas, Ariz. VOR | Anima INT, N. M. | *11000 |
| *8700-MOCA | | MAA-13000 |
| Anima INT, N. M. | *Darce INT, N. M. | |
| | E-bound | 9000 |
| | W-bound | 11000 |
| *11000-MCA Darce INT, W-bound | | |
| Bypas INT, Tex. | Hyman, Tex. VOR | 4500 |
| Hyman, Tex. VOR | Abilene, Tex. VOR | 4500 |

§95.6068 VOR FEDERAL AIRWAY 68

is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| San Antonio, Tex. VOR | Marcs INT, Tex. | 3500 |
| Marcs INT, Tex. | Crays INT, Tex. | 2500 |

§95.6069 VOR FEDERAL AIRWAY 69

is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Pine Bluff, Ark. VOR | Billi INT, Ark. | 2000 |
| Hille INT, Ark. | Walnut Ridge, Ark. VOR | 3500 |

§95.6070 VOR FEDERAL AIRWAY 70

is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Raymo INT, Tex. | Jetty INT, Tex. | *4000 |
| *1600-MOCA | | |

§95.6071 VOR FEDERAL AIRWAY 71

is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Harrison, Ark. VOR | Reeds INT, Mo. | 3000 |
| Hot Springs, Ark. VOR | Hider INT, Ark. | |
| Via W alter. | Via W alter. | 3000 |

§95.6073 VOR FEDERAL AIRWAY 73

is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Tulsa, Okla. VOR | Fraks INT, Okla. | 3000 |

§95.6074 VOR FEDERAL AIRWAY 74

is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Fort Smith, Ark. VOR | Charr INT, Ark. | 2500 |
| Fort Smith, Ark. VOR | Drano INT, Ark. | |
| Via N alter. | Via N alter. | 2500 |
| Pioneer, Okla. VOR | Tulsa, Okla. VOR | |
| Via N alter. | Via N alter. | 3000 |
| Tulsa, Okla. VOR | *Pryor INT, Okla. | |
| Via N alter. | Via N alter. | 2700 |
| *2900-MRA | | |
| Pryor INT, Okla. | Swall INT, Okla. | |
| Via N alter. | Via N alter. | *5500 |
| *2600-MOCA | | |
| Pioneer, Okla VOR | Okmulgee, Okla. VOR | |
| Via S alter. | Via S alter. | 3000 |
| Fort Smith, Ark. VOR | *Blimp INT, Ark. | |
| Via S alter. | Via S alter. | 2700 |
| *4000-MCA Blimp INT, SE-bound | | |

§95.6076 VOR FEDERAL AIRWAY 76

is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Llano, Tex. VOR | Austin, Tex. VOR | 3000 |
| Austin, Tex. VOR | Podds INT, Tex. | |
| Via N alter. | Via N alter. | 2500 |
| San Angelo, Tex. VOR | Evile INT, Tex. | 3700 |

§95.6077 VOR FEDERAL AIRWAY 77

is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Foyer INT, Okla. | *Nocks INT, Okla. | 3000 |
| *5000-MRA | | |
| Nocks INT, Okla. | Oklahoma City, Okla. VOR | 3000 |

§95.6080 VOR FEDERAL AIRWAY 80

is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Akron, Colo. VOR | Holyo INT, Colo. | 6400 |

§95.6081 VOR FEDERAL AIRWAY 81

is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Pueblo, Colo. VOR | Colorado Springs, Colo. VOR | 9500 |

§95.6083 VOR FEDERAL AIRWAY 83

is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Carlsbad, N. M. VOR | Nelon INT, N. M. | 5300 |
| Nelon INT, N. M. | Roswell, N. M. VOR | |
| | NW-bound | 5000 |
| | SE-bound | 5300 |
| Pueblo, Colo. VOR | Hanko INT, Colo. | 8000 |
| Hanko INT, Colo. | Colorado Springs, Colo. VOR | 9500 |

§95.6085 VOR FEDERAL AIRWAY 85
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Denver, Colo. VOR | Hainy INT, Colo. | *9000 |
| *8000-MOCA | | |

§95.6088 VOR FEDERAL AIRWAY 88
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Vinta INT, Okla. | Narci INT, Okla. | *4500 |
| 2200-MOCA | | |
| Narci INT, Okla. | Wacco INT, Mo. | *6500 |
| 3000-MOCA | | |

§95.6094 VOR FEDERAL AIRWAY 94
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Bypas INT, Tex. | Hyman, Tex. VOR | 4500 |
| Hyman, Tex. VOR | Tuscola, Tex. VOR | 4100 |
| Tuscola, Tex. VOR | Polka INT, Tex. | *6000 |
| *3900-MOCA | | |
| Polka INT, Tex. | Acton, Tex. VOR | 2900 |
| Acton, Tex. VOR | Scurry, Tex. VOR | 2800 |

§95.6095 VOR FEDERAL AIRWAY 95
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Chilt INT, Colo. | Month INT, Colo. | 11800 |
| Month INT, Colo. | Foles INT, Colo. | 9700 |

§95.6114 VOR FEDERAL AIRWAY 114
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Alexandria, La. VOR | Mushe INT, La. | |
| Via N alter. | Via N alter. | 1700 |

§95.6124 VOR FEDERAL AIRWAY 124
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Blue Ridge, Tex. VOR | Paris, Tex. VOR | 2400 |

§95.6132 VOR FEDERAL AIRWAY 132
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Akron, Colo. VOR | Goodland, Kans. VOR | 6400 |

§95.6140 VOR FEDERAL AIRWAY 140
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Tulsa, Okla. VOR | *Pryor INT, Okla. | 2700 |
| *2900-MRA | | |
| Pryor INT, Okla. | Razorback, Ark. VOR | *3400 |
| *2800-MOCA | | |
| Spray INT, Ark. | Harrison, Ark. VOR | 3700 |
| Goonl INT, Tex. | Sayre, Okla. VOR | 5000 |

§95.6160 VOR FEDERAL AIRWAY 160
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Smity INT, Colo. | *Crikk INT, Colo. | *11000 |
| *9500-MCA Crikk INT, SW-bound | | |
| **7000-MOCA | | |

§95.6161 VOR FEDERAL AIRWAY 161
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Millsap, Tex. VOR | Bridgeport, Tex. VOR | 3000 |

§95.6133 VOR FEDERAL AIRWAY 133
is added to read:

| FROM | TO | MEA |
|---|---|---|
| Intnl Falls, Minn VOR | U.S.Canadian Border | *3000 |
| *2500---MOCA | | |

§95.6163 VOR FEDERAL AIRWAY 163
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Solon INT, Tex. | Corpus Christi, Tex. VOR | 1600 |
| Acton, Tex. VOR | Bridgeport, Tex. VOR | 3000 |
| Yenns INT, Tex. | San Antonio, Tex. VOR | 3000 |
| San Antonio, Tex. VOR | Guada INT, Tex. | |
| Via W alter. | Via W alter | *4000 |
| *2600-MOCA | | |

§95.6174 VOR FEDERAL AIRWAY 174
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Pioneer, Okla. VOR | Bartlesville, Okla. VOR | 3000 |

§95.6177 VOR FEDERAL AIRWAY 177
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Duluth, Minn. VOR | Bring INT, Minn. | 3000 |
| Bring INT, Minn. | Ely, Minn. VOR | *3600 |
| *3000-MOCA | | |

95.6181 VOR FEDERAL AIRWAY 181
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Watertown, S. D. VOR | Fargo, N. D. VOR | |
| Via E alter. | Via E alter. | *3900 |
| *3300-MOCA | | |

§95.6187 VOR FEDERAL AIRWAY 187
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Albuquerque, N. M. VOR | *Curly INT, N. M. | 9000 |
| *9500-MCA Curly INT, NW-bound | | |
| Curly INT, N. M. | Cabzo INT, N. M. | *11000 |
| *10100-MOCA | | |
| Rizal INT, Colo. | *Manca INT, Colo. | 10900 |
| *15000-MCA Manca INT, N-bound | | |
| Nucla INT, Colo. | *Grand Junction, Colo. VOR | 12000 |
| *10400-MCA Grand Junction, S-bound | | |
| Dove Creek, Colo. VOR | Parox INT, Colo. | |
| Via W alter. | Via W alter. | 12000 |

§95.6190 VOR FEDERAL AIRWAY 190
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Las Vegas, N. M. VOR | Dalhart, Tex. VOR | 9500 |
| Pioneer, Okla. VOR | Bartlesville, Okla. VOR | 3000 |

§95.6198 VOR FEDERAL AIRWAY 198
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Churn INT, Tex. | Wemar INT, Tex. | 2500 |
| Stonewall, Tex. VOR | Gobby INT, Tex. | |
| Via N alter. | Via N alter. | 3500 |
| Dogma INT, Miss. | Rommy INT, Miss. | *2800 |
| *1000-MOCA | | |
| Rommy INT, Miss. | Brookley, Ala. VOR | 2000 |

§95.6211 VOR FEDERAL AIRWAY 211
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Brazo INT, N. M. | *Durango, Colo. VOR | |
| | E-bound | 13000 |
| | W-bound | 11000 |
| *8700-MCA Durango VOR, E-bound | | |
| *9200-MCA Durango VOR, W-bound | | |
| Durango, Colo. VOR | Cortez INT, Colo. | 11000 |

§95.6212 VOR FEDERAL AIRWAY 212
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Churn INT, Tex. | Wemar INT, Tex. | 2500 |

§95.6220 VOR FEDERAL AIRWAY 220
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Kremmling, Colo. VOR | *Hainy INT, Colo. | 17000 |
| *13800-MCA Hainy, SW-bound | | |
| Hainy INT, Colo. | Denver, Colo. VOR | *9000 |
| *8000-MOCA | | |
| Akron, Colo. VOR | Passe INT, Kans. | *6500 |
| *5700-MOCA | | |

§95.6222 VOR FEDERAL AIRWAY 222
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Stonewall, Tex. VOR | Gobby INT, Tex. | 3500 |
| Hoban INT, Tex. | Ft. Stockton, Tex. VOR | 5000 |
| Marcs INT, Tex. | Crays INT, Tex. | 2500 |

§95.6240 VOR FEDERAL AIRWAY 240
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Dogmo INT, Miss. | Rommy INT, Miss. | *2800 |
| *1000-MOCA | | |
| Rommy INT, Miss. | Semmes, Ala. VOR | 2000 |

§95.6244 VOR FEDERAL AIRWAY 244
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Stano INT, Colo. | Pueblo, Colo. VOR | 7800 |
| Pueblo, Colo. VOR | Lamar, Colo. VOR | 7000 |

§95.6272 VOR FEDERAL AIRWAY 272
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Sayre, Okla. VOR | Waste INT, Okla. | |
| Via S alter. | Via S alter. | 4000 |
| Waste INT, Okla. | Oklahoma City, Okla. VOR | |
| Via S alter. | Via S alter. | 3000 |

§95.6278 VOR FEDERAL AIRWAY 278
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Blue Ridge, Tex. VOR | Paris, Tex. VOR | 2400 |
| Paris, Tex. VOR | Texarkana, Ark. VOR | 2000 |
| Texarkana, Ark. VOR | Warlo INT, Ark. | 2200 |

§95.6280 VOR FEDERAL AIRWAY 280
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Texico, Tex. VOR | Moser INT, Tex. | 6000 |

§95.6289 VOR FEDERAL AIRWAY 289
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Abott INT, Ark. | Fort Smith, Ark. VOR | 2500 |
| Fort Smith, Ark. VOR | Mulby INT, Ark. | |
| | NE-bound | 4000 |
| | SW-bound | 3000 |
| Mulby INT, Ark. | Harrison, Ark. VOR | 4000 |
| Silbe INT, Tex. | Lufkin, Tex. VOR | |
| Via E alter. | Via E alter. | *2500 |
| *1800-MOCA | | |

§95.6341 VOR FEDERAL AIRWAY 341
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Dubuque, Iowa VOR | *Baulk INT, Wis. | 3200 |
| *4000-MRA | | |

§95.6291 VOR FEDERAL AIRWAY 291
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Albuquerque, N. M. VOR | *Cubba INT, N. M. | |
| Via N alter. | Via N alter. | 8600 |
| *10000-MCA Cubba INT, W-bound | | |
| Cubba INT, N. M. | Gallup, N. M. VOR | |
| Via N alter. | Via N alter. | 11000 |

§95.6303 VOR FEDERAL AIRWAY 303
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Blimp INT, Ark. | Fort Smith, Ark. VOR | 2700 |
| Hot Springs, Ark. VOR | *Avant INT, Ark. | 3000 |
| *2900-MRA | | |

§95.6305 VOR FEDERAL AIRWAY 305
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Walnut Ridge, Ark. VOR | Malden, Mo. VOR | 2300 |

§95.6306 VOR FEDERAL AIRWAY 306
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Austin, Tex. VOR | Podds INT, Tex. | 2500 |
| Cleep INT, Tex. | Daisetta, Tex. VOR | 1900 |
| Daisetta, Tex. VOR | Beaumont, Tex. VOR | |
| Via S alter. | Via S alter. | 2000 |

§95.6307 VOR FEDERAL AIRWAY 307
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Harrison, Ark. VOR | Neosho, Mo. VOR | 3400 |

§95.6315 VOR FEDERAL AIRWAY 315
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Paris, Tex. VOR | Rich Mountain, Okla. VOR | 4200 |

§95.6321 VOR FEDERAL AIRWAY 321
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Owent INT, Ala. | Rocket, Ala. VOR | 3700 |

§95.6358 VOR FEDERAL AIRWAY 358
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Lamposas, Tex. VOR | Bandi INT, Tex. | 3000 |
| Bandi INT, Tex. | Waco, Tex. VOR | 2800 |
| San Antonio, Tex. VOR | Guado INT, Tex. | *4000 |
| *2600-MOCA | | |

§95.6359 VOR FEDERAL AIRWAY 359
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| U. S. Mexican Border | Laredo, Tex. VOR | 3000 |

§95.6421 VOR FEDERAL AIRWAY 421
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Gallup, N. M. VOR | Derma INT, N. M. | |
| Via W alter. | Via W alter. | *13000 |
| *11000-MOCA | | |

§95.6455 VOR FEDERAL AIRWAY 455
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| New Orleans, La. VOR | Macaw INT, La. | |
| Via W alter. | Via W alter. | 1900 |

§95.6477 VOR FEDERAL AIRWAY 477
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Leona, Tex. VOR | Scurry, Tex. VOR | 2300 |
| Leona, Tex. VOR Via W alter. | Scurry, Tex. VOR Via W alter. | 2300 |

§95.6484 VOR FEDERAL AIRWAY 484
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Gunnison, Colo. VOR | Homme INT, Colo. | 14600 |

§95.6530 VOR FEDERAL AIRWAY 530
is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Texico, Tex. VOR | Childress, Tex. VOR | 6000 |

§95.7096 JET ROUTE NO. 96 is amended to read in part:

| FROM | TO | MEA | MAA |
|---|---|---|---|
| Gallup, N. M. VORTAC | Cimarron, N. M. VORTAC | 23000 | 45000 |

§95.7134 JET ROUTE NO. 134 is amended to read in part:

| FROM | TO | MEA | MAA |
|---|---|---|---|
| Gallup, N. M. VORTAC | Cimarron, N. M. VORTAC | 23000 | 45000 |

2. By amending Sub-part D as follows:

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

| AIRWAY SEGMENT FROM | TO | CHANGEOVER POINTS DISTANCE FROM | |
|---|---|---|---|
| V-15 is amended to delete: | | | |
| Humble, Tex. VOR | Navasota, Tex. VOR | 30 | Humble |
| V-306 is amended to delete: | | | |
| Navasota, Tex. VOR Via S alter. | Humble, Tex. VOR Via S alter. | 30 | Humble |
| V-477 is amended to delete: | | | |
| Humble, Tex. VOR Via W alter. | Navasota, Tex. VOR Via W alter. | 30 | Humble |

§95.8005 JET ROUTES CHANGEOVER POINTS

| AIRWAY SEGMENT FROM | TO | CHANGEOVER POINTS DISTANCE FROM | |
|---|---|---|---|
| J-96 is amended by adding: | | | |
| Gallup, N. M. VORTAC | Cimarron, N. M. VORTAC | 146 | Gallup |
| J-134 is amended by adding: | | | |
| Gallup, N. M. VORTAC | Cimarron, N. M. VORTAC | 146 | Gallup |

[FR Doc. 80-31495 Filed 10-8-80; 8:45 am]
BILLING CODE 4910-13-C

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 14 CFR Part 1212

### Protection of Personal Privacy

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Final rule; amendment.

**SUMMARY:** NASA revised its regulations implementing the Privacy Act of 1974, Public Law 93–579, 88 Stat. 1896 in 44 FR 54993–55001, September 24, 1979.

This amendment to 14 CFR 1212.7 changes the references to "Inspections Division" in § 1212.701(a)(1) and (a)(2) to "Inspector General Investigations" and "Office of Inspector General" respectively.

**EFFECTIVE DATE:** October 9, 1980.

**ADDRESS:** Office of General Counsel, Code GG–1, NASA Headquarters, Washington, D.C. 20546.

**FOR FURTHER INFORMATION CONTACT:** Robert Kinberg, 202–755–3922.

14 CFR 1212 is amended by revising § 1212.701(a)(1) and § 1212.701(a)(2) to read as follows:

**§ 1212.701 Systems of records for which exemptions apply.**

(a) *Inspector General Investigations Case Files.* (1) *Section of the Act from which exempted.* The Inspector General Investigations Case Files system of records is exempt from all sections of the Privacy Act (5 U.S.C. 552a) EXCEPT the following: (b) relating to conditions of disclosure; (c)(1) and (2) relating to keeping and maintaining a disclosure accounting; (e)(4)(A) through (F) relating to publishing an annual system notice setting forth name, location, categories of individuals and records, routine uses, and policies regarding storage, retrievability, access controls, retention and disposal of the records; (e)(6), (7), (9), (10) and (11) relating to criminal penalties.

(2) *Reasons for exemption.* The determination to exempt this system of records has been made by the Administrator of NASA in accordance with 5 U.S.C. 552a(j) and this Subpart for the reason that the Office of Inspector General is a component of NASA which performs as its principal function activity pertaining to the enforcement of criminal laws, within the meaning of 5 U.S.C. 552a(j)(2).

October 2, 1980.

**S. Neil Hosenball,**

*General Counsel.*

[FR Doc. 80–31468 Filed 10–8–80; 8:45 am]

BILLING CODE 7510–01–M

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Parts 230, 239 and 274

**[Release Nos. 33–6243, IC–11379]**

### "Money Market" Funds; Inclusion of a Standardized Yield Computation in Prospectuses

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is adopting an amendment to the registration form for open-end management investment companies to require the inclusion of a yield figure computed by a standardized method, and a quotation based on that computation, in the prospectuses of money market funds, and an amendment to a rule to require that any yield quotations used in advertisements pursuant to the rule be computed by the same standardized method. The amendments are based on the need of money market fund investors for comparable yield quotations since such funds are marketed primarily on the basis of yield to shareholders. Currently, money market fund yield quotations are not comparable and may confuse and mislead investors. The amendments would have the effect of standardizing yield quotations for money market funds.

**EFFECTIVE DATES:** Amendment to Rule 434d: November 17, 1980. Amendment to Form N–1: November 17, 1980 for all investment companies filing a new registration statement with the Commission on or after that date; for all other investment companies, effective upon the effective date of any post-effective amendment updating the prospectus to include financial statements containing any information which pertains to any fiscal year or portion thereof ending after December 31, 1980.

**FOR FURTHER INFORMATION CONTACT:** Larry L. Greene, Esq. (202/272–2093) or Anthony A. Vertuno, Esq. (202/272–2107), Division of Investment Management, Securities and Exchange Commission, 500 North Captiol Street, Washington, D.C. 20549.

**SUPPLEMENTARY INFORMATION:**

On January 28, 1980 the Commission proposed amending Form N–1 [17 CFR 239.15, 274.11], the registration form for open-end management investment companies, to require that prospectuses of those investment companies known as "money market" funds include a description of a standardized method of computing yield as set forth in the proposal, and a quotation based on that method.[1] At the same time, the Commission proposed an amendment to Rule 434d [17 CFR 230.434d] under the Securities Act of 1933 [15 U.S.C. 77a–77aa] ("1933 Act") to require money market funds to conform yield quotations used in Rule 434d advertisements to the standardized method. The proposed requirements would apply to any open-end investment company holding itself out to be a "money market" fund or having an investment policy calling for investment of at least 80% of its assets in debt securities maturing in thirteen months or less.

Under the method of computing yield set forth in the proposed amendments, the yield would be calculated by dividing the average daily net investment income per share earned by the fund (that is, accrued interest income plus or minus amortized purchase discount or premium, less all accrued expenses) during a seven calendar day period, by the fund's average daily price per share over the same period and multiplying the result by 365, i.e.,

average daily net investment income per share ÷ average daily price per share × 365 = Yield.

The resulting yield figure would be carried to at least the nearest hundredth of one percent. Net investment income would not include either realized gains and losses or unrealized appreciation and depreciation, but the average price per share would include any changes in net asset value during the seven day period. Any fees charged directly to all shareholder accounts, such as fixed monthly shareholder service fees, would be included in the accrued expenses of the fund. This method had previously been suggested in a request by the Investment Company Institute ("ICI") for a no-action letter.[2]

[1] Securities Act Release No. 6183 (January 28, 1980) [45 FR 7578 (February 4, 1980)].

[2] Investment Company Institute, available November 16, 1979. The Commission had earlier proposed to standardize yield quotations by money market funds by use of the "yield to average life" method. Investment Company Act Release No. 8816 (June 12, 1975) [40 FR 27492 (June 30, 1975)]. The public comment with respect to this proposal was generally adverse, and it was withdrawn in Securities Act Release No. 6183 (January 28, 1980) [45 FR 7578 (February 4, 1980)].

The Commission proposed the amendments because of its belief that yield is particularly important to investors in making an investment decision with respect to money market funds, and that they might choose one fund over another on the basis of even a slight difference in yield. The Commission stated its view that, absent the use of a standardized method of yield computation, money market fund yield quotations are not comparable and have a potential for confusing and misleading investors.[3]

The Commission received nineteen comments on the proposal, all favoring standardization of yield computation and all except one agreeing that a description of the standardized method should be in the prospectus. Only three commentators, however, agreed with the proposal without qualification; the remainder suggested various changes.

After reviewing the comments the Commission is of the view that the proposal should be adopted as proposed, except for a modification relating to the location of the required yield quotation in the prospectus. That modification is discussed below, together with a discussion of various issues raised by the commentators and the Commission's views concerning those issues.

1. *Inclusion of yield quotation in prospectus.* Nine commentators objected to the requirement to include a current yield quotation in the prospectus. Although most of these commentators did not object to including in the prospectus as description of how yield would be computed for purposes of quotations used in advertisements, they argued that, due to rapidly changing fund portfolios and yields, a yield quotation in a prospectus would be out of date within a few weeks of publication. They also argued that a prospectus quotation would not aid comparability, since the proposed rule required that the quotation be for the seven days ended on the date of the most recent financial statements in the prospectus, and hence funds using different fiscal years would be quoting yield for different periods. One of these commentators also suggested that the requirements to include a quotation and a description of the method of computation in the prospectus should be optional.

The Commission has determined to adopt the requirement for a yield quotation in the prospectus notwithstanding these objections. As indicated earlier, yield may be expected to play a significant part in investment decisions concerning money market funds. The required yield figure will provide a prospective investor with an indication of the yield achieved by the fund at a particular point in time that is related to the other information furnished in the prospectus, together with an understanding of the yield computation to be used as an industry standard. Although differences in fiscal years would impair direct comparability of yield figures included in prospectuses, an investor could compare the yield figures of money market funds for the same time period, whether they appear in a prospectus or are available in other sources. Moreover, the Commission believes that the quotation will serve as a useful example of the figures which result from the method of computation required to be described in the prospectus, and this illustration will assist investors in comprehending the textual discussion of the subject. Funds may, of course, in fulfilling their duty to make sufficient disclosures to make the quotation not misleading, point out that it should not be viewed as an indication of the fund's current yield.

2. *Location in prospectus of yield quotation.* Three commentators objected to the requirement that the prospectus quotation be placed immediately after the per share table. They argued that it could be misleading to display prominently a yield which may vary substantially from the yield a prospective investor would actually receive. It was also argued that this requirement might prove to be a hindrance in drafting prospectuses which are easily read by the average investor. Thus, these commentators argued, funds should have discretion to decide where to place the quotation in the prospectus.

While the Commission does not agree that a prominent display of this quotation would necessarily be misleading, the Commission has determined that its juxtaposition with other required performance information should not be made mandatory, and that instead money market funds should have discretion concerning the placement of the quotation. Accordingly, the proposed requirement in General Instruction 3G to Form N–1 relating to placement of the yield quotation in the prospectus has been eliminated, and the form item is being renumbered.

3. *Use of seven day base period.* Some commentators argued that the proposed seven day standard base period for yield quotations was too short, in that it would make yield quotations too subject to temporary variables in the money market. Those commentators argued, variously, that periods of a month, 45 days, or a year, or a year with each month of the year shown separately, would be more representative of a fund's performance. In addition, some commentators objected to the proposed requirement that *all* quotations of yield in Rule 434d advertisements be based on the seven day period. They argued that, when a seven day base period was suggested by the ICI in its no-action request, that period was intended only for situations where funds seek to quote current yield. They argued that where funds wish to present historical performance information for longer periods they should be allowed to do so.

The Commission continues to believe that a seven day base period is appropriate, and that this should be the exclusive method for computing yield quotations used in Rule 434d advertisements by money market funds. One of the considerations underlying the Commission's proposal was the probability that the predominant use of yield quotations by funds and their investors will be to convey and receive information about current yield, particularly when used in advertisements. Nothing in the comments received suggests that that consideration is not valid. The Commission believes that, in view of the short-term nature of money market instruments and the rapidity with which the rates payable on those instruments can change, a longer period could result in quotations not representative of a fund's current yield. Thus, the seven day base period proposed to be used as the basis for the standardized yield computation is not being changed.

With respect to the suggestion that Rule 434d advertisements be permitted to include yield quotations indicative of longer range performance information instead of, or in addition to, the standardized current yield quotations, the Commission believes that this would interfere with the primary purpose of the amendments: that is, to achieve comparability among the yield quotations advertised by money market funds. It should be noted, however, that while yield quotations used in Rule 434d advertisements of money market funds will be limited to the prescribed method using seven day periods, funds will remain free to include additional yield and performance information that is not misleading in their full prospectuses and in sales material that is accompanied or preceded by a prospectus.

[3] Reference is made to Securities Act Release No. 6183 for a discussion of the basis for the Commission's proposal, including the factors affecting comparability of yield quotations, and an explanation of the proposed amendments.

4. *Absence of specific requirement concerning choice of seven day period for use in Rule 434d advertisements.* The ICI's no-action request relating to the use of current yield figures in Rule 434d advertisements included a condition that any advertisement containing a yield quotation be based on a period beginning no later than the fourteenth calendar day prior to publication of the advertisement. Several commentators objected to the fact that the Commission's proposed amendment to Rule 434d did not include such a limitation, requiring instead only that the period used be identified in the advertisement. These commentators argued that the absence of the limitation recommended by the ICI could result in the use of yield figures which were out of date.

The prohibition against using yield quotations based on a period beginning more than fourteen days in the past was omitted from the proposed rule because such a prohibition might effectively prevent yield quotations from being used in advertisements appearing in magazines or other publications with long lead times. The Commission believes that the rule's requirement that the seven day period be identified, coupled with the general 1933 Act requirement that a Rule 434d advertisement, like any other prospectus, contain whatever information is needed to make the document not misleading, will serve as an adequate safeguard against yield quotations being used in a misleading way, and that it is not necessary to prohibit specifically the use of seven day periods beginning more than fourteen days in the past. However, the Commission expects that registrants, in order to make Rule 434d advertisements not misleading, normally would use the most recent period practical.

5. *Absence of specific requirements concerning accompanying disclosures.* In its no-action request, the ICI set forth a number of specific textural disclosures to accompany yield quotations. The proposal incorporated certain of these disclosures, specifically the requirement to indentify the seven day period used, and the requirement to disclose material changes in the quoted yield which would have resulted from changes in net asset value of the inclusion or realized or unrealized capital changes in the calculation of average daily net investment income. Some commentators argued that the other disclosures suggested by the ICI shoud be specifically required as well.[4] These commentators contended that such information would be helpful to investors in evaluating advertised current yields and would help to make yield quotations broadly comparable and not misleading.

In light of its general policy not to establish specific standards with respect to investment company sales literature beyond the minimum extent necessary, the Commission is not persuaded that it should adopt the remainder of the ICI's recommended textual disclosures as specific requirements of the rule. It should be emphasized, however, that by not including these recommendations within the required standardized method the Commission does not intend to suggest that such disclosures are not important or that they should not be included in the disclosure. Rather, the Commission is of the view that funds will be adequately guided by the general requirement to include whatever disclosures are needed to make the quotation not misleading.

6. *Other comments.* One commentator suggested changes in the elements used in the yield computation. Pursuant to this suggestion, the average daily net investment income used in the calculation would reflect any realized or unrealized capital changes recognized by a fund in determining its daily dividend and any changes in net asset value during the period. Both of these items would be excluded under the Commission's proposal. In addition, this commentator would compare the average daily net investment income to the price of shares at the beginning of the period rather than the average price during the period. The commentator suggested that these changes would make the yield quotations consistent with the actual experience of an investor in the fund during the period for which the calculation is made.

The Commission is not adopting this commentator's suggestions. The Commission is of course aware that various funds have different methods of operation, and that this can result in differences in individual investor experience and yield quotations, especially over the short term. It is these differences which have heretofore made it difficult for investors to make yield comparisons among money market funds. The rule is intended to alleviate this problem by standardizing the method of computation with a view to obtaining yield quotations which are comparable while accounting for differences in individual investor experience by way of the conditional disclosures required. To the extent that this commentator's suggestions would maintain disparity in yield quotations, the purpose of the rule would tend to be defeated. With regard to the suggestion that the yield computation use the price at the beginning of the period rather than the average price during the period, the Commission believes that such a procedure would pose an unnecessary risk that yield figures could be distorted by an aberrant change in price on one day.

Several commentators disagreed with the manner in which the proposal treated fees charged to shareholders. Some suggested that all fees which might be charged to shareholders, including those related to optional transactions, such as redemption by check, be treated as accrued expenses of the fund for purposes of the yield computation. Others suggested that all fees charged to shareholders be excluded from the computation of yield. In the Commission's view, the treatment of fees in the proposal strikes a proper balance between these two alternatives by including in the computation those fees that are charged to all shareholders while excluding those that would be charged only to some. The former are included because their effect is to reduce yields to all shareholders; the latter are excluded because their inclusion would distort the quotation for those shareholders not subject to the fees.

**When To Comply**

The amendment to Rule 434d will become effective on November 17, 1980. The amendment to Form N–1 will become effective on November 17, 1980 for all investment companies filing a new registration statement with the Commission on or after that date. For other investment companies, the amendment to Form N–1 will become effective upon the effective date of any post effective amendment filed for the purpose of updating the prospectus pursuant to Section 10 of the Securities Act of 1933 [15 U.S.C. 80a–77j] to include financial statements any portion of the information of which pertains to any fiscal year or portion thereof ending after December 31, 1980.

Although the amendment of the registration statement will not be

[4] The other disclosures suggested by ICI were: that the advertised yield consist of a seven calendar day annualized historical yield; that the principal is not insured or guaranteed, or alternatively, that principal and yield may fluctuate; that the yield is affected by portfolio quality, portfolio maturity, type of instrument, and a fund's operating expenses; the risk, if unusual, arising from the composition of a fund's portfolio; the daily average dollar-weighted portfolio maturity for the period; that the actual income to any particular shareholder may be higher or lower than the quoted yield if fixed dollar fees are charged directly to all shareholders; and, if appropriate, the temporary subsidization of fund expenses by an affiliate.

necessary for most money market funds until their next regular updating amendment, funds desiring to use yield quotations in Rule 434d advertisements must, in accordance with that rule, have a discussion in the prospectus to serve as the basis for a Rule 434d yield advertisement. The Commission is aware that the prospectuses of many money market funds already include such a discussion. Where a fund's prospectus does not include the discussion and the fund wishes to include yield figures in Rule 434d advertisements before the prospectus is ready for its regular updating, the prospectus may be revised to include it with a "sticker" filed pursuant to Rule 424 [17 CFR 230.424]. For those companies not yet required to comply with the form amendment, it will not be considered necessary to add a yield figure to the prospectus for the purpose of complying with Rule 434d.

*Use of New Rule 464 by Registrants Complying With the Form Amendment*

On August 25, 1980, the Commission adopted new Rule 465 [17 CFR 230.465] under the 1933 Act effective October 6, 1980 [Release No. 33-6229; 45 FR 57702, August 29, 1980]. Pursuant to paragraph (b)(1)(iii) of that rule, a post-effective amendment to a registration statement filed by an investment company othewise qualified under the rule may become effective automatically on the date of filing or on such other date designated by the registrant not later than twenty days after the filing date, provided that the amendment is filed only for the purpose of updating financial information in the prospectus and making other non-material changes in the prospectus. For purposes of Rule 465, the Commission will regard the inclusion of the yield figure required (and its subsequent updating in later filings) as updating of financial information and it will not consider the addition of textural material to the prospectus to comply with the form amendment adopted hereby as a material change.

**Commission Action**

Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

## PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

## PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

1. By amending §§ 239.15 and 274.11 by changing the item number of current Item 17 of Part I of Form N-1 to Item 18 and by adding a new Item 17 to Part I to read as follows:

**§ 239.15 Form N-1, for open-end management investment companies registered on Form N-8A.**

**§ 274.11 Form N-1, registration statement of open-end management investment companies.**

* * * * *

Item 17. *Yield Quotations of Money Market Funds* (Prospectus Only).

(a) For a registrant which holds itself out to be a "money market" fund or has an investment policy calling for investment of at least 80% of its assets in debt securities maturing in thirteen months or less, furnish the following information:

(i) a yield quotation based on the seven days ended on the date of the most recent financial statements of the Registrant included in the prospectus, computed by dividing the Registrant's average daily net investment income per share earned during such seven calendar day period by its average daily price per share for the same period and multiplying the result by 365, with the resulting yield figure carried to at least the nearest hundredth of one percent; and

(ii) a description of the method by which the yield is computed.

(b) For purposes of the calculation required in subsection (a), above, Registrant's average daily net investment income per share shall include its accrued interest income plus or minus amortized purchase discount or premium less accrued expenses, but shall not include realized gains and losses or unrealized appreciation and depreciation. For purposes of this computation, fees charged to all shareholder accounts must be included in the accrued expenses of the fund, and the Registrant's average price per share must include any changes in net asset value during the seven day period.

*Instructions:* In connection with the presentation of the yield figure, the prospectus must disclose:

(1) if applicable, that the Registrant follows the practice of reflecting changes in portfolio values in its daily dividend, and

(2) if material, the net amount of any change in the yield figure which would result from:

(a) the inclusion in the determination of net investment income of realized gains or losses and unrealized appreciation or depreciation recognized by the Registrant but excluded from the computation pursuant to Item 17(b).

(b) any change in net asset value during the period used for computing yield.

* * * * *

## PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

2. By deleting the word "and" from the end of paragraph (a)(4) of § 230.434d, adding the word "and" to the end of paragraph (a)(15), and adding a new paragraph (a)(6), to provide as follows:

**§ 230.434d Advertisement by an investment company as satisfying requirements of section 10.**

(a) * * *

(4) It states, conspicuously, from whom a prospectus containing more complete information may be obtained and that an investor should read that prospectus carefully before investing,

(5) It contains the statement required by § 230.433(b) of this chapter when used prior to effectiveness of the company's registration statement, and

(6) In the case of an investment company which holds itself out to be a "money market" fund or has an investment policy calling for investment of at least 80% of its assets in debt securities maturing in 13 months or less, any quotation of such company's yield contained in such advertisement is based on the method of computation prescribed in Item 17 (and the instructions thereto) of Form N-1, set forth in §§ 239.15 and 274.11 of this chapter and identifies [the date of the last day in] the period used in computing that quotation.

* * * * *

(Secs. 10 and 19(a) of the 1933 Act [15 U.S.C. 77j and 77s(a)] and Section 38(a) of the Investment Company Act of 1940 [15 U.S.C. 80a-37(a)])

By the Commission.

**George A. Fitzsimmons,**

*Secretary.*

September 30, 1980.

[FR Doc. 80-31466 Filed 10-8-80; 8:45 am]

BILLING CODE 8010-01-M

---

**17 CFR Part 271**

**[Release No. IC-11330]**

## Indemnification by Investment Companies

*Correction*

In FR Doc. 80-29084 appearing on page 62423 in the issue for Friday, September 19, 1980, second column,

second full paragraph, sixth line, "precluded" should read "precludes".

BILLING CODE 1505-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### 18 CFR Parts 154 and 270

**[Docket Nos. RM80-7 and RM80-6, Order No. 102]**

### Natural Gas; Rricing of Pipeline and Affiliate Production Under the Natural Gas Act

Issued October 3, 1980

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Order denying rehearing of Order No. 58 and Order No. 98 and clarifiying Order No. 98.

**SUMMARY:** The Commission is issuing an order denying rehearing of final rules in two dockets. These rules set out the Commission's policy regarding the pricing of pipeline, distributor and affiliate production under the Natural Gas Policy Act of 1978 (NGPA) and the Natural Gas Act (NGA).

In Order No. 58 (43 FR 60577), the Commission determnined that the NGPA maximum lawful prices do not apply to sales by pipelines or distributors of commingled volumes of purchased gas and natural gas produced by the pipeline itself. Therefore, the pricing of natural gas produced by interstate pipelines but sold in mixed volume sales remains subject to the Commission ratemaking authority under the NGA. Order No. 98 established the Commission's policy under the NGA regarding the pricing of production by interstate pipelines.

Also, the Commission is adopting an amendment to § 154.42(b)(1)(i) of the regulation promulgated in Order No. 98 (45 FR 53091), to express more clearly Commission's intent that pipeline producers subject to NGPA rate treatment would be eligible to make interim collections. Because this is a clarifying amendment, the Commission found that public notice and comment on the amendment is unnecessary.

**EFFECTIVE DATE:** Amendment to § 154.42(b)(1)(i) is effective October 3, 1980.

**FOR FURTHER INFORMATION CONTACT:**
Susan Tomasky, Office of the General Counsel, 825 North Capitol Street, N.E., Room 8111, Washington, D.C. 20426, (202) 357-8461
or
Ray Beirne, Office of Pipeline and Producer Regulation, 825 North Capitol Street NE., Room 5100C, (202) 357-9371.

**Order No. 102—Order Denying Rehearing of Order No. 58 and Order No. 98 and Clarifying Order No. 98.**

Issued October 3, 1980.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall. Final Rule Governing the Maximum Lawful Price for Pipeline, Distributor, or Affiliate Production (Docket No. RM80-7); and Pricing of Pipeline and Affiliate Production under the Natural Gas Act (Docket No. RM80-6).

*I. Introduction*

A. *First Sales Under the NGPA.* Before the enactment of the Natural Gas Policy Act of 1978 (NGPA), section 1(b) of the Natural Gas Act (NGA) gratned jurisdiction to the Federal Energy Regulatory Commission (Commission) to establish rates for sales for resale of natural gas in interstate commerce. Natural gas companies whose sales were subject to Commision rate regulation under the NGA included independent and pipeline affiliated producers, which ordinarily produce natural gas for sale to interstate pipeline purchasers, and interstate pipelines, which transport for sale natural gas acquired from independent or affiliated producers, or produced by the pipeline itself. Jurisdiction to determine rates for producer and pipeline sales in intrastate commerce was reserved to state and local authority.

The resultant disparity between prices for producer sales in the interstate and the intrastate markets, which tended to discourage dedication of new production to interstate commerce, compelled Congress to eliminate the jurisdictional barriers to a nationwide market. The NGPA supplants the Commission's jurisdiction to set rates for independent and pipeline-affiliated producer sales of natural gas, and draws certain intrastate producers' sales into the field of federal price regulation.[1] To stimulate production, Congress devised a system of maximum lawful prices for domestically produced natural gas, embodying the incentives that Congress found were necessary to induce investment in exploration for and development of new reserves.

The NGPA maximum lawful prices were uniformly applied to "first sales" of natural gas to the new nationwide market, which is comprised of interstate and intrastate pipelines, local distribution companies, and direct sale customers. To insure that natural gas would be delivered to the market at the NGPA prices, Congress also made the wellhead prices applicable to sales preceding sales to pipelines, distributors, and direct sale customers.[2]

However, the NGPA does not terminate the jurisdiction of the Commission to regulate the rates charged for transmission and sale of gas acquired and transported by interstate pipelines. Although the statute modifies that jurisdiction in certain respects in order to facilitate coordination of the Commission's responsibilities under the NGA and NGPA,[3] Congress left substantially intact the regulatory apparatus for determining just and reasonable rates applicable to sales of gas acquired and transported by interstate pipelines.

Congress recognized that pipelines and distributors, in addition to acquiring and transporting gas for sale, also engage in production activities. It drew a distinction between a pipeline or distributor's producer or field sales, and other sales that remain subject to Commission or state jurisdiction. Section 2(21)(B) of the NGPA provides that the term first sale—

> Shall not include the sale of any volume of natural gas by any interstate pipeline, intrastate pipeline, or local distribution company, or any affiliate thereof, unless the sale is attributable to volumes of natural gas produced by such interstate pipeline, intrastate pipeline, or local distribution company, or any affiliate thereof.

In Order No. 58,[4] the Commission promulgated § 270.203 of its regulations, determining which sales of natural gas by a pipeline, local distribution company, or affiliate thereof are first sales within the meaning of section 2(21)(B) of the NGPA. Paragraph (a) of § 270.203 provides that:

---

[1] *See* discussion *infra* at page 16.

[2] Section 2(21)(A) of the NGPA defines "first sale" as "any sale of any volume of natural gas—
(i) to any interstate pipeline or intrastate pipeline;
(ii) to any local distribution company;
(iii) to any person for use by such person;
(iv) which precedes any sale described in clauses (i), (ii), or (iii); and
(v) which precedes or follows any sale described in clauses (i), (ii), (iii), or (iv) and is defined by the Commission as a first sale in order to prevent circumvention of the maximum lawful price established under this Act.

[3] For example, section 601(c) facilitates interstate pipeline pass-through of the purchased gas cost of natural gas acquired in a first sale, by providing that a price no greater than the applicable maximum lawful price is deemed just and reasonable for purposes of determining a pipeline's cost-of-service under the NGA.

[4] Order No. 58, Final Rule Governing the Maximum Lawful Price for Pipeline, Distributor or Affiliate Production (Docket No. RM80-7, issued November 14, 1979), 43 FR 60577 (Nov. 20, 1979).

(f)or purposes of applying section 2(21)(B) of the NGPA, a sale by a pipeline of distributor is a sale of natural gas attributable to volumes of natural gas produced by such pipeline or distributor to the extent that such sale is comprised exclusively of production volumes of natural gas from identifiable wells, properties, or reservoirs which are owned by such pipeline or distributor.

This interpretation reflects the Commission's view that the purpose of section 2(21)(B) is to distinguish between pipeline and distributor sales occurring at the wellhead or in the field,[5] and sales from a pipeline's or distributor's general system supply. Wellhead or field sales clearly are sales attributable to a pipeline's or distributor's own production; sales from a pipeline's system supply are comprised of commingled volumes of purchased gas and pipeline production. Thus, the volumes are attributable to the production properties of independent producers, producing affiliates of the pipeline, and the pipeline itself. This distinction between two types of pipeline and distributor sales, embodied in § 270.203, is consistent with the language of section 2(21)(B), and with the legislative objective of coordinating the pricing scheme of Title I with the on-going jurisdiction of the Commission and state and local authorities to determine rates for sales of natural gas transported for sale by pipelines and distributors.[6]

In contrast with a pipeline that engages directly in production activities, a producing affiliate of a pipeline or distributor that is not itself a pipeline or distributor does not sell mixed volumes of natural gas. Instead, like an independent producer, a producing affiliate sells its production volumes to its affiliated pipeline or distributor, or to other purchasers. Consistent with paragraph (a) of § 270.203, § 270.203(c) treats such sales as first sales within the meaning of section 2(21)(B), because the sales are comprised wholly of volumes attributable to the affiliate's own production.[7]

B. *Pricing of Interstate Pipeline Production Under the NGA.* If a sale by a pipeline of its own production is not a first sale, the applicable rate is determined by the Commission pursuant to its authority under the NGA. In determining interstate pipeline rates under the NGA, the Commission values the pipeline's production volumes sold in a mixed volume sale as a component of the pipeline's cost-of-service. Prior to the NPA, the Commission had sought to provide parity of pricing treatment among independent and interstate pipeline producers by permitting a pipeline to value its production by reference to the area or nationwide rate that would have been applicable to the gas if it had been produced by an independent producer.[8] Area or nationwide rates were made applicable to natural gas produced from wells drilled after January 1, 1973, on leases acquired before October 8, 1969, and from all wells drilled on leases acquired after October 7, 1969.[9] Production from other, older wells, drilled prior to the institution of the parity pricing policy, continued to be valued on a cost-of-service basis.[10]

Also, a pipeline whose production was made subject to parity pricing treatment was permitted an opportunity to demonstrate that special circumstances existed that warranted exemption from area or nationwide rate treatment; a pipeline that demonstrated such special circumstances was permitted to value its production on a cost-of-service basis.[11] In addition, the Commission approved settlements in rate proceedings providing some form of cost-of-service treatment for certain pipelines that failed to demonstrate special circumstances, but that had demonstrated that to some extent cost-of-service treatment was necessary to encourage their expanded production programs.[12]

In Order No. 98,[13] the Commission re-examined its pricing parity policy in light of the enactment of the NGPA. The Commission found that the incentive prices established by Congress under the NGPA should be used to encourage interstate pipelines to develop additional supplies of natural gas.[14] It therefore promulgated § 154.42 of its regulations, which permits pipelines that were previously subject to area or nationwide rate treatment to value their production, for purposes of PGA passthrough, by reference to the NGPA price that would have been applicable to the gas if it had been sold in a first sale. However, the Commission found that such incentive prices should not be available for production from leases previously subject to cost-of-service treatment, reasoning that such pipelines have already enjoyed the benefits of a certain recovery of and return on the costs of production, and that their customers, who have borne the risks of this investment in the early years of exploration and development, should have an opportunity to receive the price benefits of cost-of-service treatment for

[5] Sale of natural gas by a pipeline or distributor would be a first sale if it were an off system sale, or if the pipeline committed volumes of gas from an identifiable well to a particular purchaser and subsequently withdrew equivalent volumes from system supply for sale to the purchaser. *Id., mimeo* at 4.

[6] Section 2(21)(A)(v) of the NGPA empowers that Commission to add to the statutory definition of first sale, in order to prevent circumvention of the NGPA maximum lawful prices. Therefore, certain mixed volume sales by pipeline and distributors could be denominated first sales and thus become subject to NGPA maximum lawful prices. In exercise of this authority, the Commission has provided in § 270.203(b) that in order to prevent circumvention of the maximum lawful prices established under Title I of the NGPA, the term "first sale" includes a mixed volume sale by a pipeline or distributor unless the price at which such natural gas is sold is regulated pursuant to the Natural Gas Act or is regulated by a State agency empowered by State statute to establish, modify or set aside the rate for such sale, or the Commission, on application, has determined not to treat such sale as a first sale. This rule preserves the existing division of state and federal authority over such sales, but asserts NGPA pricing jurisdiction over sales that are not subject to rate regulation in order to insure that NGPA prices will not be circumvented.

[7] Section 270.20(c) provides:

(c) *Sales by certain affiliates.* Any sale by an affiliate of a pipeline or distributor is a first sale if such affiliate is not itself a pipeline or distributor, unless the Commission, on application, has determined not to treat such sale as a first sale. For purposes of this paragraph, the term "sale" does not include any transaction between an interstate pipeline and an affiliate thereof if such transaction would not have been treated as a sale for purposes of the Natural Gas Act.

This rule includes sales by non-producing affiliates that are not themselves pipelines or distributors, such as gatherers or other middlemen. Although sales by unaffiliated middlemen are first sales under section 2(21)(A), *see supra* note 2 and accompanying text, sales by middlemen affiliated with pipelines or distributors are excluded from first sale treatment under section 2(21)(B). Because historically these sales largely are unregulated, the Commission, by use of its authority under section 2(21)(A)(v), has denominated these sales as first sales to avoid circumvention of the NGPA maximum lawful prices.

[8] 18 CFR 2.66. *See* Opinion No. 568, *Pipeline Production Area Rate Proceeding (Phase I)*, 42 F.P.C. 738, *modified* 42 F.P.C. 1089 (1969), *aff'd, City of Chicago v. FPC*, 458 F. 2d 731 (D.C. Cir. 1971), *cert. denied*, 405 U.S. 1074 (1972); Opinion No. 699–H, *mimeo* at 47–50 (issued December 4, 1974), *to be published* at 52 F.P.C. 1604, 1634–35 (1974).

[9] Although the pipeline production was not acquired in a sale and no certificates were issued for the pipeline's acquisition of its own production, the Commission allowed the value for such gas, determined by reference to area or nationwide rates, to be reflected in the pipeline's semi-annual purchased gas filings and passed through to purchasers on the same basis as natural gas purchased from producers. 18 CFR 154.38(d)(4), note 1.

[10] The costs of pipeline production subject to cost-of-service treatment, along with the pipeline's other costs, is reflected in the pipeline's rate filings under section 4 of the NGA.

[11] 18 CFR 2.66(a)(4) (1980).

[12] *See, e.g.*, Kansas-Nebraska Natural Gas Company, Inc., Docket Nos. RP72–32, RP74–11, RP76–8 (issued December 7, 1976).

[13] Order No. 98, Final Rule Governing Pricing of Pipeline and Affiliate Production under the Natural Gas Act (Docket No. RM80–6, issued August 4, 1980), 45 Fed. Reg. 53091 (Aug. 11, 1980).

[14] *Id., mimeo* at 10–15.

gas produced as a result of the expenditures.

C. *Applications for Rehearing.* The Commission has received five timely applications for rehearing of Order No. 58,[15] arguing that the definition of first sale in § 270.203 contravenes the language and intent of section 2(21)(B) and other provisions of the NGPA.

On January 9, 1980, the Commission issued an Order Granting Rehearing of Order No. 58 for Purposes of Further Consideration, and subsequently determined that the issues of law and policy raised in these applications should be evaluated in concert with the Commission's final action on rehearing of Order No. 98, promulgating the rule for the pricing of interstate pipeline production under the NGA.[16] Six timely applications for rehearing of Order No. 98 were received.[17] After considering the arguments raised in the applications for rehearing of Order No. 58 and Order No. 98, the Commission is persuaded that its interpretation of section 2(21) of the NGPA is correct, and that the policy of pricing parity for interstate pipelines should be implemented. For reasons stated more fully below, the Commission affirms its rules in § 270.203 and § 154.42 and denies rehearing of Order No. 58 and Order No. 98.

*II. Applications for Rehearing of Order No. 58*

A. *Pricing treatment of mixed volumes sales by pipeline and distributor producers.* The applications for rehearing of Order No. 58 take issue with the interpretation of section 2(21)(B) of the NGPA set forth in § 270.203(a) of the Commission's regulations. Mid-Louisiana, Kansas-Nebraska,[18] Consolidated and Kentucky-West Virginia argue that the language of section 2(21)(B) plainly entitles pipeline producers to NGPA first sale treatment for all volumes of natural gas produced by a pipeline; they believe that the only purpose of section 2(21)(B) is to insure that purchased gas will be excluded from first sale treatment. Kansas-Nebraska suggests that section 2(21)(B) was drafted as an exclusion to the first sale definition in order to distinguish the situation of pipeline and independent producers; such a distinction is necessary, it argues, because a pipeline, unlike an independent producer, sells purchased gas as well as its own production. Applicants conclude that the Commission, in promulgating § 270.203(a), has exceeded the bounds of its statutory authority by adopting of a rule that negates the language and intent of the statutorily prescribed definition of first sale [19] and unlawfully discriminates against pipeline producers.[20]

Some of these commenters also contend that the Commission's interpretation rests on the erroneous assumption that the inclusion of purchased volumes in a sale by a

[15] Timely applications were filed by the Mid-Louisiana Gas Company (Mid-Louisiana), Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska), Michigan Wisconsin Pipe Line Company (Michigan-Wisconsin), Consolidated Gas Supply Corporation (Consolidated) and Kentucky-West Virginia Natural Gas Company (Kentucky-West Virginia).

The Wallace Energy Corporation (Wallace) filed application for rehearing 31 days after the issuance of Order No. 58, has moved that the Commission deem the application timely filed, and has moved for a stay in the effectiveness of the rule as it applies to Wallace. We express no view on Wallace's argument that the Commission is obliged to deem its application timely filed. However, recognizing that its application was filed only one day after the closing of the period for rehearing, the Commission will treat the application as a motion for reconsideration and consider the merits of Wallace's arguments in this Order. Wallace is pursuing issues on Rehearing of Order No. 58 in two other forums before the Commission, and has now been granted interim relief by the Director of Office of Pipeline and Producer Regulation. *See,* Order of the Director, OPPR, Granting Interim Relief (Docket No. SA80–8, issued Dec. 13, 1979). We have found nothing in Wallace's petition which persuades us that Wallace is suffering irreparable injury as a result of this rule, and the stay is therefore denied. The Conecuh-Monroe Counties Gas District (Conecuh-Monroe) has replied in opposition to Wallace's application for rehearing. In accordance with 18 CFR 1.34(d), the Commission will not consider a response to an application for rehearing.

In addition Mobile Gas Service Corp., Scotch Plywood Co. of Alabama and Clarke-Mobile County Gas District filed application for rehearing of Order No. 58 on June 23, 1980; on June 28, 1980 Conecuh-Monroe Counties Gas District, Alabama filed an application for rehearing of that order. We find that these parties have shown no good cause why their application should be considered six months out of time, and therefore we are denying the applications.

[16] Order No. 98, *mimeo* at 7.

[17] Timely applications were filed by Michigan-Wisconsin, Kansas-Nebraska, Northwest Pipeline Company (Northwest), Kentucky-West Virginia, Consolidated and Arizona Electric Power Cooperative, Inc. (AEPCO). No untimely applications were filed. On September 25, the Commission granted rehearing of Order No. 98 for purposes of further consideration. (Docket No. RM80–6, issued Sept. 26, 1980)

AEPCO's application fails to specify any error in Order No. 98, and was admittedly filed only to secure AEPCO's right to participate in any administrative or judicial review of this order with respect to certain issues raised by another party in response to the Notice of Proposed Rulemaking in this docket. *See* AEPCO Motion Requesting Acceptance of Comments Out of Time and Application for Rehearing, at 2 (Docket No. RM80–6, Sept. 3, 1980). AEPCO states that its "primary concern" in this proceeding is to oppose comments made by El Paso Natural Gas Company, AEPCO's only gas supplier, in a certain issue raised in the Notice of Proposed Rulemaking in this docket. AEPCO states that it agrees with the Commission's position taken in Order No. 98 and would support that position on judicial review. Consistent with § 1.34(b) of the Commission's Rules of Practice and Procedure, and section 19(a) of the NGA, AEPCO's application is dismissed because AEPCO specifies no error in and does not claim to be aggrieved by Order No. 98.

AEPCO has also moved the Commission to modify its decision in Order No. 98 to refuse to consider out of time AEPCO's late filed comments on the proposed rule in this docket. AEPCO originally submitted comments in Docket No. RM80–6 on June 23, 1980; the comment period had closed on January 14, 1980. The Commision declined to consider these comments noting that they were not submitted prior to Commission consideration of the final rule. Order No. 98 *mimeo* at 6, n.11. AEPCO contends that on June 18, 1980, the date the Commission reached a final decision in this docket, a misunderstanding between AEPCO's counsel and Commission staff occurred, leading AEPCO to believe that the comment period had been extended until June 23, 1980. AEPCO argues that as a result of this misunderstanding, AEPCO's comments were filed too late for Commission consideration. This alleged misunderstanding, occuring on June 18, does not constitute reasonable grounds for AEPCO's failure to file during the sixty day comment period or prior to the Commission's final action. Therefore, AEPCO's motion is denied. 18 CFR 1.13(d).

[18] The application of Michigan-Wisconsin is identical to the application of Kansas-Nebraska. Any description of the views of Kansas-Nebraska also describes the views of Michigan-Wisconsin.

[19] Consistent with their view of the attribution rule Kentucky-West Virginia, Mid-Louisiana and Consolidated argue that paragraphs (b) and (c) of § 270.203 (which extend first sale treatment in certain circumstances to sales of pipeline and affiliate production) accomplish the right result for the wrong reason. These applicants believe that the Commission has no discretion to denominate as first sales the sales described in § 270.203 (b) and (c), because such sales are in fact first sales by statutory prescription. By using its discretionary authority under section 2(21)(A)(v), to denominate these sales as mixed sales, the Commission, they claim, purports unlawfully to retain the discretion to deny such gas first sale treatment at a later time.

[20] Kansas-Nebraska contends that they have been denied equal protection under the law by the Commission's adoption of § 270.203, because the rule discriminates against pipeline producers *viz-a-viz* other producers. Kentucky-West Virginia argues that they have been denied equal protection *viz-a-viz* pipeline producers with producing affiliates because eligibility for first sale treatment depends solely on corporate form. Also, Kansas-Nebraska argues that the passage of Title I and section 2(21)(B) of the NGPA vested in pipeline producers a "property right" that has been deprived them without due process of law.

We find no merit in these arguments. An administrative and legislative classification in economic regulation does not violate the principles of equal protection so long as the classification is rationally related to some legitimate legislative purpose. *United States Dept. of Agriculture* v. *Moreno,* 413 U.S. 528, 533 (1973); *Community-Service Broadcast of Mid-America, Inc.* v. *F.C.C.* 593 F. 2d 1102, 1122 (D.C. Cir. 1978).

As the foregoing discussion fully demonstrates, distinguishing between wellhead sales and mixed volumes sales is clearly related to the legislative goal of Title I to provide price incentives to encourage production.

Similarly, the due process clause is broadly tolerant of economic price controls. Such economic regulation does not violate the Constitutional guarantees against deprivation of property without due process of law, so long as the regulation is not arbitrary and does not result in confiscation. *E.g., Federal Power Commission* v. *Natural Gas Pipeline Co. of America,* 315 U.S. 575, 589–90 (1942). Under the rule of section 2(21)(B) and § 270.203 rates for sales by an interstate pipeline, such as Kansas-Nebraska, will be just and reasonable rates determined according to the Constitutionally sound standards established under the NGA.

pipeline or distributor deprives those volumes attributable to its own production of first sale treatment. They argue that the Commission can determine what portion of a pipeline's general system supply is attributable to its own production and what portion is composed of purchased gas, and accord first sale treatment to the pipeline produced portion of the sale.

We cannot agree that the plain meaning of section 2(21)(B) guarantees a pipeline the right to collect a first sale price for all volumes of natural gas produced by that pipeline or distributor without regard to the type of transaction or the manner in which the gas is transferred. Section 2(21)(B) speaks in terms of sales, not volumes of natural gas, and excludes a pipeline or distributor sale from first sale treatment "unless such sale is attributable to volumes of natural gas produced by such interstate pipeline, intrastate pipeline or local distribution company, or any affiliate thereof." By the terms of the statute, first sale treatment of a sale made by a pipeline or distributor depends upon the source of the natural gas volumes that comprise the sale. If the source of the volumes that comprise the sale cannot be identified as the pipeline's or distributor's own wells, properties, or reservoirs, the Commission will not accord first sale treatment to the sale. A sale comprised of commingled volumes of purchased gas and pipeline production does not meet this test.

We do not agree with Kansas-Nebraska that the purpose of section 2(21)(B) is simply to distinguish between independent and pipeline producers. By excepting pipeline, distributor and affiliate production from the general definition of first sale contained in section 2(21)(A), the NGPA distinguishes between pipeline sales from the general system supply and pipeline sales that occur at the wellhead. This distinction is necessary to preserve the existing division between state and federal pipeline regulation and to preserve the NGA cost-of-service ratemaking scheme for sales from an interstate pipeline's general system supply.

As we noted in Order No. 58, the interpretation of section 2(21)(B) advocated by these commenters would result in the uniform application of first sale maximum lawful prices to all mixed volume retail sales made by pipelines and distributors. As a result, rates for retail sales by intrastate pipelines and local distribution companies could not exceed the applicable maximum lawful prices, a result that would preempt the retail ratemaking jurisdiction of state and local agencies. The Commission finds no evidence in 2(21)(B) or in any other provision of the statute that suggests that Congress intended to require the Commission to expand the field of federal ratemaking authority to include all mixed volume retail sales by intrastate pipelines or local distribution companies, the regulation of which has been the historic preserve of the states.

Furthermore, the interpretation espoused by these commenters assumes that the NGPA contemplates a substantial reworking of the Commission's traditional methods for determining an interstate pipeline's cost-of-service. A seller whose sale qualifies as a first sale is entitled to collect a price for that gas no greater than the applicable maximum lawful price plus any allowance for severance taxes and production related costs permitted by the Commission under section 110 of the NGPA. In seeking to determine a rate for a mixed volume sale that would provide for recovery of such costs, the Commission would be forced to discard the complex framework of statutory standards and case law precedent developed under the NGA for purposes of determining the costs of transporting its sales volumes. Rather than establishing an NGA just and reasonable rate on the basis of the pipeline's cost-of-service, the Commission would determine under its regulations implementing section 110 the costs in excess of the first sale price that a pipeline may recover to compensate it for the transportation and other costs associated with the delivery of its mixed volume sales to its purchasers.

To grant first sale treatment only to an allocable portion of an interstate pipeline's mixed volume sale cures this problem only with respect to the volumes that are allocable to purchased gas. The pipeline would recover the costs associated with the delivery of purchased gas on a traditional cost-of-service basis, permitting the recovery of all costs prudently incurred in accordance with the Commission's regulations. However, for those volumes allocable to pipeline production, the pipeline would be limited to the recovery of amounts available under section 110.[21]

[21] Also, such an allocation would impose an enormous adminstrative burden upon interstate pipelines and the Commission. The Commission would be required to distinguish scrupulously between costs associated with purchased gas and those associated with pipeline production, so that each could be evaluated under the differing regulatory standards of the section 110 regulations and the NGA regulations. The Commission cannot easily assume, without some supporting evidence, that Congress intended to increase so substantially the regulatory burdens of determining the cost-of-service for pipeline producers.

With regard to intrastate pipelines, if the Commission were to accord first sale treatment to some portion of an intrastate pipeline sale, the Commission would be able to determine the section 110 allowance associated with the pipeline production, but would lack jurisdiction to scrutinize the recovery of costs associated with transportation of purchased gas. To the extent that costs allocable to pipeline production were also recovered in the price set by state or local authority, the NGPA maximum lawful price applicable to the pipeline production would be circumvented.

B. *Imputation of a Sale at the Wellhead.* Recognizing the difficulties of according first sale treatment to mixed volume sales, Kentucky-West Virginia, Kansas-Nebraska, Mid-Louisiana and Consolidated urge the Commission to impute a sale at the point at which the pipeline takes its production into its general system supply. Consolidated argues that the word "attributable" means "imputable" and, therefore, that the Commission must impute a sale at the wellhead in order to assure a pipeline first sale treatment for all volumes of its own production. Kentucky-West Virginia, Kansas-Nebraska and Consolidated point out that the statement of managers accompanying the NGPA conference report makes clear that the Commission's general rulemaking authority under section 501 of the NGPA includes the power to "establish rules applicable to intracorporate transactions under the first sale definition." [22] They argue that this language was intended to confer upon the Commission the authority to fully effectuate what they believe to be Congress' intent to accord first sale treatment to some portion of each mixed volume sale.

Mid-Louisiana contends that the delivery into the pipeline of its own production is a transfer for value, and thus meets the definition of "sale" under section 2(20) of the NGPA. Therefore, it argues that the Commission could accord first sale treatment to that intracorporation transaction by exercising its authority under section 2(21)(A)(v) to define that "sale" as a first sale.

The Commission acknowledges its authority under section 501 to impute a

[22] *Citing* H. Rep. No. 95-1752, 95th Cong., 2d Sess. 116 (1978). The Joint Statement provides that "(t)he Commission may define terms, prescribe the forms of reports, and prescribe effective dates for rules and regulations. For instance, the Commission may define terms such as 'transfer for value' used in the definition of first sale; it may also establish rules applicable to intracorporate transactions under the first sale definition."

sale at the wellhead and thereby to accord first sale treatment to pipeline production. However, we see no mandate implicit in the definition of first sale that requires us to exercise this general authority to any specific end. We believe that the language chosen by the conference managers is clearly designed to delegate to the Commission the discretion to define the term first sale as it may apply to intracorporate transactions.[23]

In its adminstration of the NGA, the Commission has not treated as a sale the transfer of pipeline produced gas into the transmission system of that pipeline. No contracts govern that transfer; no certificates under the NGA have been issued or were required for that transfer. The proper implementation of the NGPA, which only minimally disturbs the Commission's rules of law that govern pipeline ratemaking under the NGA, does not as a practical matter compel us to vary that policy.

To the contrary, we believe that such an interpretation of the term sale would prove difficult to reconcile administratively with certain provisions of the NGPA. For example, the maximum lawful price under section 104 assumes the existence of a just and resonable rate applicable to the sale of natural gas prior to the enactment of the NGPA. However, because the pipeline's intracorporate transfer was not a sale under the NGA, there was no just and reasonable rate applicable to that transfer. Also, the provisions of section 315, governing the duration of contracts, bona fide offers, and right of first refusal depend upon the existence of a contract for their applicability and effect. These provisions, which provide purchasers of gas from independent producers with some assurances of continued supply, are inapplicable to a pipeline that "sells" natural gas in a first sale to itself. Absent the constraints of section 315, and the requirement of abandonment authorization that would be inapplicable to gas sold in a first sale, the pipeline's purchasers would have no continuing obligation to offer its purchasers a continued supply of gas from its production properties.

To the extent that this provision and other provisions of the NGPA are conceptually dependent upon the existence of a sale, contract or certificate, the Commission would be required to devise other means by which to insure proper implementation of the statute. We have concluded that the regulation and enforcement of rates for sales of pipeline production should not depend on an event that is recorded solely on the books and records of the pipeline and that occurs without contract, bargaining, or certification. We decline, therefore, to exercise our discretion in this manner.

C. *Arguments Based on Other Provisions of the NGPA.* Several applicants argue that other provisions of the NGPA are consistent with their view of section 2(21)(B). Kentucky-West Virginia and Consolidated maintain that the incremental pricing passthrough provisions demonstrate that Congress intended all pipeline production to be accorded first sale treatment. Section 203(b) provides, in relevant part:

> (b) First Sale Acquisition Costs.—(1) *General Rule*—For purposes of this section, the first sale acquisition cost of natural gas is—
>
> (A) the price paid, per million Btu's, in any first sale of such natural gas, in the case of any natural gas produced in the United States and acquired in such first sale; and
>
> (B) the price paid for such natural gas, per million Btu's, at the point of entry to the United States, in the case of natural gas or liquefied natural gas imported into the United States.
>
> * * * *
>
> (2) *Interstate Pipeline Production.*—For purposes of this section, in the case of any natural gas produced by any interstate pipeline or any affiliate of such pipeline the first sale acquisition cost of such natural gas shall be determined in accordance with rules prescribed by the Commission.
>
> * * * *

The applicants contend that use of the phrase "first sale acquisition cost" indicates that Congress intended the pipeline's "acquisition" of its own production to be a first sale.

While we understand that these words, isolated from their context, may appear to imply that a true first sale within the meaning of section 2(21)(B) has occurred, we believe that the language of the section as a whole leads to the opposite conclusion. Clause (1)(A) of subsection (b) sets out the general rule permitting passthrough of first sale acquisition costs equal to the "price paid——in any first sale of such natural gas, in the case of any natural gas produced in the United States and acquired in such first sale." In contrast, clause (2) sets out a special rule applicable to interstate pipeline production to provide for passthrough of first sale acquisition costs of such natural gas "determined in accordance with rules prescribed by the Commission." The provision for pipeline production differs notably from the general rule in that it omits any reference to "price paid" and does not indicate that such gas will be "acquired in a first sale." Had Congress intended to mandate that "first sale" include all deliveries of a pipeline's production from the wellhead to its transportation system, it would have been unnecessary to create a separate rule under section 203(b)(2) for pipeline production that expressly contemplates that the acquisition cost of a pipeline's own production will be set by order or rule of the Commission.

Consolidated argues that the Commission's assertion of NGA jurisdiction over certain categories of pipeline production violates section 601 of the NGPA. Consolidated contends that the effect of section 601(a)(1)(A) is to terminate the Commission's jurisdiction with respect to any natural gas that was not committed or dedicated to interstate commerce on the effective date of the NGPA. Furthermore, it points out, section 601(a)(1)(B) terminates the Commission's jurisdiction under the NGA over committed or dedicated natural gas that qualifies for an incentive price under section 102(c), 103(c), or 107(c)(1), (2), (3) or (4). On the basis of this language, Consolidated reasons that the Commission's NGA jurisdiction has been superseded, and that a pipeline should be permitted to collect NGPA prices for all volumes of its own production.[24]

We agree that section 601(a)(1)(A) provides that NGA jurisdiction of gas not previously committed or dedicated to interstate commerce does not survive the NGPA "solely by reason of any first sale of that gas," and concede that section 601 terminates NGA jurisdiction over committed or dedicated gas that qualifies for a maximum lawful price under section 102(c), 103(c), or 107(c)(1), (2), (3) or (4). We note, however, that the scope of each of these provisions in section 601 depends upon the definition of the term first sale, and that neither provision speaks to the question of what types of sales are first sales. Thus, while we acknowledge that section 601 modifies the Commission's NGA jurisdiction with regard to gas sold in first sales, we find nothing in that section that indicates that a mixed volumes sale is a first sale for purposes of section 601 and the NGPA as a whole.

D. *First Sale Treatment of Sales by Affiliates.* Wallace Energy Corporation (Wallace) objects to the affiliate rule of § 270.203(c). First, it argues that Congress did not intend to empower the Commission to apply NGPA maximum lawful prices to sales other than wellhead sales. Wallace points out that it is a "paper company" that engages in no production and that has never before

[23] *See* discussion *infra* page 21–23.

[24] See also Consolidated's Application for Rehearing of Order No. 98 (docket No. RM80–6, filed Sept. 3, 1980).

been subject to federal regulatory authority. In addition, Wallace contends that the Commission has unconstitutionally extended first sale treatment to sales "without any arguable relationship to interstate commerce." It submits that although producer sales have an impact on interstate commerce, Wallace's activities occur wholly within the state of Alabama.

We are not persuaded that the Commission has exceeded its authority under section 2(21)(A)(v). Clearly, as Wallace submits, the underlying purpose of Title I was to provide price incentives for producers and to impose some measure of regularity upon producer sales to the interstate and intrastate gas markets. However, Congress was also aware that middlemen could be used to circumvent price ceilings made applicable only to producers, and that the economic benefits of a systematic pricing scheme would be undercut by any circumvention. [25] In our view, our exercise of the Commission's authority under section 2(21)(A)(v) to treat such sales as first sales implements the express purpose of that authority to prevent circumvention of NGPA maximum lawful prices.

Wallace's contention that the Commission is without constitutional authority to regulate its wholly intrastate transactions ignores the body of constitutional law that defines the federal government's authority under the commerce clause. An act of Congress that reaches any generic category of local activity is a legitimate exercise of the commerce power if the activity has a substantial economic effect on interstate commerce. The fact that Wallace may itself have minimal impact on interstate commerce does not remove it from the scope of regulation where its activity, combined with that of other similarly situated middlemen, has a significant impact on interstate commerce. [26] Clearly, Congress was within its constitutional power to authorize the Commission to accord first sale treatment to certain wholly intrastate transactions. The Commission's proper exercise of such authority is equally free of constitutional infirmity.

All other arguments raised in these applications have been addressed in Order No. 58, or in this Order.

[25] See discussion *supra* note 7.

[26] E.g., *Maryland* v. *Wirtz*, 392 U.S. 183, 193, 196 n.27 (1968).

*III. Rehearing of Order No. 98*

A. *Authority to Establish Rates for Pipeline Production Under the NGA.* Arguments raised on rehearing of Order No. 98, which sets out the Commission's policy regarding pricing of interstate pipeline production under the NGA, concern primarily the question whether the Commission's jurisdiction to establish such a policy survives the enactment of the NGPA.

Michigan-Wisconsin, Consolidated, Kansas-Nebraska and Kentucky West Virginia object to Order No. 98 as an unlawful assertion of Commission jurisdiction over wellhead prices for pipeline production. They advert to, and incorporate by reference, their applications for rehearing of Order No. 58, in which they argue that the Commission has improperly interpreted section 2(21)(B) of the NGPA to deprive most pipeline production of first sale treatment, thereby excluding such production from eligibility for NGPA maximum lawful prices. They believe that interstate pipelines as a matter of right are entitled to NGPA maximum lawful prices, and, therefore, that the Commission's attempt to assert NGA authority to regulate the price of pipeline production is unlawful.

The arguments are but corollaries to the arguments raised on rehearing of Order No. 58, which the Commission has fully addressed in the foregoing discussion. We remain convinced that the language and intent of section 2(21)(B) does not require the Commission to treat mixed volume sales by pipelines and distributors as first sales. [27] Section 2(21)(B) preserves the Commission's authority under the NGA to regulate such sales made by interstate pipelines, and serves as the jurisdictional predicate for the Commission's implementation of its parity of pricing policy.

B. *Exclusion from NGPA Rate Treatment of Natural Gas That Has Ever Been Subject to Cost-of-Service Treatment.* Two applicants object to the Commission's decision to extend NGPA rate treatment only to natural gas produced from leases that have never been subject to cost-of-service treatment. Kentucky West Virginia and Kansas-Nebraska argue that the Commission erred in its assumption that pipelines whose production has been valued on a cost-of-service basis have recouped their costs and gained substantial benefits from cost-of-service treatment.

[27] As noted above, the Commission may, in its discretion, treat such sales as first sales, to prevent circumvention of the NGPA maximum lawful prices. *See supra* note 6; § 270.203(b).

Kentucky West Virginia does not agree with the Commission's view that investment costs of old production have necessarily been recouped, and claims that there is no evidence in the record that supports the Commission's conclusion. Kentucky West Virginia also alleges that the cost-of-service exclusion violates the pipeline's right to collect incentive prices for its high cost production and thwarts the Commission's own policy to provide incentives for production of natural gas found in tight formations. Kansas-Nebraska points to Commission precedent in support of its view that a pipeline that has at some time utilized cost-of-service pricing for its own production has not necessarily realized a greater return, as compared to the return it would have realized under area or nationwide rate treatment. [28]

The Commission is not persuaded by these arguments. Kentucky West Virginia's challenge to the Commission's position ignores the essential characteristic of cost-of-service treatment: a pipeline whose production is valued on a cost-of-service basis will receive a rate that, over time, provides for the recovery of all prudently incurred costs plus a reasonable return on investment. In the case of production from leases that have received cost-of-service treatment, the pipeline is able to recover the cost of acquiring leases, drilling unsuccessful and successful wells, and producing the reserves, including the opportunity to earn a reasonable return. Any new production from leases that will remain on cost-of-service treatment, including production from tight formations, will also be valued at a rate that will return to the pipeline producer its costs, plus a reasonable return on investment.

In response to Kansas-Nebraska, the Commission emphasizes that the benefits of cost-of-service treatment is not that a pipeline is certain to receive greater revenues than it would under area or nationwide rate treatment, although that is often the case. Cost-of-service treatment permits the pipeline producer to invest in exploration and production activities while passing on the costs and risks of that investment to its purchasers. In exchange for assuming the risks of investment, purchasers receive the benefits of additional supplies of natural gas at a rate no higher than the pipeline's costs plus a reasonable return on investment. To vary this policy now would deprive

[28] *Citing* Natural Fuel Gas Supply Corp. (Docket Nos. RP76-96 and RP77-57, issued Nov. 14, 1978) *adopted by Commission*, Opinion No. 58 (issued August 6, 1974).

these purchasers of price benefits they should receive in exchange for assuming the risk of a pipeline's production ventures.

Kentucky West Virginia also argues that although the Commission claims that the cost-of-service exclusion is premised on the need for equitable treatment among independent and pipeline producers, its policy of "limited parity" achieves inequitable results. It contends that the Commission has varied from its prior practice by distinguishing between producing pipelines and pipelines with producing affiliates, providing NGPA rates in all cases for the latter and, in the case of the former, denying parity of treatment for substantial volumes of natural gas because the gas previously has been subject to cost-of-service treatment. Also, Kentucky West Virginia maintains that the Commission's parity policy is inequitable insofar as it provides NGPA rate treatment for wells drilled after December 31, 1972, on leases acquired before October 8, 1969, but denies parity to wells drilled before January 1, 1973 on the same leases.

The Commission finds no merit in these arguments. Sales of gas by production affiliates of pipelines or distributors (that are not themselves pipelines or distributors) are subject to NGPA maximium lawful prices because such sales are first sales within the meaning of section 2(21)(B) of the NGPA. This is consistent with the treatment accorded such sales under prior practice: under the NGA, transactions between producing affiliates and interstate pipelines were accomplished in the same manner as sales by independent producers, pursuant to contracts and certificates.[29] However, the Commission has exercised its authority under the NGA to value pipeline production for purposes of computing a pipeline's cost-of-service so as to permit parity with independent and pipeline-affiliated producers where appropriate. Thus, the distinction drawn between pipeline affiliates and pipeline producters is based on the allocation of jurisdiction over sales by these entities implied in section 2(21)(B).

In crafting this parity of pricing policy to provide necessary incentives to pipeline producers, the Commission weighed the interests of such pipelines and their purchasers, and determined it was necessary to preserve the price benefits guaranteed to purchasers of production subject to cost-of-service treatment in exchange for assuming the risks of the pipeline's production efforts. The distinction between wells drilled before and after January 1, 1973, on leases acquired before October 8, 1969, represents the distinctions drawn by the Commission when the area and nationwide rates were first applied prospectively to new pipeline production.[30] The continuation of the distinction effectuates the Commission's intent to continue parity of pricing treatment for pipeline production previously subject to area or nationwide rate treatment, *i.e.* production for which pipelines themselves have assumed the risk.

C. *Applicability of the Cost-of-Service Exclusion to Natural Gas That Has Been Subject to Cost-of-Service Treatment as a Result of a Settlement.* In addition to raising a general argument against the cost-of-service exclusion, Kansas-Nebraska raises objections to the provisions of the regulation that continue cost-of-service treatment. It argues that a pipeline granted cost-of-service treatment for pipeline production subject to such treatment by the terms of a settlement. Kansas-Nebraska contends that a finding on the merits of special circumstances under § 2.66(a)(4) is not equivalent to a settlement agreement that provides for cost-of-service treatment upon a finding of special circumstances has bargained for on-going cost-of-service treatment in exchange for the opportunity to pass through its risks. This, it reasons, is distinguishable from the situation of a pipeline that negotiates a settlement to resolve a limited number of issues for a specified period of time.[31] Kansas-Nebraska argues, based on Commission precedent, that the Commission may not rely on the terms of a settlement in any future rate proceeding to achieve results that a pipeline had not bargained for in the settlement.[32]

Although we agree that the provisions of a settlement do not bind the parties beyond the term of that settlement, Kansas-Nebraska errs in its conclusion that the terms of a settlement constrain the Commission's authority to determine the scope of applicability of its parity policy. The Commission's decision to deny NGPA rate treatment for gas valued on a cost-of-service basis is not only an attempt to enforce a bargain made by pipeline producers that obtained cost-of-service treatment under the special circumstances provisions. Our decision also rests upon our assessment that the inherent benefits of cost-of-service treatment, *i.e.* the pipeline's opportunity to pass on the risks of its production programs to its purchasers, requires us to preserve the corresponding benefits that should inure to the pipeline's purchasers. Thus where a pipeline has passed on to its purchasers the risks and costs of acquiring, exploring and developing certain leases, purchasers should be entitled to purchase the gas from those leases on a cost-of-service basis.

D. *Termination of Special Circumstances.* Northwest Pipeline Corporation (Northwest) protests the Commission's decision to deny a pipeline producer subject to NGPA rate treatment the opportunity to seek cost-of-service treatment on the basis of a showing of special circumstances. Northwest noted that in Order No. 568 the Commission encouraged pipeline producers to reinvest amounts in excess of the costs of production collected under area or nationwide rates; Northwest claims that it did reinvest its excess income with the expectation that it could attempt to show special circumstances if the costs associated with that investment proved to be too high. It therefore argues that by eliminating the special circumstances program the Commission has undermined Northwest's investment decisions.

Northwest points out that it has special overriding royalty contracts that provide for royalty payments computed on the basis of a commodity value formula. It reasons that the advent of natural gas deregulation would make

[29] Section 270.203(a) provides that in according first sale treatment to sales by affiliates of pipelines or distributors, " 'sale' does not include any transaction between an interstate pipeline and an affiliate thereof, if such transaction would not have been treated as a sale for purposes of the Natural Gas Act."

[30] In Opinion No. 568, the FPC initiated the parity pricing policy under which gas produced by a pipeline or its affiliates from leases acquired after October 1, 1969, and taken into the pipeline's own system would be valued by reference to the just and reasonable area rate established for sales by independent producers in the same area. *Pipeline Production Area Rate Proceeding*, Opinion No. 568–A, supra note 8, 42 F.P.C. at 1091. In opinion No. 699–H, *mimeo* at 47–50, the FPC reaffirmed its decision that pipeline production from pre-October 8, 1969 leases should continue to be priced on a cost-of-service basis, but concluded that pipeline production from wells drilled on or after January 1, 1973, should be valued at nationwide rates regardless of the date the lease was acquired.

[31] Kansas-Nebraska submits that in its particular case of the Commission had rejected its attempt to show special circumstances, but subsequently approved a settlement permitting cost-of-service treatment for all of its production that otherwise would have been subject to area or nationwide rate treatment. In Kansas-Nebraska's view, the relevant provisions of that settlement make clear that it was required to file on a cost-of-service basis only in the next subsequent rate proceeding, that the settlement represented a negotiated dollar amount, and that the use of cost-of-service methodology did not imply that any party had approved or consented to any ratemaking principle or theory of allocation.

[32] *Citing Mobile Oil Corp.* v. *FPC*, 570 F.2d 1021 (D.C. Cir. 1978); *Texas Gas Transmission Corp.* v. *FPC*, 441 F.2d 139 (6th Cir. 1971).

these payments very high. Although the Commission has indicated that pipeline producers may be able to address such problems by seeking special relief, Northwest finds that the proposed special relief rule is not appropriate for its purposes.

First Northwest points out that the scope of the proposed special relief rule does not as yet include pipeline producers,[33] and does not specifically provide for the recovery of overriding royalty payments as an operating and maintenance expense. Northwest finds unwieldy the requirement that applications for special relief rates to cover on-going operating and maintenance expense must be submitted on a well by well basis, and believes that the proposed ceiling for special relief may prove to be too low to permit Northwest to recover the expense of its royalty payments. Moreover, Northwest argues, the Commission should not terminate the special circumstances program prior to establishing procedures for special relief. Northwest therefore urges the Commission to restore the special circumstances program so that Northwest would not be required to value its production "at confiscatory levels."

The Commission is not persuaded that the special circumstances program should be reinstated. First, Northwest correctly argues that the purpose of the special circumstances program was to encourage additional pipeline investment in drilling programs that would lead to the development of new reserves. However, the Commission found in Order No. 98 that the NGPA incentive prices were sufficient to induce future drilling efforts of pipeline producers. Furthermore, pipelines that in the past have undertaken new investment were not guaranteed cost-of-service treatment under the special circumstances program; the Commission has consistently found that the fact that a pipeline's costs exceed its revenues is not sufficient to demonstrate special circumstances warranting cost-of-service treatment.[34] Thus, no pipeline that had not been granted special circumstances undertook new investment with a guarantee that it would subsequently receive cost-of-service treatment if the costs associated with the investment proved to be too high.

Also, we note that the overriding royalty payments by Northwest are not investment costs. To the extent that special rate treatment would be available to cover such expenses, it would be through application for special relief for a rate covering such payments as operating and maintenance expense. The Commission will address issues related to the scope of the special relief rulemaking in the final rule in that docket.

E. *Commission Authority to Prevent Corporate Restructuring to Avoid Cost-of-Service Treatment.* Kentucky West Virginia and Consolidate take issue with the language in Order No. 98 indicating the Commission's intent to use its authority under section 7 of the NGA to prevent a pipeline from spinning off production properties to an affiliate in order to obtain first sale treatment for volumes produced by the affiliate from those properties. Both applicants contend that the Commission lacks authority under the NGA to prevent the transfer of undeveloped leases.[35]

Consolidated submits that section 601(a) terminates the Commission's jurisdiction under the NGA over natural gas that was not committed or dedicated to interstate commerce on November 8, 1978, as well as any natural gas that, although committed or dedicated to interstate commerce on November 8, 1978, qualifies under section 102(c), 103(c), or 107(c)(1)–(4) of the NGPA. Thus, it argues, the Commission is without authority to scrutinize abandonment under section 7(b) of the NGA with respect to such natural gas.

Kentucky West Virginia points out that section 601(c) of the NGPA provides that the Commission may not deny, or condition the grant of, any certificate under section 7 of the NGA based upon the amount paid in any sale of natural gas, if such amount is deemed to be just and reasonable under subsection (b) of section 601. It reasons, therefore, that the Commission plainly is without authority to condition a transfer of leases to an affiliate so as to require cost-of-service pricing by the affiliate.

The Commission does not agree that it is without authority under the NGA to prevent a pipeline from circumventing the cost-of-service exclusion by corporate restructuring. As noted above, the provisions of section 601 of the NGPA constrain the Commission's authority with regard to natural gas sold in first sales. We therefore cannot concede that these provisions circumscribe the Commission's authority with regard to natural gas that remains subject to the Commission pricing jurisdiction under the NGA. Moreover, any jurisdictional challenges to the Commission's use of its authorities under the NGA to prevent circumvention of this rule by corporate restructuring are collateral to issues pertaining to the validity of this rulemaking. The Commission will therefore address such challenges in a more appropriate forum.

*III. Clarification of Order No. 98*

Since the issuance of Order No. 98, the Commission has received several inquiries regarding the eligibility of pipeline producers subject to NGPA rate treatment pursuant to § 154.42(b)(1) to make interin collections under Part 273 of Subchapter H. Under Part 273, a seller that has filed for a determination of eligibility to collect an incentive price under certain sections of Title I of the NGPA may collect that price on an interim basis prior to final determination that the well is eligible for such a price.

The Commission did not intend to preclude pipelines subject to NGPA rate treatment from making interim collections under Subchapter H. The Commission intended that the reference to Subchapter H in § 154.42(b)(3) imply this authority. In view of the confusion expressed on this point, we are clarifying § 154.42(b)(1) by expressly referencing the authority under Part 273 for such collections.

Because this amendment effects no substantive change in the rule but is necessary for proper implementation of the rule, the Commission finds that public notice and comment is unnecessary. For the same reasons, the amendment is being made effective October 3, 1980.

*The Commission Orders:* 1. Applications for rehearing timely filed of Order No. 58 and Order No. 98 are denied;

2. The motion of Wallace Energy Corporation that its application for rehearing of Order No. 58 be deemed timely filed is denied;

3. The late filed application for rehearing of Wallace Energy Corporation is deemed a motion for reconsideration, and is denied;

4. The motion for stay of the effectiveness of Order No. 58 with respect to Wallace Energy Corporation is denied;

5. Late filed applications for rehearing of Order No. 58 by the Conecuh-Monroe Counties Gas District and Mobile Counties Services Corporation, Scotch Plywood Company of Alabama and Clarke-Mobile County Gas District, Alabama are dismissed;

6. Response of Conecuh-Monroe Counties Gas District to the Application

[33] The Commission asked for comments on this issue in the Notice of Proposed Rulemakng for Procedures Governing Applications for Special Relief (Docket No. RM79-67, issued May 9, 1980).

[34] Order No. 98, *mimeo* at 9, n. 19.

[35] *Citing Federal Power Commission* v. *Panhandle Eastern Pipeline Co.*, 337 U.S. 498 (1949).

of Rehearing of Order No. 58 of Wallace Energy Corporation is dismissed;

7. Application for Rehearing of Order No. 98 of Arizona Electric Power Cooperative, Inc. and the City of Willcox, Arizona is dismissed, for failure to specify error in that order;

8. The motion of Arizona Electric Power Cooperative, Inc. and the City of Willcox, Arizona to modify the Commission's decision in Order No. 98 to consider untimely filed comments is denied.

9. Order No. 98 is clarified by amending § 154.42(b)(1)(i) of the Commission's regulations as set forth above, effective October 3, 1980.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301 *et seq.;* Natural Gas Act, as amended, 15 U.S.C. 717, *et seq.;* Department of Energy Organization Act, 42 U.S.C. 7107 *et seq.;* Exec. Order No. 12009, 42 FR 46267)

In consideration of the foregoing, Part 154 of Subchapter E, Chapter I, Title 18, Code of Federal Regulations is amended as set forth below, effective October 3, 1980.

By the Commission.

**Lois D. Cashell,**

*Acting Secretary.*

**§ 154.42 [Amended]**

Section 154.42(b)(1)(i) is amended by deleting the word "or" following "Part 271" and inserting in lieu thereof a comma, and by inserting the words "or under part 273" following the words "part 272."

[FR Doc. 80-31339 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### 23 CFR Part 260

### Education and Training Programs

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The purpose of this amendment is to extend the period of time a recipient of a fellowship or scholarship grant administered by the National Highway Institute may receive financial support from 12 months to 24 months. This extension will allow the National Highway Institute to make grants to students enrolled in a longer course of instruction.

**EFFECTIVE DATE:** November 10, 1980.

**FOR FURTHER INFORMATION CONTACT:** Mr. Larry E. Jones, National Highway Institute, 202–426–3100, or Ms. Virginia Cherwek, Office of the Chief Counsel, 202–426–0786, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The policies and procedures for the fellowship and scholarship programs administered by the FHWA's National Highway Institute are contained in Subpart A, Part 260, Title 23 of the Code of Federal Regulations (23 CFR). Section 260.105 of 23 CFR currently provides for financial support for up to 12 months of full-time study or 24 months of part-time study in the highway transportation field. This amendment to 23 CFR 260.105 provides for up to 24 months of either full-time or part-time study. The remainder of the section is unchanged.

Because this change is relatively insignificant and will have no adverse effect on the benefits and eligibility of the candidates for fellowship or scholarship grants, publication of this amendment for notice and comment could not reasonably be anticipated to result in the receipt of useful information.

In consideration of the foregoing, 23 CFR 260.105 is amended by striking the second sentence and replacing it as follows:

**§ 260.105 [Amended]**

* * * These programs shall provide financial support for up to 24 months of either full-time or part-time study in the field of highway transportation. * * *

Note.—The Federal Highway Administration has determined that this document does not contain a significant regulation according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. The impact of this rule is so minimal that it does not warrant the preparation of a regulatory evaluation.

(Catalog of Federal Domestic Assistance Program Number 20.215, Highway Training and Education)

(23 U.S.C. §§ 321, 403(a), 315; 49 CFR 1.48(b))

Issued on: September 25, 1980.

**Alinda C. Burke,**

*Deputy Administrator*

[FR Doc. 80-31229 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-22-M

## VETERANS ADMINISTRATION

### 38 CFR Part 3

### Veterans Benefits; Service in Women's Army Auxiliary Corps

**AGENCY:** Veterans Administration.

**ACTION:** Final regulation.

**SUMMARY:** The Veterans Administration has amended its regulation concerning service during World War II in the Women's Army Auxiliary Corps (WAAC). The need for this action resulted from a decision of the Secretary of Defense holding that service in the WAAC constituted active military service. The effect of this action is to confer veteran status on all former WAAC members who were discharged under honorable conditions.

**EFFECTIVE DATE:** This change is effective March 18, 1980, the date the Secretary of Defense held that WAAC service constituted active military duty.

**FOR FURTHER INFORMATION CONTACT:** T. H. Spindle Jr. (202–389–3005).

**SUPPLEMENTARY INFORMATION:** On page 50369 of the **Federal Register** of July 29, 1980, the Veterans Administration published a proposed amendment to 38 CFR 3.7 (u) and (x). Interested persons were given until September 8, 1980, to submit comments, suggestions, or objections to the proposed amendment of § 3.7(u) and (x).

We received no comments, suggestions, or objections. The amendment is adopted as proposed.

Approved: October 2, 1980.

By direction of the Administrator:

**Rufus H. Wilson,**

*Deputy Administrator.*

Section 3.7 is amended as follows:

(1) By deleting the word "his" and inserting the words "the person's" in paragraph (o)(1)(ii).

(2) By revising paragraphs (u) and (x) to read as follows:

**§ 3.7 Persons included.**

* * * * *

(u) *Women's Army Corps (WAC).* Service on or after July 1, 1943.

* * * * *

(x) *Active military service certified as such under section 401 of Pub. L. 95–202.* Such service if certified by the Secretary of Defense as active military service and if a discharge under honorable conditions is issued by the Secretary. The effective dates for an award based upon such service shall be as provided by § 3.400(z) and 38 U.S.C. 3010, except that in no event shall such an award be made effective earlier than November 23, 1977. Service in the following groups has been certified as active military service.

(1) Women's Air Forces Service Pilots (WASP).

(2) Signal Corps Female Telephone Operators Unit of World War I.

(3) Engineer Field Clerks.

(4) Women's Army Auxiliary Corps (WAAC).

[FR Doc. 80-31272 Filed 10-8-80; 8:45 am]
BILLING CODE 8320-01-M

38 CFR Part 21

## Veterans Education; Reduction in Mandatory Counseling

**AGENCY:** Veterans Administration.

**ACTION:** Final regulations.

**SUMMARY:** The VA (Veterans Administration) is amending its regulations to eliminate most counseling required by VA policy rather than law for veterans and other persons eligible to receive educational assistance allowance under chapter 34 or 35, Title 38, United States Code. These changes are necessary since, as a result of budgetary restrictions, the VA intends to terminate contracts it presently has with Guidance Centers to counsel veterans and eligible persons on a fee basis. Counseling psychologists employed by the VA's Department of Veterans Benefits could not provide quality service on a timely basis for the increased workload which would result from the termination of contracts with Guidance Centers were these regulations not amended. The regulatory amendments will enable the VA to provide the counseling services mandated by law without sacrificing quality and timeliness of service.

**EFFECTIVE DATE:** October 1, 1980.

**FOR FURTHER INFORMATION CONTACT:** June C. Shaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420 (202-389-2092).

**SUPPLEMENTARY INFORMATION:** Section 1791, Title 38, United States Code, places restrictions on approving the second change of the program of education of a veteran or eligible person, or the initial change if the veteran's or eligible person's progress has been unsatisfactory. In these cases the Administrator of Veterans Affairs must determine that the program of education which the veteran or eligible person wishes to pursue is suitable to his or her aptitudes, interests and abilities. In cases of unsatisfactory progress, the Administrator must also determine that there is a reasonable likelihood that there will not be a recurrence of failure to progress. Previously, the responsibilities were carried out by counseling psychologists employed by the Department of Veterans Benefits or under contract to the Department of Veterans Benefits, who provided counseling where necessary to explore the veteran's or eligible person's situation, assist in resolving problems, and develop appropriate recommendations regarding approval of the veteran's or eligible person's request. The counseling psychologists' recommendations were forwarded to claims examiners having responsibility for decisions in these cases.

Since contracts with Guidance Centers are being terminated, the regulations are revised to eliminate all references to required counseling for veterans and servicepersons under chapter 34, Title 38, United States Code, and to eliminate most required counseling for eligible persons under chapter 35, Title 38, United States Code. Claims examiners at VA field stations will make decisions on approval of changes of program and reentrance after unsatisfactory progress. The VA wishes to emphasize that veterans and eligible persons will continue to be provided counseling upon request, including requests made in connection with changes of program or dealing with problems which result in unsatisfactory progress or conduct.

This revision is not significant. The revision will have no effect, either direct or indirect, on schools, businesses, the general public, the environment or State and local governments. The revision will not impose any new reporting requirements on schools. There will be no costs to businesses or to educational institutions caused by this revision. The revision will not affect other programs or agencies. Although it will affect those veterans and eligible persons making unsatisfactory progress and those desiring second and subsequent changes of program, these comprise a very small percentage of those receiving educational assistance.

It is the policy of the VA ordinarily to afford the public a chance to comment on revised regulations. However, budgetary restrictions will cause the termination of contracts with Guidance Centers in the near future. The VA will be unable to provide the required counseling if these regulations are not changed by then. Accordingly, these regulations are being made final without a comment period. The name of the official responsible for making this decision is Rufus H. Wilson, Deputy Administrator, Veterans Administration.

The changes to §§ 21.1032, 21.4100, 21.4101, 21.4102, 21.4103, 21.4104, 21.4233, 21.4234 and 21.4278 and the revocation of § 21.4106 are deemed proper and are hereby approved.

Approved: October 1, 1980.

By direction of the Administrator:

**Rufus H. Wilson,**

*Deputy Administrator.*

1. In § 21.1032, paragraph (a) is revised to read as follows:

**§ 21.1032 Time limits.**

* * * * *

(a) *Completion of claim.* The Veterans Administration will consider a claim to be abandoned when the Veterans Administration requests evidence in connection with a claim, and the veteran does not furnish the evidence within 1 year after the date of the request. After the expiration of 1 year, the Veterans Administration will not take further action unless a new claim is received. (38 U.S.C. 3003(a))

* * * * *

2. In § 21.4100, a title is added for paragraph (a), paragraph (b) is revised and paragraph (c) is added so that the added and revised material reads as follows:

**§ 21.4100 Counseling.**

(a) *Purpose of counseling.* The purpose of counseling is to assist:

* * * * *

(b) *Availability of counseling.* Counseling assistance is available for—

(1) Identifying and removing reasons for academic difficulties which may result in interruption or discontinuance of training, or

(2) In considering changes in career plans, and making sound decisions about the changes. (38 U.S.C. 1663, 1720)

(c) *Requested counseling.* The Veterans Administration shall provide counseling not required by §§ 21.4102 and 21.4105 as needed for the purposes identified in paragraphs (a) and (b) of this section upon the request of the veteran or eligible person. The Veterans Administration shall take appropriate steps (including individual notification where feasible) to acquaint all eligible veterans with the availability and advantages of counseling services. (38 U.S.C. 1663)

3. Sections 21.4101, 21.4102, 21.4103, and 21.4104 are revised as follows:

**§ 21.4101 Counseling—8 U.S.C. chapter 34.**

Counseling is not required for veterans and servicepersons receiving benefits under 38 U.S.C. chapter 34. (38 U.S.C. 1663)

**§ 21.4102 Requirement—38 U.S.C. Chapter 35.**

(a) *Child.* (1) Counseling is required for an eligible child before approval of an initial course except when the child has been accepted for, or is pursuing,

approved courses which lead to a standard college degree.

(2) The counseling psychologist will assist in preparing an educational plan if requested by the eligible person, or his or her parent or guardian. (38 U.S.C. 1720)

(b) *Spouse or surviving spouse.* Counseling is required for a spouse or surviving spouse only if he or she desires special training. (38 U.S.C. 1733)

**§ 21.4103 Failure to cooperate.**

When counseling is required and an eligible person fails to report for or fails to cooperate in the counseling process, the Veterans Administration will take no further action on the application. See § 21.3032. (38 U.S.C. 1720)

**§ 21.4104 Travel expenses.**

(a) *General.* The Veterans Administration shall determine and pay the necessary expense of travel to and from the place of counseling for the eligible person whenever counseling is required. (38 U.S.C. 111)

(b) *Restriction.* The Veterans Administration will not pay the necessary cost of travel to and from the place of counseling when counseling is not required but is provided as a result of a voluntary request by the veteran or eligible person. (38 U.S.C. 111)

(c) *Travel for attendants.* When an eligible person because of a severe disability requires the services of an attendant while traveling, payment of travel expenses will be on the same basis as for the eligible person. (38 U.S.C. 111; Pub. 96–151, 93 Stat. 1092)

**§ 21.4106 [Revoked]**

4. Section 21.4106 is revoked.

**§ 21.4233 [Amended]**

5. Section 21.4233 is amended by deleting "§ 21.4270(e) and (i)" and inserting "§ 21.4270(b)" in paragraph (a)(1).

6. In § 21.4234, the introductory portion preceding paragraph (a) is revoked, paragraphs (b), (c) and (d) are revised and a cross reference is added following paragraph (e) so that the added and revised material reads as follows:

**§ 21.4234 Change of program.**

* * * * *

(b) *Application.* A veteran or eligible person may request a change of program by any form of communication. However, if the veteran or eligible person does not furnish sufficient information to allow the Veterans Administration to process the request, the Veterans Administration will furnish the prescribed form for a change of program to him or her for completion. (38 U.S.C. 1671)

(c) *Optional change of program.* A veteran eligible to receive educational assistance under chapter 34 or a spouse or surviving spouse eligible to receive educational assistance under chapter 35 may make one optional change of program if his or her previous course was not interrupted due to his or her own misconduct, neglect or lack of application. (38 U.S.C. 1791(b))

(d) *Other changes of program.* (1) The following changes of program may not be made solely at the option of the veteran or eligible person. The Veterans Administration must approve them before paying educational assistance allowance:

(i) A second or subsequent change of program made by a veteran or eligible spouse or surviving spouse,

(ii) An initial change of program made by a veteran or eligible spouse or surviving spouse if the first program was interrupted or discontinued due to his or her own misconduct, neglect or lack of application, or

(iii) Any change of program made by a child.

(2) The Veterans Administration will approve a change of program listed in paragraph (d)(1) of this section if—

(i) The program of education which the veteran or eligible person proposes to pursue is suitable to his or her aptitudes, interests and abilities,

(ii) In any instance where the veteran or eligible person has interrupted, or failed to progress in his or her program due to his or her own misconduct, neglect or lack of application, there is a reasonable likelihood with respect to the program the veteran or eligible person proposes to pursue that there will not be a recurrence of such an interruption or failure to progress, and

(iii) In the case of an eligible child the new program meets the criteria applicable to final approval of an original application. See §§ 21.4230 and 21.4231.

(3) The Veterans Administration may approve a third or subsequent change of program if applicable conditions of paragraph (d)(2) of this section are met and the additional change or changes are necessitated by circumstances beyond the control of the veteran or eligible person. Circumstances beyond the control of the veteran or eligible person include, but are not limited to—

(i) The course being discontinued by the school when no other similar course leading to the same objective is available within normal commuting distance.

(ii) Unexpected financial difficulties preventing completion of the last program because of the overall cost of the program needed to reach the objective, or

(iii) The veteran or eligible person being required to relocate because of health reasons in an area where training for the last objective is not available within normal commuting distance. (38 U.S.C. 1791)

* * * * *

**Cross Reference:** Counseling. See § 21.4100.

7. Section 21.4278 is revised and a cross reference is added to read as follows:

**§ 21.4278 Reentrance after discontinuance.**

(a) *Conditions permitting reentrance after discontinuance.* A veteran or eligible person may be reentered following discontinuance because of unsatisfactory conduct or progress only when the following conditions exist:

(1) The cause of unsatisfactory conduct or progress has been removed, and

(2) The Veterans Administration determines that the program which the veteran or eligible person now proposes to pursue is suitable to his or her aptitudes, interests and abilities. (38 U.S.C. 1674 and 1724)

(b) *Programs which may be reentered after discontinuance.* Reentrance may be for the same program, for a revised program or for an entirely different program depending on the cause of the discontinuance and the removal of that cause. (38 U.S.C. 1674 and 1724)

**Cross Reference:** Counseling. See § 21.4100.

[FR Doc. 80-31273 Filed 10-8-80; 8:45 am]

BILLING CODE 8320-01-M

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

## 43 CFR Public Land Order 5752

## [OR-19205]

## Oregon; Revocation of Stock Driveway Withdrawal

*Correction*

In FR Doc. 80–29851, appearing at page 64178 in the issue of Monday, September 29, 1980, the fifth line in the first column of page 64179 should have read:

"Sec. 6, lots 3 to 7, inclusive, SE¼SW¼,"

BILLING CODE 1505-01-M

**43 CFR Public Land Order 5768**

**[I-13108]**

## Idaho; Partial Revocation of Military Withdrawal

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This order restores 14.644 acres of public land to the mineral leasing laws and to the disposal of materials.

**EFFECTIVE DATE:** November 6, 1980.

**FOR FURTHER INFORMATION CONTACT:** Larry Livesay, Idaho State Office, 208–384–1735.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of April 9, 1873, withdrawing public lands for the Boise Barracks Military Reservation is hereby revoked so far as it affects the following described land:

**Boise Meridian**

T. 3 N., R. 2 E.,
Sec. 2: (Tract 39) described by metes and bounds as follows:
Beginning at the NE. cor. of the Veterans Administration grounds on the northerly boundary of the Boise Barracks Military Reservation, which is the terminal fence post of a chain link fence, 6 ft. high, extending S. 25 28' E., from which the cor. of secs. 2, 3, 10, and 11, T. 3 N., R. 2 E., Boise Meridian, bears S. 35 17' W., 2,590.49 ft. dist., monumented with an iron post and brass cap set flush with surface of pavement, mkd. as described in the field notes of the dependent resurvey executed by Walter H. Good in 1952, accepted August 5, 1954.
Thence from said initial point, by metes and bounds.
S. 69 47' W., 933.24 feet, to an iron post with brass cap mkd. AP1.
S. 26 24' E., 544.50 feet, to an iron post with brass cap mkd. AP2.
S. 57 26' E., 240.24 feet, to an iron post with brass cap mkd. AP3.
N. 64 32' E., 795.30 feet, to an iron post with brass cap mkd. AP4 in fence extending N. 25 28' W. and S. 25 28' E.,
N. 25 28' W., 660.00 feet, along fence to the place of beginning.
Containing 14.644 acres in Ada County.

2. The above described tract has been classified under the Recreation and Public Purposes Act of June 14, 1926, as amended, 43 U.S.C. 869; 869–4. The land, therefore, will not be subject to other use or disposition under the public land laws, including the mining laws.

3. At 10 a.m. on November 6, 1980, the tract will be open to applications and offers under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. 181–287; and to the disposal of materials under the Act of July 31, 1947, as amended, 30 U.S.C. 601–604.

Inquiries concerning the tract should be addressed to the State Director, Bureau of Land Management, Federal Building, Box 042, 550 W. Fort Street, Boise, Idaho 83724.

October 1, 1980.

**Guy R. Martin,**

*Assistant Secretary of the Interior.*

[FR Doc. 80-31454 Filed 10-8-80; 8:45 am]

**BILLING CODE 4310-84-M**

## COMMUNITY SERVICES ADMINISTRATION

**45 CFR Part 1061**

## Emergency Energy Conservation Program; Funding Requirements for Fiscal Year 1981 Crisis Intervention Program; Stay of Effective Date

**Note.**—This document originally appeared in the **Federal Register** for Tuesday, October 7, 1980. It is reprinted in this issue to meet requirements for publication on the Monday–Thursday schedule assigned to the Community Services Administration.

**AGENCY:** Community Services Administration.

**ACTION:** Stay of effective date of a final rule.

**SUMMARY:** The Community Services Administration wants to notify prospective grantees and the public that the final rule on the fiscal year 1981 Crisis Intervention Program as published on September 4, 1980, in the **Federal Register**, Vol. 45, No. 173, pages 58534–58539, will not be effective on October 6, 1980. The reasons for this decision are noted below in the Supplementary Information section. CSA also wants to notify prospective grantees that the October 31, 1980, date for filing of applications is not in effect.

**DATES:** The effective date of this document is October 6, 1980. The October 6, 1980 effective date of the fiscal year 1981 Crisis intervention Program rule (45 FR 58534) is hereby stayed.

**FOR FURTHER INFORMATION CONTACT:** Ms. Barbara J. Crawford, Crisis Intervention Program, Community Services Administration, 2000 K Street NW., Suite 350, Washington, D.C. 20006, (202) 254–9833.

**SUPPLEMENTARY INFORMATION:** CSA's decision to not have the Final Rule effective on October 6, 1980, is based on the following reasons: (1) CSA was not informed by Congress of the funding for CSA's fiscal year 1981 Crisis Intervention Program until October 2, 1980. Without this funding information, CSA has not been able to evaluate the net effect on funding distributions for prospective grantees; (2) CSA has received numerous comments on the Final Rule, which could be submitted through September 29, 1980; and (3) CSA finds it necessary to evaluate state plans proposed to the Department of Health and Human Services (HHS) for its Low-Income Energy Assistance Program (LIEAP) in order to have CSA's Fiscal Year 1981 Crisis Intervention Program compliment LIEAP.

**Thomas J. Mack,**

*General Counsel.*

[FR Doc. 80-31294 Filed 10-6-80; 11:33 am]

**BILLING CODE 6315-01-M**

## FEDERAL COMMUNICATIONS COMMISSION

**47 CFR Part 94**

**[PR Docket No. 79-337; FCC 80-485]**

## Private Operational-Fixed Microwave Service; Facilitating Operation of low Power, Limited Coverage Systems in the 22.0–23.6 GHz; Correction

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects a final rule published at 45 FR 55731, August 21, 1980 relating to the operation of low power, limited coverage systems in the 22.0–23.6 GHz.

**EFFECTIVE DATE:** September 26, 1980.

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

**FOR FURTHER INFORMATION CONTACT:** Donald Campbell, Office of Science and Technology, (202) 653–8176.

In the matter of amendment of Part 94 of the Commission's rules and regulations to facilitate operation of low power, limited coverage systems in the 22.0–23.6 GHz, PR DOCKET No. 79–337. RM–3241 *Errata.*

Released: October 3, 1980.

1. It has come to our attenton that the First Report and Order in the above captioned matter, FCC 80–485 (corrected), which was released on 19 August and published in the Federal Register on 21 August 1980 at 45 F.R. 55731, contains several minor typographical errors:

In FR Doc 80–25483 published at 45 FR 55731, August 21, 1980 make the following corrections:

2. On page 55731, in paragraph 3, third column, the fifth line from the top should

read "and spurious signals of 43 + 10 $\log_{10}$".

3. On page 55732, in paragraph 6, first column, the 13th and 14th lines from the top should read, "of 0.1 watt in the 21.8–22.0 GHz and 23.0–23.2 GHz band segments.[4] It is".

Federal Communications Commission.

William J. Tricarico,

*Secretary.*

[FR Doc. 80-31284 Filed 10-8-80; 8:45 am]

BILLING CODE 6712-01-M

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### 49 CFR Part 531

**[Docket No. LVM 77-04; Notice 3]**

### Passenger Automobile Average Fuel Economy Standards; Exemption From Average Fuel Economy Standards

**AGENCY:** National Highway Traffic Safety Administration, Department of Transportation.

**ACTION:** Final decision to grant exemption from fuel economy standards.

**SUMMARY:** This notice exempts Aston Martin Lagonda Inc. (Aston Martin) from generally applicable average fuel economy standards of 19.0 miles per gallon (mpg) and 20.0 mpg for 1979 and 1980 model year passenger automobiles, respectively, and establishes alternative standards. The alternative standards are 11.5 mpg in the 1979 model year and 12.1 mpg in the 1980 model year.

**DATES:** The exemptions and alternative standards set forth in this notice apply in the 1979 and 1980 model years.

**FOR FURTHER INFORMATION CONTACT:** Robert Mercure, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–755–9384).

**SUPPLEMENTARY INFORMATION:** The National Highway Traffic Safety Administration (NHTSA) is exempting Aston Martin from the generally applicable average fuel economy standards for the 1979 and 1980 model years and establishing alternative standards applicable to that company in those model years. This exemption is issued under the authority of section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended (the Act) (15 U.S.C. 2002(c)). Section 502(c) provides that a manufacturer of passenger automobiles that manufactures fewer than 10,000 vehicles annually may be exempted from the generally applicable average fuel economy standard for a particular model year if that standard is greater than the low volume manufacturer's maximum feasible average fuel economy and if the NHTSA establishes an alternative standard applicable to that manufacturer at the low volume manufacturer's maximum feasible average fuel economy. In determining the manufacturer's maximum feasible average fuel economy, section 502(e) of the Act, (15 U.S.C. 2002(e)), requires the NHTSA to consider:

(1) Technological feasibility;

(2) Economic practicability;

(3) The effect of other Federal motor vehicle standards on fuel economy; and

(4) The need of the Nation to conserve energy.

This final rule was preceded by a notice announcing the NHTSA's proposed decision to grant an exemption to Aston Martin for the 1979 and 1980 model years (45 FR 24511, April 10, 1980). NHTSA received 58 comments during the 30-day comment period. All comments were from Aston Martin owners, and all comments supported the proposed exemptions and alternative standards. NHTSA had previously considered all the factors enumerated by the commenters supporting the proposed exemptions.

NHTSA had proposed to establish alternative fuel economy standards of 11.4 mpg for Aston Martin in the 1979 model year and 12.4 mpg in the 1980 model year. Information which became available to this agency from the Environmental Protection Agency after the publication of the proposal indicates that the 1979 Aston Martins achieved a fuel economy level of 11.5 mpg, which is higher than was proposed, and 12.1 mpg in the 1980 model year, which is lower than was proposed. Since these Aston Martin automobiles used all the means for improving fuel economy deemed to be technologically feasible and economically practicable, these fuel economy test figures are a more accurate representation of Aston Martin's maximum feasible average fuel economy than the previous estimates made by NHTSA. Accordingly, this final decision incorporates the subsequent information, and adopts 11.5 mpg and 12.1 mpg as Aston Martin's maximum feasible average fuel economy in the 1979 and 1980 model years, respectively.

Based on its conclusions that it is not technologically feasible and economically practicable for Aston Martin to improve the fuel economy of its 1979 and 1980 model year automobiles above an average of 11.5 and 12.1 mpg, respectively, that other Federal automobile standards will not affect achievable fuel economy beyond the extent considered in this analysis, and that the national effort to conserve energy will be negligibly affected by the granting of the requested exemptions and establishment of alternative standards, this agency concludes that the maximum feasible average fuel economy for Aston Martin in the 1979 and 1980 model years is 11.5 and 12.1 mpg, respectively. Therefore, the agency is exempting Aston Martin from the generally applicable standards and is establishing alternative standards of 11.5 mpg for the 1979 model year and 12.1 mpg for the 1980 model year.

In consideration of the foregoing, 49 CFR Part 531 is amended by adding 531.5(b)(4) to read as follows:

**§531.5 Fuel economy standards.**

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * *

(4) Aston Martin Lagonda Inc.

| Model year | Average fuel economy standard (miles per gallon) |
|---|---|
| 1979 | 11.5 |
| 1980 | 12.1 |

The program official and attorney principally responsible for the development of this decision are Robert Mercure and Stephen Kratzke, respectively.

(Sec. 9, Pub. L. 89–670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. L. 94–163, 89 Stat. 901 (15 U.S.C. 2002); delegation of authority at 49 CFR 1.50).

Issued on September 29, 1980.

Joan Claybrook,

*Administrator.*

[FR Doc. 80-31180 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-59-M

### 49 CFR Part 571

**[Docket No. 74-09; Notice 8]**

### Child Restraint Systems

**AGENCY:** National Highway Traffic Safety Administration (NHTSA).

**ACTION:** Correction to final rule.

**SUMMARY:** On May 1, 1980, the agency published a notice in the **Federal Register** responding to petitions for reconsideration concerning Standard No. 213, *Child Restraint Systems.* In response to a petition from Ford Motor Co., the agency stated in the preamble of

the notice that it was eliminating the torso rotation requirement of the standard. However, the notice inadvertently did not amend the standard to delete that requirement. This notice makes the necessary amendment.

**DATE:** The amendment is effective October 9, 1980.

**FOR FURTHER INFORMATION CONTACT:** Stephen Oesch, Office of Chief Counsel, National Highway Traffic Safety, 400 Seventh Street SW., Washington, D.C. (202–426–2992).

**SUPPLEMENTARY INFORMATION:** On May 1, 1980, the agency published a notice responding to several petitions for reconsideration concerning Standard No. 213, *Child Restraint Systems* (45 FR 29045).

Among the petitions was one from Ford Motor Co. objecting to the requirement that the test dummy's torso rotate at least 15 degrees during the simulated crash test of the child restraint. Ford argued that it is impossible to measure the 15 degree angle on restraints such as its Tot-Guard which enclose the lower torso of the child and thus conceal one of the pivot points used in measuring the dummy's rotation.

In response to the Ford petition, the agency decided to drop the torso rotation requirement. In the May 1 notice, the agency explained that the purpose of the requirement was to prevent manufacturers from controlling the amount of head excursion by allowing the test dummy to submarine excessively during a crash (i.e., allowing the test dummy to slide too far downward underneath the lap belt and forward, legs first.) After further reviewing its child restraint test results, the agency concluded that restriants meeting the knee excursion limit of the standard will provide sufficient protection to prevent such submarining.

Although the preamble of the notice discussed deleting the requirement, the standard was not formally amended to delete the torso rotation requirement. This notice corrects that inadvertent omission and revises the standard to delete the requirement.

In consideration of the foregoing, the following amendment is made in Standard No. 213, *Child Restraint Systems* (49 CFR Part 571.213):

**§ 571.213 [Amended]**

1. Section 5.1.3.1 is revised to read as follows:

§ 5.1.3.1 *Child restraint systems other than rear-facing ones and car beds.* In the case of each child restraint system other than a rear-facing child restraint system or a car bed, the test dummy's torso shall be retained within the system and no portion of the test dummy's head shall pass through the vertical transverse plane that is 32 inches forward of point z on the standard seat assembly, measured along the center SORL (as illustrated in Figure 1B), and neither knee pivot point shall pass through the vertical transverse plane that is 36 inches forward of point z on the standard seat assembly, measured along the center SORL.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on September 26, 1980.

**Michael M. Finkelstein,**

*Associate Administrator for Rulemaking.*

[FR Doc. 80-31181 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-59-M

## INTERSTATE COMMERCE COMMISSION

### 49 CFR Part 1033

**[S.O. NO. 1487]**

### St. Louis-San Francisco Railway Co. Authorized To Operate Over Tracks of the Atchison, Topeka & Santa Fe Railway Co.

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Final rule (Service Order No. 1487)

**SUMMARY:** This order authorizes the St. Louis-San Francisco Railway Company to operate over tracks of The Atchison, Topeka and Santa Fe Railway Company between Perry, Oklahoma, and Arkansas City, Kansas, and between Blackwell and Ponca City, Oklahoma, due to severe structural damage to a bridge over the Salt Lake River near Lamont, Oklahoma. This authority is granted in order to provide the shipping public with continued rail service.

**EFFECTIVE DATE:** 12:01 a.m., October 7, 1980, and continuing in effect until 11:59 p.m., January 15, 1981.

**FOR FURTHER INFORMATION CONTACT:** M. F. Clemens, Jr. (202) 275–7840.

Decided October 3, 1980.

The St. Louis-San Francisco Railway Company (SLSF) is unable to operate trains over its bridge across the Salt Lake River near Lamont, Oklahoma, due to severe structural damage. Extensive repairs are required before rail operations can resume over this bridge. SLSF has requested authority to operate over tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) between Perry, Oklahoma, and Arkansas City, Kansas, and between Blackwell and Ponca City, Oklahoma, in order to provide the shipping public with continued rail service. ATSF concurs with the SLSF operation over its tracks.

It is the opinion of the Commission that an emergency exists requiring the operation of SLSF trains over these tracks of the ATSF in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

*It is ordered,*

**§ 1033.1487 Service Order No. 1487**

(a) *Authorization. St. Louis-San Francisco Railway Company authorized to operate over tracks of the Atchison, Topeka and Santa Fe Railway Company.* The St. Louis-San Francisco Railway Company (SLSF) is authorized to operate over tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) between Perry, Oklahoma, and Arkansas City, Kansas, a distance of approximately 58.2 miles and between Blackwell and Ponca City, Oklahoma, a distance of approximately 16 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) *Effective date.* This order shall become effective at 12:01 a.m., October 7, 1980.

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 15, 1981, unless otherwise modified, amended or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304–10305 and 11121–11126.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John H. O'Brien.

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 80-31448 Filed 10-8-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

## Opening of Certain National Wildlife Refuges in Arizona, California, and New Mexico; Hunting

**AGENCY:** U.S. Fish and Wildlife Service, Department of the Interior.

**ACTION:** Special regulations.

**SUMMARY:** The Director has determined that the opening to hunting on certain National Wildlife Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the conditions under which hunting will be permitted on portions of certain National Wildlife Refuges in Arizona, California and New Mexico.

**DATES:** Effective on date of publication from October 1, 1980 through December 31, 1980.

**FOR FURTHER INFORMATION CONTACT:**

The Area Manager or appropriate Refuge Manager at the address or telephone listed below:

Albert W. Jackson, Area Manager, U.S. Fish and Wildlife Service, 2953 West Indian School Road, Phoenix, Arizona 85017. Telephone: 602–261–2487.

James R. Fisher, Refuge Manager, Cabeza Prieta National Wildlife Refuge, P.O. Box 418, Ajo, Arizona 85321. Telephone: 602–387–6483.

Wesley V. Martin, Refuge Manager, Cibola National Wildlife Refuge, P.O. Box AP, Blythe, Calif. 92225. Telephone: 714–922–2129.

Tyrus W. Berry, Refuge Manager, Havasu National Wildlife Refuge, P.O. Box A, Needles, Calif. 92363. Telephone: 714–326–3853.

Gerald E. Duncan, Refuge Manager, Imperial National Wildlife Refuge, P.O. Box 2217, Martinez Lake, Arizona 85364. Telephone: 602–783–3400.

Milton K. Haderlie, Refuge Manager, Kofa National Wildlife Refuge, Box 1032, Yuma, Arizona 85364. Telephone: 602–783–7861.

LeMoyne B. Marlatt, Refuge Manager, Bitter Lake National Wildlife Refuge, P.O. Box 7, Roswell, New Mexico 88201. Telephone: 505–622–6755.

Ronald L. Perry, Refuge Manager, Bosque del Apache National Wildlife Refuge, P.O. Box 1246, Socorro, New Mexico 87801. Telephone: 505–835–1828.

**SUPPLEMENTARY INFORMATION:**

### General

Hunting of big game on portions of the following refuges shall be in accordance with applicable State regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Vehicular travel is restricted to designated roads and trails. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager at the addresses above:

Cabeza Prieta National Wildlife Refuge (desert bighorn sheep). Havasu National Wildlife Refuge (desert bighorn sheep). Kofa National Wildlife Refuge (mule deer and desert bighorn sheep).

Special conditions:

(1) Hunting of mule deer and/or desert bighorn sheep is permitted but only by those holding a valid permit from the Arizona Game and Fish Department for the species being hunted.

(2) Possession or transportation of a loaded firearm or strung bow within or on any motorized vehicle or its attachments is prohibited. A loaded firearm means any firearm containing any cartridge or ammunition in its chamber, magazine, or clip.

(3) Possession or transportation of an uncased firearm within or on any motorized vehicle or its attachments is prohibited. An uncased firearm means any firearm not encased in a holster, scabbard, or gun case (soft or hard).

(4) Possession of weapons is permitted only by those legally hunting on the refuge and weapons are restricted to those legal for use in the permitted hunt being engaged in by a particular hunter.

(5) On the Havasu Refuge, hunting will not be permitted in those portions of Units 16 B and 44 which abut the Bill Williams River. The Bill Williams Unit is open to hunting south of the Planet Ranch Road only.

### Arizona and California

Cibola National Wildlife Refuge.

Special conditions:

(1) Arizona—bow and arrow season for mule deer is from November 28 through December 31, 1980; firearms season, from November 14 through November 23, 1980. California—bow and arrow season for deer, from October 4 through October 26, 1980; firearms season, from November 1 through November 23, 1980.

(2) Hunting is prohibited within one-fourth mile of any occupied dwelling, 250 yards of any farm worker, or within 50 yards of any road or levee.

(3) Pits or permanent blinds may not be built.

(4) Only rifled, centerfire firearms may be used to take deer during the firearms season. Bow and arrows may be used only during the archery season in accordance with appropriate State regulations.

(5) Possession of all handguns and all .22 caliber rimfire firearms is prohibited.

(6) Vehicles are prohibited from driving across farm fields or through any undefined trail or road.

(7) Both Zones I and II (Arizona) are closed to hunting.

(8) Overnight camping is prohibited on the refuge.

Imperial National Wildlife Refuge.

Mule deer.

Special conditions:

(1) Arizona—deer gun season, from November 14 through November 23, 1980. Deer archery season, from December 12 through December 31, 1980. California—deer gun season, from November 1 through November 23, 1980.

(2) Except as provided under the special regulations covering the hunting of small game, doves and migratory waterfowl on the Imperial National Wildlife Refuge, possession of any firearms other than a legal deer hunting firearm, as defined by State hunting regulations, is prohibited.

### New Mexico

Bitter Lake National Wildlife Refuge.

Mule deer.

Special conditions: Vehicles are not permitted in the wilderness area; otherwise, vehicles are restricted to established roads and trails.

Bosque del Apache National Wildlife Refuge.

Mule deer.

Special conditions:

(1) Only the State stratified modern firearms deer season and the State bow hunting season will be open on the Refuge.

(2) The refuge is open to public access from one-half hour before sunrise to one-half hour after sunset only.

(3) Only those areas on the refuge designated by sign and delineated on maps available at refuge headquarters as open to hunting are permissible hunt areas.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—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.

**Albert W. Jackson,**

*Area Manager, Fish and Wildlife Service, Phoenix, Ariz.*

September 29, 1980.

[FR Doc. 80-31486 Filed 10-8-80; 8:45 am]

BILLING CODE 4310-55-M

# Proposed Rules

Federal Register
Vol. 45, No. 198
Thursday, October 9, 1980

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

### Farmers Home Administration

### 7 CFR Part 1990

### Biomass Energy and Alcohol Fuels Loans and Loan Guarantees; Additional Information

**AGENCY:** Farmers Home Administration, USDA.

**ACTION:** Proposed rule; additional information.

**SUMMARY:** At 45 FR 51818, August 5, 1980, the Farmers Home Administration (FmHA) published a proposed rule regarding biomass energy and alcohol fuels. The purpose of this document is to provide additional information regarding this program.

**FOR FURTHER INFORMATION CONTACT:** Mr. Weldon Barton, Director, Office of Renewable Resources, FmHA, Rm. 5175 South Bldg., USDA, 14th and Independence Ave. SW., Washington, D.C. 20250, phone: 202–447–7195.

**SUPPLEMENTARY INFORMATION:** The Biomass Energy and Alcohol Fuels Act of 1980 (Title II of the Energy Security Act, Public Law 96–294) provides for the solicitation of applications for financial assistance under Subtitle A within 120 days after enactment (i.e., October 28, 1980). Farmers Home Administration (FmHA), USDA, has published (45 FR 51818, August 5, 1980) proposed regulations to establish guidelines for solicitation of such applications and is reviewing comments received pursuant to such publication and related hearings. FmHA expects to publish Final Regulations and to initiate the solicitation of applications as part of such Final Regulations on or before October 28, 1980. Applicants wishing to undertake preliminary preparatory work on such applications may consult the Proposed Regulations but are advised that some changes will be made in them when the Final Regulations are published on or about October 28, 1980. Applications will not be accepted by FmHA before the solicitation is announced at the time of publication of the Final Regulations.

In general, the FmHA has jurisdiction over projects below 15 million gallons of annual capacity and the Department of Energy has jurisdiction over projects with annual capacity of 15 million gallons and larger, except for projects using forestry feedstocks or projects owned and operated by agricultural cooperative which can be considered by either FmHA or DOE.

Dated: October 6, 1980.

James E. Thornton,

*Associate Administrator, Farmers Home Administration.*

[FR Doc. 80-31789 Filed 10-8-80; 11:41 am]

BILLING CODE 3410-07-M

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 50

### Plan To Require Licensees and Applicants to Document Deviations From the Standard Review Plan

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Nuclear Regulatory Commission is considering requiring all nuclear power plant licensees and all applicants for construction permits and manufacturing licenses to identify and justify deviations from the acceptance criteria of the applicable revision of the Standard Review Plan, NUREG–75/087. This program will provide the NRC with uniform documentation of the extent to which each plant deviates from current licensing acceptance criteria. Comment is sought on the proposal and on the preferred method of implementing such a proposal.

**DATE:** The comment period expires on November 24, 1980.

**ADDRESSES:** Comments should be submitted in writing to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Docketing and Service Branch. All commments received will be available for public inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Malcolm L. Ernst, Assistant Director for Technology, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 492–8016.

**SUPPLEMENTARY INFORMATION:** The Standard Review Plan (SRP), NUREG 75/087, first published in 1975, was prepared for the guidance of NRC staff reviewers in performing safety reviews of applications to construct or operate nuclear power plants. The principal purpose of the SRP is to ensure the quality and uniformity of the staff reviews and to present a well-defined base from which proposed changes in the scope of these reviews may be evaluated. The SRP also serves to make information about regulatory matters widely available, and improves understanding of the staff review process by interested members of the public and the nuclear power industry.

The NRC's current techniques for the safety evaluation of nuclear power facilities as set forth in the SRP, are the result of years of experience.. A great deal of progress has been made in the methods of review and in the development of regulatory guides and other staff positions referenced in the SRP.

As this experience acquired over the years is incorporated into the regulatory process, regulatory guides, including the SRP, are periodically reviewed and revised to reflect the current state-of-the-art. This results in a varying scope of review over time and tends to lead to lack of uniform documentation of each plant's conformance with current staff acceptance criteria. Some plants, for instance, have been reviewed against the SRP at the OL stage but not at the CP stage, while still others, although reviewed against the SRP at both the CP and OL stage, lack uniformity because of updating of the SRP after the CP review was completed. This lack of uniform documentation makes it difficult to determine the extent to which plants reviewed some time ago deviate from current acceptance criteria, and if so, the safety significance of such deviations.

As a result of the accident at Three Mile Island, many regulatory requirements have been revised and new requirements have been promulgated. Accordingly, the staff has begun to revise the SRP to reflect these new requirements. This next revision of

the Standard Review Plan, scheduled for completion in April 1981, will consist of the May 1980 version of the SRP, modified to reference all applicable safety and safeguards regulations and those Division 1 Regulatory Guides, staff positions, and other documents currently used by the staff to interpret the intent of these regulations, including requirements resulting from the TMI accident.

Requiring license applicants to identify and justify deviations from the acceptance criteria in the applicable revision of the SRP would enhance the quality of the staff's review of applications and assist the staff in making the determinations required by 10 CFR Part 50. In addition, such documentation would more clearly identify the bases for the acceptability of plant designs and their relationship to current licensing criteria. A similar post-licensing requirement for currently operating plants would improve the staff's ability to evaluate the extent and safety significance of deviations from current staff acceptance criteria for these plants.

In a related matter, the NRC is required by Section 110 of Public Law 96-295 (NRC FY 80 Authorization Bill) to develop a plan for the systematic safety review of all operating nuclear power plants. This plan must include among other things: the identification of each current rule and regulation, compliance with which the NRC determines to be of particular significance to the protection of the public health and safety; and the determination of the extent to which each currently operating plant complies with those regulations, including an indication of whether such compliance was achieved by use of Division 1 Regulatory Guides and staff positions [1] and where such compliance was achieved by equivalent means.

In order to carry out the requirements of Pub. L. 96-295, to document deviations from the SRP and to improve the staff's ability to evaluate the safety significance of such deviations, the NRC is considering requiring all nuclear power plant licensees and license applicants to identify and provide the safety bases for deviations from applicable revisions of the SRP. Several methods of implementing this requirement are under consideration. These methods are issuance of a Regulatory Guide, specification of a construction permit or operating license condition, a Policy Statement, or rulemaking.

[1] The revised SRP (April 1981) has been designed and defined to be equivalent to Division 1 Regulatory Guides and staff positions.

Specifically, the NRC is considering imposing the following requirements:

1. All nuclear power plants issued operating licenses on or before June 30, 1980,[2] would be required to identify and justify all deviations from the acceptance criteria of the SRP revision scheduled to be issued in April 1981 that relate to those regulations which the Commission determines to be of particular significance to the protection of the public health and safety.

2. All applicants who are issued a nuclear power plant operating license after June 30, 1980, and for which the NRC staff's Safety Evaluation Report will be issued on or before January 1, 1982 [3] would be required to identify and justify, after issuance of an OL, all deviations from the acceptance criteria of the SRP revision scheduled to be issued in April 1981 that relate to those regulations the Commission determines to be of particular significance to the protection of the public health and safety.

3. All applicants for a nuclear power plant operating license for which the NRC staff's Safety Evaluation Report is issued after January 1, 1982, would be required to identify and justify, prior to issuance of the operating license, all deviations from all acceptance criteria of the SRP revision scheduled to be issued in April 1981.

4. All applicants for a nuclear power plant construction permit or manufacturing license for which the NRC staff's Safety Evaluation Report TMI Supplement is issued before January 1, 1982, would be required to identify and justify, prior to issuance of the construction permit or manufacturing license, all deviations from all acceptance criteria of the May 1980 version of the SRP and from the "Proposed Licensing Requirements for Pending Applications for Construction Permits and Manufacturing Licenses," in NUREG-0718, (as modified after public comment).

5. All applicants for a nuclear power plant construction permit or manufacturing license for which the NRC staff's Safety Evaluation Report is issued after January 1, 1982, would be required to identify and justify, prior to issuance of the construction permit or manufacturing license, all deviations from all acceptance criteria of the SRP revision scheduled to be issued in April 1981.

[2] The date on which Pub. L. 96-295 became effective.

[3] The basis for the January 1, 1982 date, is to permit adequate time after issuance of the revised SRP for a licensee to document and justify deviations and for the NRC staff to incorporate evaluations of the more safety significant deviations into the staff Safety Evaluation Reports.

The Commission published a Federal Register Notice on October 2, 1980 (45 FR 65247) inviting comment on Requirements 4 and 5 of the current plan. The present notice reiterates those requirements and integrates them with the requirements for operating plants and applicants for operating licenses.

The Commission will consider public comments received in response to this notice in determining the appropriate action to be taken, including the possible issuance of final rules on some or all of these matters.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Section 553 of Title 5 of the United States Code, notice is hereby given that amendment of the Commission's regulations in 10 CFR Part 50 with regard to some or all of the subjects and issues described in this notice is contemplated.

Dated at Washington, D.C. this 3d day of October 1980.

For the Nuclear Regulatory Commission.

**Samuel J. Chilk,**

*Secretary of the Commission.*

[FR Doc. 80-31485 Filed 10-80; 8:45 am]

BILLING CODE 7590-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Ch. 1

**[Docket No. 20487; Petition Notice No. PR 80-15]**

### Petition for Rule Making of Rosenbalm Aviation, Inc.

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Publication of petition for rulemaking; request for comments.

**SUMMARY:** By letter dated March 31, 1980, Mr. Arthur J. Schmidt, Vice President, Rosenbalm Aviation, Inc., petitioned the Federal Aviation Administration (FAA) to amend §§ 25.832 and 121.220 of the Federal Aviation Regulations (FAR) to exempt large, cargo-only aircraft from installing ozone control equipment or using ozone avoidance procedures.

**DATES:** Comments must be received on or before December 10, 1980.

**ADDRESS:** Send comments on the petition in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204),

Docket No. 20487, 800 Independence Avenue S.W., Washington, D.C. 20591.

**FOR FURTHER INFORMATION CONTACT:** Raymond E. Ramakis, Chief, Regulatory Projects Branch (AVS–24), Federal Aviation Administration, 800 Independence Avenue S.W., Washington, D.C. 20591; telephone (202) 755–8716.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested persons are invited to submit such written data, views, or arguments on the petition for rulemaking as they desire. Communications should identify the regulatory docket number or petition notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–204 800 Independence Avenue S.W., Washington, D.C. 20591. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the petition for rulemaking. 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 substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

**Background Information**

On March 31, 1980, Rosenbalm Aviation, Inc., submitted a petition for rulemaking, in accordance with Part 11 of the FAR, to amend §§ 25.832 and 121.220. This petition is published in its entirety as part of this notice.

Section 25.832 states, in pertinent part, that airplanes operated above flight level 180 that are expected to encounter cabin ozone concentrations in excess of 0.25 parts per million by volume, sea level equivalent, at any point in time and 0.1 parts per million by volume, sea level equivalent, time weighted average during any 3-hour interval, must be modified with ozone control equipment.

Section 121.220 states, in pertinent part, that after February 20, 1981, no certificate holder may operate a transport category airplane above flight level 180 unless the airplane is equipped with ozone control equipment or the certificate holder has demonstrated by analysis or tests that the airplane can be operated without ozone control equipment and that cabin ozone concentrations will not exceed 0.25 parts per million by volume, sea level equivalent, at any point in time and for each flight segment that exceeds 4 hours, 0.1 parts per million by volume, sea level equivalent, time weighted average over the flight segment.

Although this notice sets forth the contents of the petition as received by the FAA without changes, it should be understood that its publication to receive public comment is in accordance with FAA procedures governing the processing of petitions for rulemaking. It does not propose a regulatory rule for adoption, represent an FAA position, or otherwise commit the agency on the merits of the petition. The FAA intends to proceed to consider the petition under the applicable procedures of Part 11 and to reach a conclusion on the merits of the proposal after it has had an opportunity to carefully evaluate it in light of the comments received and other relevant matters presented. If the FAA concludes that it should initiate public rulemaking procedures on the petition, appropriate rulemaking action, including an evaluation of the proposal, will be published.

**The Petition**

Accordingly, the Federal Aviation Administration publishes verbatim for public comment the following petition for rulemaking of Rosenbalm Aviation, Inc., dated March 31, 1980.

Issued in Washington, D.C., on September 30, 1980

**Edward P. Faberman,**

*Acting Assistant Chief Counsel, Regulations and Enforcement Division.*

March 31, 1980.
Docket No. 20487.

Federal Aviation Agency,
*Office of the Chief Counsel, 800 Independence Ave. S.W. Washington, D.C.*

Attention: Rules Docket/AG–241.
Subject: Airplane Cabin Ozone Contamination.

Ozone irritation has become an issue with flight attendants as one, or probably the most vocal complainant. Passenger discomfort is certainly a very important consideration. OSHA interest is passive, primarily to these principals. Media reports indicate complaints reached their peak three years ago, and have since dwindled considerably.

However, it appears to this operator of large "Cargo-Only" jet aircraft, that cargo-only airplanes *not* carrying passengers for hire or flight attendants, should be fully exempted from the requirements of installing ozone control equipment or using ozone avoidance procedures.

Please note that:

a. For each 100 pounds of new equipment required, one gallon or more of fuel is consumed each hour of flight. That is, six to eight thousand gallons a year on a busy airplane.

b. The penalty in higher fuel consumption because of the extra engine power consumed is not known, at this time, but, I am sure, will be at least as great as the added weight penalty in fuel burned. No person, expert or otherwise, should be permitted to call these penalties "insignificant".

c. The physical activity of cockpit crewmembers is decidedly less than that of flight attendants. Cockpit crewmembers are not nearly as effected by breathing irritations or other physical problems of flight by reason of their physical qualifications for flying, as compared to passengers.

Relief in this area should also help reduce the crushing shortage of time and production backlog of approved devices necessary to meet the very short time period afforded for compliance.

Your favorable amendment to the proposal to exempt all *Cargo-Only* aircraft would relieve a major point of disagreement with the scope of the proposed rule making.

Sincerely,

Arthur J. Schmidt,

*Vice President, Rosenbalm Aviation, Inc.*

[FR Doc. 80-31099 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-13-M

---

**14 CFR Part 71**

**[Airspace Docket No. 80–AAL–16]**

## Establishment of V–431

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to establish a new airway, Victor 431, between Sisters Island, Alaska, and Biorka Island, Alaska. The proposal would designate another route to handle the increased traffic flow. This airway would provide more efficient use of airspace and reduce delays in this area.

**DATES:** Comments must be received on or before November 10, 1980.

**ADDRESSES:** Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 80–AAL–16, Federal Aviation Administration, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC–204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:** L. Jack Overman, 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:**

**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, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513. All communications received on or before November 10, 1980, 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.

**Availability of NPRM**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C., 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

**The Proposal**

The FAA is considering an amendment to § 71.125 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would establish an additonal airway between Sisters Island, Alaska, and Biorka Island, Alaska. This airway, V–431, would be designated via the Sisters Island 204°T(175°M) radial and the Biorka Island 355°T(327°M) radial. Designation of this airway would reduce delays and provide more efficient use of airspace in this area. Section 71.125 of Part 71 was republished in the **Federal Register** on January 2, 1980, (45 FR 342).

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.125 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 342) by designating a new airway, V–431, as follows:

"V–431 From Sisters Island, Alaska, INT Sisters Island 204° and Biorka Island 355° radials; Biorka Island, Alaska."

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

**Note.**—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on October 1, 1980.

**B. Keith Potts,**

*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc. 80–31492 Filed 10–8–80; 8:45 am]

**BILLING CODE 4910–13–M**

---

**14 CFR Part 73**

**[Airspace Docket No. 80–ASO–49]**

**Alteration of Restricted Area**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to alter the time of designation for the Salinas, Puerto Rico, Restricted Areas R–7103 A, B and C, from June 1 through August 31, to a new period extending from May 1 through July 31. This change is necessary in order to coincide with the Army National Guard's new annual summer training schedule.

**DATES:** Comments must be received on or before November 10, 1980.

**ADDRESSES:** Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 80–ASO–49, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC–204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:** Lewis Still, 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) 426–8525.

**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 Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before November 10, 1980, 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.

**Availability of NPRM**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C., 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future 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 B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) that would amend the time of designation for operations in Restricted Areas R–7103 A, B and C, Salinas, Puerto Rico. The U.S. Army National Guard now schedules annual summer training from May 1 through July. This proposal would coincide with the extended utilization period. Section 73.71 of Part 73 was republished in the **Federal Register** on January 2, 1980, (45 FR 729).

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 73.71 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (45 FR 729) as follows:

Under R–7103 A, B and C Salinas, P.R. Time of designation, "June 1 through August 31," is deleted and "May 1 through July 31," is substituted therefor.

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

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on October 2, 1980.

B. Keith Potts,

*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc. 80—31494 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-13-M

---

## 14 CFR Part 121

**[Docket No. 18591; Notice No. 80-16]**

## Proposed Change to Scheduled Air Carrier Operations

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Advanced notice of proposed rule making (ANPRM)

**SUMMARY:** Based on a Transamerica Airlines, Inc. (TIAS), and World Airways, Inc. (WRLS), joint petition for rule making dated February 28, 1980, the Federal Aviation Administration (FAA) is considering amending §§ 121.105, 121.443, 121.465, 121.533, 121.535, 121.593, 121,595, 121.601, and other related sections of the Federal Aviation Regulations (FAR) to allow, among other things, all Part 121 certificate holders' operations to be conducted under a flight operations control system. This notice publishes the entire petition and requests comments and recommendations that will assist the FAA in determining what, if any, regulatory proposals should be developed. The FAA also seeks comments on the questions contained in this document.

**DATES:** Comments must be received on or before January 7, 1981.

**ADDRESSES:** Comments may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 18591, 800 Independence Avenue, SW., Washington, D.C. 20591; or be delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. All comments must be marked "Docket No. 18591." Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Dan Keenan, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, 800 Indpendence Avenue, S.W. Washington, D.C. 20591; telephone (202) 755-8716.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested persons are invited to participate in the making of the proposed rule changes by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 18591, 800 Independence Avenue. S.W., Washington, D.C. 20591; or be delivered in duplicate to Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. Persons wishing the FAA to acknowledge receipt of their comments submitted in reponse to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 18591." The postcard will be date/time stamped and returned to the commenter. If it is determined to be in the public interest to proceed with further rule making after consideration of the available data and comments received in response to this notice, a notice of proposed rule making will be issued.

### Availability of ANPRM

Any person may obtain a copy of this advanced notice of proposed rule making by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center (APA-430), 800 Indpendence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8056. Communications must identify the notice number of this ANPRM. Persons interested in being placed on the mailing list of future ANPRM's and NRPM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

### Background

This advance notice of proposed rulemaking is being issued under the FAA's policy for the early institution of rulemaking proceedings. An advance notice is issued when it is found that the resources of ther FAA and reasonable outside inquiry do not yield a sufficient basis to identify and select a tentative course or alternative course of action, or where it would be helpful to invite public participation in the identification and selection of a course and alternate courses of action. The subject matter of this notice involves a situation contemplated by that policy.

In September 1978, the Civil Aeronautics Board (CAB) issued a temporary exemption to TIAS, WRLS, and Capitol International Airways to allow those supplemental air carriers to operate scheduled passenger flights on certain specified routes. In October 1979, the three air carriers were issued permanent certificates by the CAB to allow a continuation of those scheduled operations. At the time the CAB certificates were issued, the three air carriers were conducting their operations under supplemental air carrier rules of Part 121 of the FAR.

By letter of February 28, 1980, Mr. D. H. Bathey, Director of Operations, TIAS, and Mr. Edward W. Ringo, Senior Vice President and General Manager, Flight Operations, WRLS, petitioned to amend portions of Part 121 to provide, among other things, for the establishment of a flight operations control system for all Part 121 certificate holders. The FAA anticipates that with the issuance of new Part 125, all commercial operators will be required to conduct all operations under that part of 1983. Accordingly, only air carriers will operate under Part 121 after that time. As a result, the FAA anticipates amending Part 121 to consolidate all domestic, flag, and supplemental air carrier rules into one set of regulations applicable to all Part 121 operators. The TIAS/WRLS joint petition, which prompted this ANPRM, together with expected public comment, should be beneficial in promulgating the necessary Part 121 amendments to consolidate flight following and dispatch center requirements whereby a flight operations control system will be applicable to all air carriers.

Commenters responding to this notice are also invited to specifically address the following questions:

1. Should the proposal apply to all Part 121 certificate holders? If not, which ones? Why?

2. Should the same requirements apply to all Part 121 operations? Why?

3. Should special provisions be developed for charter/off-route operations? Why?

4. What should be the minimum standards for flight operations control centers? Why?

5. What should be the minimum qualification standards for flight operations controllers? Why?

6. What type of certificates should an operations controller hold? Why?

7. What duty time limitations should apply to flight operations controllers? Why?

8. What initial and recurrent training should be required for operations controllers? Why?

9. How would the establishment of flight operations control systems impact the air carriers? Why?

10. How much time should be allowed for compliance with the proposal if it is decided to proceed with rule making?

The FAA requests comments on these questions as well as any recommendations for implementing the objective of revising Part 121 to establish one flight operation control system for all Part 121 certificate holders.

**The Petition**

Accordingly, the Federal Aviation Administration publishes verbatim for public comment the following joint petition of Transamerica Airlines, Inc., and World Airways, Inc., dated February 28, 1980:

(Sec. 313, 601, 602, 604, 607, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1421, 1422, 1424, and 1427); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

**Note.**—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and that a regulatory evaluation is not necessary.

Issued in Washington, D.C., on October 2, 1980.

**R. L. Collie,**

*Acting Director of Flight Operations.*

Transamerica Airlines, Inc., Oakland International Airport, Oakland, Calif.
World Airways, Inc., Oakland International Airport, Oakland, Calif.
February 28, 1980.

Hon. Langhorne Bond,
*Administrator,*
*Federal Aviation Administration, 800 Independence Ave., SW., Washington, D.C.*

Dear Mr. Administrator: Transamerica Airlines, Inc. (formerly Trans International Airlines, Inc.) and World Airways, Inc. hereby petition for a rule-making to amend Sections: 121.105, 121.443, 121.533, 121.535, 121.593, 121.595, 121.601, 121.465 and other related sections to allow petitioners permanent relief from these requirements as provided in Exemptions Nos. 2680, 2696 and 2696A.

Exhibit one hereto sets forth the specific proposal to accomplish this objective.

Transamerica Airlines and World Airways have been operating under exemptions—2680, 2696 and 2696A—for almost one year and by letter dated December 21, 1979, to the Administrator, have petitioned for extensions of these exemptions until such time as a rule-making incorporating the subject matter of these exemptions is finalized.

Transamerica and World state that operations pursuant to the proposed rule changes requested will have no detrimental impact on the safety of flight operations nor upon air carrier operations in general. Rather, the proposed changes will have beneficial effects in that they will enable the carriers, on a permanent basis, to conform their operations to one system of regulations which will eliminate confusion which might otherwise exist.

Transamerica Airlines and World Airways further state that the operations under the exemptions which have been in effect for almost one year have had no detrimental impact on the safety of flight operations.

Respectfully submitted,
Transamerica Airlines, Inc.

D. H. Bathey,
*Director of Operations.*

World Airways, Inc.

Edward W. Ringo,
*Senior Vice President & General Manager, Flight Operations.*

Transamerica Airlines, Inc, Oakland International Airport, Oakland, Calif.
World Airways, Inc., Oakland International Airport, Oakland, Calif.
February 28, 1980.

**Petition for Proposed Rulemaking**

*Administrator,*
*Federal Aviation Administration, 800 Independence Ave., SW., Washington, D.C.*

Dear Sir: Transamerica Airlines, (formerly Trans International Airlines) and World Airways are currently exempted from the provisions of sections: 121.105, 121.443, 121.533, 121.535, 121.593, 121.595, 121.601, and 121.465 of the Federal Aviation Regulations by virtue of Exemption Nos.: 2680 (issued February 16, 1979), 2696 (issued March 28, 1979), and 2696A (issued April 9, 1979). Capitol International Airways is also exempted from these sections by virtue of Exemption No. 2746 issued May 4, 1979.

Transamerica and World have operated under the current exemptions for almost one year with no derogation of safety. Accordingly, Transamerica and World are now petitioning for rulemaking to amend Sections: 121.105, 121.443, 121.533, 121.535, 121.593, 121.595, 121.601, and 121.465 and other related sections to allow petitioners permanent relief from these requirements as provided in Exemptions Nos.: 2680, 2696, and 2696A. To accomplish this objective, we propose that these sections and related sections be amended and consolidated as follows:

Section 121.105 *Servicing and Maintenance Facilities* Each air carrier and commercial operator must show that competent personnel and adequate facilities and equipment (including spare parts, supplies, and materials) are available for the proper servicing, maintenance, and preventive maintenance of aircraft and auxiliary equipment.

*Justification.* This proposed change deletes the phrase "are available at such points along the air carrier's route". Thus, section 121.105 would be identical to section 121.123 applicable to "supplemental" air carriers and commercial operators. This would have no adverse effect on safety, as both scheduled and non-scheduled flights operate into the same airports using the same or similar type aircraft. The use of parts pooling and contract maintenance have been and are common place practices by scheduled and "supplemental" air carriers in fully complying with the servicing and maintenance requirements.

For many years the standard operations specifications issued to the scheduled air carriers authorize operations in the United States over any route or route segment established by FAA and anywhere within controlled airspace over direct and other routes based on VOR/VORTAC facilities or ATC radar vectors. Thus, today the air carriers are authorized a myriad of routes by FAA. To require servicing and maintenance facilities along each such route is obviously impractical.

When the provisions of Section 121.105 were adopted many years ago, a route or route segment was defined in terms of the airports of departure and destination. At that time the intent was to provide servicing and maintenance facilities at airports regularly served to assure that aircraft were properly serviced and maintained. "Route Segment" as currently defined in Part 1 "means a part of a route. Each end of that part is identified by:

(1) A continental or insular geographical location; or

(2) A point at which a definite radio fix can be established."

It is noted that this definition is incomplete, since it does not define oceanic routes.

Section 121.443 *Pilot in Command Qualification: Routes and Airports: Domestic and Flag Air Carriers.*

Amend this section in accordance with Notice of Proposed Rulemaking No. 78-7 (Operations Review Program Notice No. 8, 43 F.R. 20448, May 11, 1978).

*Justification.* In support of this proposal FAA stated that:

Changes in radio communications, navigational facilities, and the air traffic control system have taken place since implementation of the current rule. Moreover, airline pilots have for years demonstrated their ability to operate charter and other special flights over routes they have not previously flown and into airports where they have not previously landed.

Petitioners agree with FAA's justification. Accordingly petitioners also are requesting exemption from 121.443.

Section 121.445 *Pilot in Command Qualifications: Routes and Airports: Supplemental Air Carriers and Commerical Operators.*

This section should be deleted, since FAA's proposed amendment of section 121.443 applies to all part 121 operators.

Sections 121.553, 121.535, and 121.537 *Responsibility for Operational Control*

Combine the provisions of these sections as follows:

Section 121.532 *Responsibility for Operational Control.*

Each air carrier and commercial operator is responsible for operational control exercised under: (a) A flight operations control system; or (b) a flight following system.

Section 121.533 *Exercise of Operational Control.*

(a) For scheduled operations, operational control will be exercised under a flight operations control system. However, when safety is not adversely affected, the Administrator may issue operations specifications authorizing operational control to be exercised under a flight following system.

(b) For charter operations, operational control may be exercised under a flight operations control system or a flight following system.

Section 121.534 *Flight Operations Control System.*

Each air carrier and commercial operator using a flight operations control system for operational control must show that:

(a) A two way air/ground radio communications system is available at points that will ensure reliable and rapid communications under normal operating conditions over the entire route (either direct or via approved point-to-point circuits) between each aircraft and the appropriate flight operations control center and between each aircraft and the appropriate air traffic control facility. For all operations in the 48 contiguous states and the District of Columbia, the communications system must be independent of any system operated by the United States.

(b) It has enough flight operations control centers adequate for the operations to be conducted that are located at points necessary to ensure proper operational control of each flight over all authorized routes and areas of operation and which also ensures prompt notification of the appropriate flight operations control center of any deviations or delays which may occur due to maintenance or other problems encountered.

(c) It employs enough flight operations controllers to ensure the operational safety of each flight.

(1) Each designated flight operations controller authorized to exercise operational control must meet the dispatcher training requirements of sections: 121.415, 121.422, and 121.427 and must be qualified in accordance with Section 121.463.

(2) Each flight operations controller authorized to exercise operational control will be listed in the operator's manual.

Section 121.535 *Flight Following System.*

(a) Each air carrier and commercial operator using a flight following system for operational control must show that it has:

(1) An approved flight following system adequate for the proper monitoring of each flight, considering the operations to be conducted, and

(2) Flight following centers located at these points necessary:

(i) To ensure the proper monitoring of the progress of each flight with respect to its departure at the point of origin and arrival at its destination, including intermediate stops and diversions therefrom, and maintenance or mechanical delays encountered at those points or stops; and

(ii) to ensure that the pilot in command is provided with all information necessary for the safety of the flight.

(b) An air carrier or commercial operator may arrange to have flight following facilities provided by persons other than its employees, but the air carrier or commercial operator continues to be primarily responsible for operational control of each flight.

(c) A flight following system need not provide for inflight monitoring by a flight following center.

(d) The air carrier's or commercial operator's operations specifications specify the flight following system it is authorized to use.

(e) The system has adequate facilities and personnel to provide the information necessary for the initiation and conduct of each flight to:

(i) The flight crew of each aircraft; and

(ii) The persons designated by the air carrier or commercial operator to perform the function of operational control of its flights.

(f) The system has a means of communication by private or available public facilities (such as telephone, telegraph, or radio) to monitor the progress of each flight with respect to its departure at the point of origin and arrival at its destination, including intermediate stops and diversions therefrom, and maintenance or mechanical delays encountered at those points or stops.

(g) The personnel specified in paragraph (e) of this section and those it designates to perform the function or operational control are able to perform their required duties.

Section 121.536 *Operational Control: Flight Operations Control System.*

(a) The pilot in command and the flight operations controller are jointly responsible for the pre-flight planning, delay, and release of a flight in compliance with this chapter and operations specifications.

(b) The flight operations controller is responsible for:

(1) Tracking the progress of each flight;

(2) Issuing necessary information for the safety of the flight; and

(3) Canceling, delaying or diversion of a flight if, in his or her opinion or the opinion of the pilot in command, the flight cannot operate or continue to operate safely as planned or released.

(c) Each pilot in command of an aircraft, is during flight time, in command of the aircraft and crew and is responsible for the safety of the passengers, crew members, cargo, and aircraft.

(d) Each pilot in command has full control and authority in the operations of the aircraft, without limitation over other crew members and their duties during flight time, whether or not he or she holds valid certificates authorizing the performance of the duties of those crew members.

Section 121.537 *Operational Control: Flight Following System.*

(a) Each air carrier and commercial operator exercising operational control under a flight following system:

(1) Is responsible for operational control; and

(2) Shall list in its manual each person authorized by it to exercise operational control.

(b) The pilot in command and the operator's operational control designee are jointly responsible for the initiation, continuation, diversion, and termination of a flight in compliance with this chapter and operations specifications.

(c) The operator's operational control designee is responsible for cancelling, diverting or delaying a flight if, in his or her opinion or the opinion of the pilot in command, the flight cannot operate or continue to operate safely as planned or released. The operational designee is responsible for assuring that each flight is monitored with respect to at least the following:

(1) Departure of the flight from the place of origin and arrival at the place of destination, including intermediate stops and diversions therefrom.

(2) Maintenance and mechanical delays encountered at places of origin, destination, and intermediate stops.

(3) Any known conditions that may adversely affect the safety of the flight.

(d) The operational control designee may delegate the functions for the initiation, continuation, diversion, and termination of a flight, but may not delegate the responsibility for those functions.

(e) Each pilot in command of an aircraft is, during flight time, in command of the aircraft and crew and is responsible for the safety of the passengers, crew members, cargo and aircraft. The pilot in command has full control and authority in the operation of the aircraft, without limitation, over other crew members and their duties during flight time, whether or not he or she hold valid certificates authorizing performance of the duties of those crew members.

(f) Each pilot in command is responsible for the preflight planning and operation of the flight in compliance with this chapter and operations specifications.

Section 121.539 *Operations Notices.*

Each certificate holder shall notify its appropriate operations personnel of each significant change in equipment and operating procedures including each significant known change in the use of navigation aids, airports, air traffic control procedures or regulations, local airport traffic

rules, and known hazards to flight,including icing and other potentially hazardous meteorological conditions and irregularities in ground and navigation facilities.

*Justification.* The dispatch requirements of Part 121 have not changed significantly since their adoption in 1938. During the late 1930's, 1940's, and early 1950's the dispatcher's role was closely related to the pilot's duties in the operation of each flight. Air traffic clearances and instructions were relayed, during enroute operations, from the Air Route Traffic Control Centers to the pilot through the air carrier's dispatch system. With the advent of factors such as: direct pilot ARTC communications, more accurate enroute and terminal navaids, improved airport visual aids, ATC radar, more accurate airborne navigation equipment, vastly improved aircraft performance and reliability, improved weather reports, forecasts and dissemination, computer flight planning, and improved pilot training programs; the need for dispatchers to *continuously* monitor the progress of each flight no longer exists. During earlier years when enroute and terminal area IFR operations were predicated on low frequency radio ranges, dispatchers had to be well versed in the limitations of this navaid. Then the dispatcher was the primary source of pilot/weather information for pre-flight planning and updating same while the flight was in progress.

Accordingly, pilots relied heavily on dispatchers to *continuously* monitor flight operations and to keep them fully informed of changing conditions that could affect safety. Because of today's high altitude enroute operations, terrain no longer presents a potential hazard as in previous years.

The dispatch function is now one of planning, coordination of equipment and manpower, and monitoring departures and arrivals; and is, therefore, a necessary function for most scheduled service. Accordingly, petitioners believe use of a flight following system should be authorized for scheduled operations when the Administrator has determined that safety would not be adversely affected considering factors such as the air carrier's communications system, availability of weather reports and forecasts, route structure, adequacy of navaids, etc.

The flight following system prescribed in sections 121.125 and 121.127 provide an adequate method for determining the progress of a flight with respect to its departure and arrival at the point of origin and destination, including intermediate stops and diversions therefrom, and maintenance or mechanical delays encountered at such points or stops. The safety record of the supplemental air carriers operating under flight following systems has been excellent. During the four-year period, 1975 through 1978, the fatal accident rate of these air carriers was zero (See NTSB Annual Report to Congress 1978). Likewise the record of charter flights conducted by the Scheduled air carriers under flight following systems has been excellent. All passengers carried by Part 121 operators receive the same level of safety whether or not a flight following or dispatch system is applicable. The only difference between these systems is that the dispatch rules are more stringent. Such stringency is not required particularly when, as proposed, the Administrator would determine the conditions under which a flight following system is appropriate for scheduled operations. This is consistent with the provisions of section 121.7 whereby the Administrator may authorize a commercial operator to use a flight following system for scheduled operations.

Two key elements are required before a flight can be released under either a dispatch or flight following system. These elements are: (1) an operational plan and (2) providing the pilot in command with adequate information, such as, weather reports and forecasts, NOTAMS, etc. Two other elements are required under a dispatch system; namely; (1) the signatures of the pilot in command and dispatcher on the dispatch release and (2) inflight monitoring of the progress of each flight. The requirement for dual signatures on the dispatch release does not enhance safety. The important factor is the joint responsibility of the pilot in command and the person exercising operational control as prescribed in Part 121 for both a dispatch and flight following system. Thus, petitioners believe that safety can be ensured for certain scheduled operations conducted under a flight following system with conditions and limitations prescribed by the Administrator in the operations specifications. Petitioners will continue to comply with the communications requirements of Part 121 applicable to scheduled air carriers as currently required by Exemption No. 2696. Petitioners' flight control procedures are equal to or better than the procedures required in Part 121 for scheduled operations.

Petitioners will also continue to comply with the dispatcher training and qualification requirements set forth in sections 121.422, 121.427, and 121.463 as currently required by Exemption No. 2696. All flight control personnel used for flight control functions are well versed in aviation and aviation weather and hold various types of airman certificates, including airline transport and dispatcher certificates, with many years of experience. Both Transamerica and World have large, established flight control (dispatch) centers which are manned 24 hours a day and perform the same functions as those required for scheduled operations. The Director of Operations for World and the Vice President of Operations for Transamerica have joint responsibility with the pilots in command for all flight planning and flight release, with principal control at their main bases in Oakland. That responsibility is never delegated to others who may be authorized to exercise operational control. Flight planning is normally computerized and relayed to flights wherever they may be. Pilots in command relay flight release information to the main bases for all flights. Communications contracts with others, in addition to petitioners' air/ground communications systems and SELCAL, provide positive contact with flights at all times and enable flight control personnel to follow flight movements and update the flights as necessary to ensure that all meteorological, airport, and navaid information which may affect the safety of the flight are available to the pilot in command. Flow control boards are used for following flight movements throughout the world in the same manner as scheduled air carrier dispatch centers. Petitioners have previously submitted detailed flight control procedures to FAA.

The above proposals substitute the terms "flight operations control system" and "flight operations controller", respectively, for the terms "dispatch system" and "aircraft dispatcher". Also included in proposed section 121.534 are qualification requirements for flight operations controllers and a requirement for listing them in the operator's manual. Petitioners desire rulemaking to provide the same benefits authorized in the current exemptions which do not *require* the use of certificated aircraft dispatchers. Petitioners are otherwise required by the exemptions to meet *all* the requirements of Part 121 pertaining to dispatch systems and aircraft dispatchers (except for the duty time limitations prescribed in section 121.465). Also included is a proposed change to section 121.539 to make it clear that notification of insignificant changes not related to safety are not required.

Delete sections:

(a) 121.99 Communications facilities.

(b) 121.107 Dispatch centers.

(c) 121.125 Flight following system.

(d) 121.127 Flight following system: requirements.

The above sections are included in the above proposed sections.

Section 121.591 *Applicability.*

Revise this section as follows:

"This subpart prescribes flight release rules for operations conducted by air carriers and commercial operators under a flight operations control system or a flight following system."

*Justification.* To allow operations under a flight operations control system or a flight following system for both scheduled and nonscheduled operations as proposed above.

Combine sections 121.593 and 121.595 as follows:

121.595 *Flight release authority: flight operations control system.*

(a) No person may start a flight unless a flight operations controller specifically authorizes that flight.

(b) No person may continue a flight from an intermediate airport without release if the aircraft has been delayed on the ground for more than three hours."

*Justification.* By deleting in the title the terms "domestic" and "flag" air carriers, air carriers and commercial operators have the option of using a flight operations control system for both schedule and nonscheduled operations. The one hour requirement in section 121.493 is not realistic. The suggested three hour period is sage and realistic in today's operating environment.

Change title of section 121.597 to read "Flight release authority: flight following system."

*Justification.* Deletes references to supplemental air carriers to be consistent with above proposals to allow use of a flight following system for charter operations.

Change titles of paragraphs (a) and (b) of Section 121.599, respectively, to "Flight Operations Control System and Flight Following System" to be consistent with above proposals.

Change title of Section 121.601 to "Facilities and Services: Flight Operations Control System" to be consistent with above proposals.

Change title of Section 121.603 to "Facilities and Services: Flight Following System" to be consistent with above proposals.

Change title of Section 121.607 to "Communications and Navigational Facilities: Flight Operations Control System" to be consistent with above proposals.

Change title of Section 121.609 to "Communications and Navigational Facilities: Flight Following System" to be consistent with above proposals.

Delete from 121.615 references to "flag" and "supplemental" air carriers and commercial operators to be consistent with above proposals.

Delete from Section 121.627 parenthetical reference to "domestic" and "flag" air carriers. Substitute in lieu thereof "when operating under a flight operations control system" to provide consistency with above proposals.

Delete parenthetical phrase from section 121.629(a) and substitute "when operating under a flight operations control system" to be consistent with above proposals. Similar changes should also be made to other sections in subparts P, T, U, and V.

Change title of 121.465 to "Duty Time Limitations: Flight Operations Controllers"

Revise Section 121.465 as follows:

121.465 *Duty Time Limitations: Flight Operations Controllers.*

(a) Each air carrier and commercial operator using a flight operations control system shall establish the daily duty period for a flight operations controller so that it begins at a time that allows he or she to become throroughly familiar with existing and anticipated weather conditions along the route before releasing any flight. The flight operations controller shall remain on duty until each flight released by he or she has been completed or has gone beyond his or her jurisdiction or until relieved by another controller.

(b) Except in cases where circumstances or emergency conditions beyond the control of the certificate holder require otherwise—

(1) No air carrier or commercial operator may schedule an operations controller for more than 10 consecutive hours of duty without providing a rest period of at least 8 hours at or before the and of the 10 hour duty period. Operations controllers must be relieved of all duty with the certificate holder for at least 24 consecutive hours during any seven consecutive days or the equivalent thereof within any calendar month; or

(2) No air carrier or commercial operator may schedule an operations controller for more than 12 consecutive hours of duty during any 24 consecutive hours without providing a rest period of at least 12 hours at or before the end of the 12 hour duty period. Operations controllers must be relieved of all duty with the certificate holder for at least 48 consecutive hours in any seven consecutive days or the equivalent thereof within any calendar month.

*Justification.* Petitioners' flight following (dispatch) personnel have for years been accustomed to serving 12-hour on and 12-hour off duty assignments for several days in a row and then having several consecutive days off. No derogation of safety or morale have ever been experienced. Changing these scheduling procedures specifically to comply with section 121.465 would cause considerable problems because of the need to recruit and train additional personnel to staff the flight following (dispatch) facilities, which are operational around-the-clock seven days a week. Safety could be adversely affected during the process. It could also cause a morale problem since flight control personnel would be required to change their life style to which they have become accustomed.

[FR Doc. 80-31496 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### 30 CFR Part 886

### State Reclamation Grants; Filing of Financial and Performance Reports, and Identification of Specific Forms

*Correction*

In FR Doc. 80-29428 appearing at page 63002 in the issue of Thursday, September 23, 1980, on page 63002, first column, under the paragraph titled "DATES", fourth line, "November 24, 1980" should read "November 12, 1980".

BILLING CODE 1505-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### 49 CFR Part 393

**[BMCS Docket No. MC-82-1; Notice No. 80-10]**

### Parts and Accessories Necessary for Safe Operation; Rear-Vision Mirrors

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Comments are solicited on proposed rewording of 49 CFR 393.80 (Rear-vision mirrors), as amended on May 1, 1979, at 44 FR 25456, to clarify the original intent of the Bureau of Motor Carrier Safety (BMCS) in issuing the amendment, and to preclude possible misunderstanding on the part of the industry as to the need for retrofitting vehicles with new mirror systems that may be mandated by the National Highway Traffic Safety Administration (NHTSA) at some future date.

**DATE:** Comments must be received on or before November 24, 1980.

**ADDRESS:** All comments should refer to the docket number and notice number that appear at the top of this document and should be submitted (original and two copies) to Room 3402, Bureau of Motor Carrier Safety, 400 Seventh Street, SW., Washington, D.C. 20590.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gerald J. Davis, Bureau of Motor Carrier Safety, (202) 426-9767; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, (202) 426-0346, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590. Office Hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** As part of a prior rulemaking action intended to resolve certain inconsistencies between the Federal Motor Carrier Safety Regulations and the Federal Motor Vehicle Safety Standards (FMVSS), the BMCS amended 49 CFR 393.80 on May 1, 1979 (44 FR 25456). The Truck Safety Equipment Institute (TSEI) on March 7, 1980, petitioned the Bureau for reconsideration of this amendment.

The TSEI is a national trade association of manufacturers of automotive mirror systems and related safety equipment, whose members market their products to, and through, original equipment vehicle manufacturers, the traditional automotive aftermarket, and other channels of distribution, both as original vehicle equipment and replacement parts.

In its petition, the TSEI expressed concern that the practical effect of this amendment, as presently worded, will be to require the future retrofit of new mirror system designs now being contemplated by the NHTSA under FMVSS No. 111 (Docket 71-3a; Notice 4) onto trucks in service whenever a present design mirror needs to be replaced. The focus of TSEI's concern is the last sentence of the revised Section 393.80, which reads:

"As of January 1, 1981, all such regulated rear-vision mirrors and their replacements shall meet, as a minimum, the standards in force at the time of manufacture under FMVSS 111 (49 CFR 571.111); mirrors installed on a vehicle manufactured prior to January 1, 1981, may be continued in service, provided that if they are replaced after December 31, 1981, the replacements shall conform to FMVSS 111 (49 CFR 571.111)."

The TSEI construes this to mean, with regard to pre-January 1981 vehicles, that

instead of the present inexpensive replacement (for example, of a broken West Coast mirror head with a new West Coast mirror head), the regulated motor carrier would be required to buy a whole new mirror system, including mounting brackets, in order to comply with Section 393.80. They rightfully point out that the economic burden of such a requirement would be substantial and, in fact, frustrate the actual intent and application of the revised Section 393.80.

The Bureau concurs with this determination, and agrees with the TSEI as to the need for clarification in wording of the amendment. Accordingly, it is proposed that 49 CFR 393.80 be revised to read as follows:

**§ 393.80 Rear-vision mirrors.**

(a) General—Every bus, truck, and truck tractor shall be equipped with two rear-vision mirrors, one at each side firmly attached to the outside of the motor vehicle, and so located as to reflect to the driver a view of the highway to the rear, along both sides of the vehicle. After January 1, 1981, all such regulated rear-vision mirrors and their replacements shall meet, as a minimum, the requirements of FMVSS No. 111 (49 CFR 571.111) in force at the time the vehicle was manufactured.

(b) Exemptions—(1) Mirrors installed on a vehicle manufactured prior to January 1, 1981, may be continued in service, provided that if they are replaced after December 31, 1980, they shall be replaced with mirrors meeting, as a minimum, the size requirements of FMVSS No. 111 in effect on October 1, 1979.

(2) Only one outside mirror shall be required, which shall be on the driver's side, on trucks which are so constructed that the driver has a view to the rear by means of an interior mirror.

(3) In driveaway-towaway operations, the driven vehicle shall have at least one mirror furnishing a clear view to the rear. Note: The Federal Highway Administration has determined that this docuement does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. The impact of this proposal is so minimal that it does not warrant the preparation of a full regulatory evaluation. (49 U.S.C. 304, 1655; 49 CFR 1.48(b) and 301.60)

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: October 1, 1980.

Kenneth L. Pierson,

*Director, Bureau of Motor Carrier Safety.*

[FR Doc. 80-31317 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-22-M

## National Highway Traffic Safety Administration

## 49 CFR Part 531

**[Docket No. LVM 77-02; Notice 4]**

## Passenger Automobile Average Fuel Economy Standards; Proposed Decision To Grant Exemption

**AGENCY:** National Highway Traffic Safety Administration, Department of Transportation.

**ACTION:** Proposed decision to grant exemption from average fuel economy standards and to establish alternative standards.

**SUMMARY:** This notice is being issued in response to a petition by Rolls-Royce Motors, Ltd. (Rolls-Royce) requesting that it be exempted from the generally applicable average fuel economy standards of 19.0 miles per gallon (mpg) and 20.0 mpg for 1979 and 1980 model year passenger automobiles, respectively, and that lower alternative standards be established for it. This notice proposes that the requested exemptions be granted and that alternative standards of 10.8 mpg and 11.1 mpg be established for those model years.

**DATE:** Comment closing date: 45 days after publication of this notice in the **Federal Register** (November 24, 1980).

**ADDRESSES:** Comments on this notice must refer to Docket No. LVM 77-02 and should be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, S.W., Washington, D.C. 20590. The Docket Section is open to the public daily Monday through Friday from 8 a.m. to 4 p.m.

**FOR FURTHER INFORMATION CONTACT:** Robert Mercure, Office of Automotive Fuel Economy Standards, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-755-9384).

**SUPPLEMENTARY INFORMATION:** Section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended (the Act), provides that a low volume manufacturer of passenger automobiles may be exempted from the generally applicable average fuel economy standards for passenger automobiles if those standards are more stringent than the maximum fesible average fuel economy for that manufacturer and if the National Highway Traffic Safety Administration (NHTSA) establishes an alternative standard for the manufacturer at its maximum feasible level. Under the Act, a low volume manufacturer is one which manufactures less than 10,000 passenger automobiles worldwide in the model year for which the exemption is sought (the affected model year) and which manufactured less than 10,000 passenger automobiles worldwide in the second model year before the affected model year. In determining maximum feasible average fuel economy, the agency is required by section 502(e) to consider:

(1) Technological feasibility;

(2) Economic practicability;

(3) The effect of other Federal motor vehicle standards on fuel economy; and

(4) The need of the Nation to conserve energy.

*Selection of the type of alternative standards.* The Motor Vehicle Information and Cost Savings Act permits NHTSA to establish an alternative average fuel economy standard applicable to exempted manufacturers in one of three ways: (1) A separate standard may be established for each exempted manufacturer; (2) classes, based on design, size, price, or other factors, may be established for the automobiles of exempted manufacturers, with a separate average fuel economy standard applicable to each class; or (3) a single standard may be established for all exempted manufacturers.

The NHTSA believes that it is appropriate to establish a separate standard for Rolls-Royce. The analyses of the petitions submitted by other low volume manufacturers for exemptions in model years 1979 and 1980 have not yet been completed, so the agency cannot practicably use the second or third approaches described above.

*Requested alternative standards.* In its petition Rolls-Royce requested that its alternative standard for the 1979 model year be set at 10.9 mpg and that its standard for the 1980 model year be set at 11.2 mpg. Subsequently, Rolls-Royce submitted data which indicated that the company's corporate average fuel economy for model year 1979 was 10.8 mpg due to increased sales in California. The Company asked that this information be considered in establishment of alternate standards. In evaluating these requests and in setting today's proposed alternative standards, the agency has employed the methodology described below.

*Methodology employed for setting alternative standards.* The methodology employed in this exemption rulemaking differs in some respects from that typically used in the promulgation of

generally applicable fuel economy standards. Typically, the agency begins promulgating these standards several years in advance of the model years in which they will apply. In establishing these standards, the agency first selects a baseline model year for which Environmental Protection Agency (EPA) data exist. Then the agency projects the fuel economy improvements that could be obtained by making technological changes in the baseline vehicles. In accord with the statutory criteria discussed earlier, the agency base these projections on technological changes which analysis shows to be feasible and economically practicable (see the example, 42 FR 33534, June 30, 1977, Passenger Automobile Fuel Economy Standards, Final Rule). Once completed, these projections are published as a notice of proposed rulemaking for public comment. For at least some of the technological changes, the manufacturers submit test data that permit the agency to refine its projections. A final rule reflecting the refined projections is then issued.

A methodology which relies on projections is necessarily less accurate than one that relies on tests of baseline vehicles in which all of the economically practicable and feasible technological changes have already been made. However, in view of the fact that generally applicable fuel economy standards are promulgated well before production of the vehicles to which they will apply, projection is the best available method.

In this proceeding, the agency is not promulgating standards in advance of the year in which they will apply. The vehicles subject to the standards already exist and in most instances their fuel economy ratings have been established under EPA procedures. Thus, the agency has reliable data as to the total fuel efficiency that can be achieved by vehicles equipped with a particular mix of technologies and does not have to rely on projections of the fuel economy benefits contributed by each component system. However, the projection method must still be used with respect to the technologies which the manufacturer might have incorporated but did not.

The following discussion is, therefore, divided into two parts. First, there is a description of the specifications of Rolls-Royce vehicles for the model years 1979 and 1980 and their respective fuel economy measurements. All of these measurements were provided by the Environmental Protection Agency. Second, there is a tentative determination of whether Rolls-Royce could have further increased the fuel efficiency of its 1979 and 1980 model vehicles by using the methods for improving average fuel economy which this agency examined in establishing average fuel economy standards for 1981–84 passenger automobiles (43 FR 33534, June 30, 1977) and for model year 1980–81 light trucks (43 FR 11995, March 23, 1978). These methods were weight reduction, engine improvements, accessory improvements (engine and vehicle), transmission and driveline improvements, and reductions in aerodynamic drag and rolling resistance. Alternate engines were also included. In determining whether it would have been technologically feasible for Rolls-Royce to have done more in these areas in model years 1979 and 1980 than it has done, the agency has considered several factors. These are: the company's engineering capability, the technology available to it for model years 1979 and 1980, and the amount of leadtime Rolls-Royce had available to it for making these changes for those model years. In determining whether it would have been economically practicable for Rolls-Royce to have done more in these areas than it has done, the agency has considered the company's size, the amount of resources available to it for product development, and the market for its products.

*Model year 1979 and 1980 Rolls-Royce automobiles: Characteristics and fuel economy ratings.* According to information submitted by Rolls-Royce and information contained in the Environmental Protection Agency's model year 1979 and model year 1980 fuel economy calculations, all Rolls-Royce models offered for sale in the United States share a commonality of parts and are included in a single model line. In each model year, all models have the same engine/transmission system. All 1979 and 1980 models, except the models designed for sale in California have the same emission controls systems. In addition all 1979 and 1980 model Rolls-Royce automobiles are equipped with radial tires.

1979 and 1980 models have the weights shown in Table 3. In addition, all 1979 and 1980 models are equipped with a V–8 engine of 412 cubic inch displacement (C.I.D.) and a GM 400 three speed automatic transmission. The axle ratio is 3.08:1. The emissions control system for all 1979 models and for 1980 models intended for sale in the 49 states other than California includes twin Solex (S.U. HIF 7) carburetors and an exhaust system with two oxidation catalysts. 1980 models designed for sale in California have emissions control systems which include the Bosch K–Jetronic fuel injection system and a single "three-way" catalyst.

The corporate average fuel economy rating for all of the 1979 Rolls-Royce models calculated according to EPA procedures is 10.8 mpg. This value is calculated, as shown in Table 1, by dividing the total United Sttes sales by a sum of fractions, each of which indicates the level of sales for a particular model in the numerator, and the combined fuel economy for that model as determined by the EPA in the denominator.

**Table 1.**—*1979 Rolls-Royce corporate average fuel economy*

| Model | Sales | EPA combined mpg |
|---|---|---|
| Rolls-Royce/Bentley (Federal) | 760 | [1] 11.4281 |
| Camargue Federal | 4 | [1] 11.4281 |
| Rolls-Royce/Bentley (California) | 438 | [2] 10.0096 |
| Camargue California | 3 | [2] 9.2308 |
| Total | 1,205 | |

[1] This figure was based on carryover emissions data from 1978.
[2] This figure is based on a 1979 EPA certification test.

The model year 1979 corporate average fuel economy (CAFE) for Rolls-Royce is computed as follows:

$$\text{MY 1979 CAFE} = \frac{1205}{\frac{760}{11.4} + \frac{4}{11.4} + \frac{438}{10.0} + \frac{3}{9.2}}$$

$$= 10.8418, \text{ or } 10.8 \text{ mpg}$$

The estimated corporate average fuel economy (CAFE) rating for all of the 1980 Rolls-Royce models is 11.1 mpg. This average, as shown in Table 2, is calculated by the same method as the 1979 average with one exception—the sales figures are estimates provided by Rolls-Royce; actual figures will not be available until the model year ends.

**Table 2.**—*Rolls-Royce Model Year 1980 Sales and Fuel Economies*

| Model | Sales estimates[1] | Combined mpg[2] |
|---|---|---|
| Federal models of: Rolls-Royce Silver Shadow II/Bentley T/2 Rolls-Royce Corniche Coupe/Bentley Corniche Rolls-Royce Silver Wraith II | 655 | 11.6235 |
| California models of: Same models as above designed to meet California emissions Standards | 444 | 10.4232 |
| Federal models of: Rolls-Royce Corniche Convertible/Bentley, Corniche Convertible | 25 | 11.5900 |
| Camargue | | |

**Table 2.**—*Rolls-Royce Model Year 1980 Sales and Fuel Economies*—Continued

| Model | Sales estimates[1] | Combined mpg[2] |
|---|---|---|
| California models of: Same models as above designed to meet California emissions standards | 30 | 10.9016 |

[1] These estimates were provided by Rolls-Royce.
[2] These values are EPA test values.

The model year 1980 corporate average fuel economy (CAFE) for Rolls-Royce is computed as follows:

$$\text{MY 1980 CAFE} = \frac{1154}{\frac{655}{11.6} + \frac{444}{10.4} + \frac{25}{11.6} + \frac{30}{10.9}}$$

$$= 11.1 \text{ mpg}$$

*Weight reduction.* In determining whether Rolls-Royce could have made weight reductions on its automobiles for model years 1979 and 1980 the agency has considered two options—downsizing and material substitution. The goal of downsizing is to reduce the exterior dimensions of the automobile without reducing significantly the interior passenger and luggage volume of the automobile. According to Rolls-Royce, the interior volume index for the Rolls-Royce line of automobiles is 100.4 cu. ft. According to EPA standards used in publishing the *Gas Mileage Guide,* this places the car line in the "compact class." Although downsizing of the line would have been technologically feasible in the time frame of the 1979 and 1980 model years, it would have been extemely difficult. This is because, according to Rolls-Royce, tooling represents a major expenditure and it is necessary to amortize these costs over long production runs. Rolls-Royce generally uses the same body shell for at least 15 years. Given the difficulty of the task and the assets apparently available to Rolls-Royce for the task, NHTSA has tentatively concluded that further weight reduction by downsizing was not economically practicable for Rolls-Royce for the affected model years. It should be noted, however, that information submitted by Rolls-Royce makes it clear that major design changes for fuel economy improvement are economically practicable in the model years following 1979 and 1980.

"Materials substitution", the other weight reduction option indicated above, refers to the substitution of lighter materials, such as aluminum, plastics, and high strength low alloy steels, for currently used materials. In determining whether Rolls-Royce could have reduced the inertia weight class or test weight of its model year 1979 and 1980 vehicles respectively, the agency has considered the fact that all of the major castings and the non-structural body panels in those vehicles were made of aluminum.

Despite this extensive use of aluminum, two other possible methods of reducting weight through materials substitution must be considered. The first is the replacement of the steels currently used in the construction of structural members of Rolls-Royce vehicles with high strength low alloy steels. Use of this material could result in weight reduction by permitting the use of thinner gauge steel or smaller cross sections. The second is the use of lighter weight materials such as fiberglass in such nonstructural components as inner door panels. The leadtime and capital outlay necessary to implement materials substitution by use of these materials apparently increase as the use of the new material becomes more extensive. Use of limited quantities of high strength low alloy steels could, for example, have been done with little visible redesign of the Rolls-Royce vehicle and would probably not have required retooling. This would not produce any significant fuel economy improvement. However, more extensive use of these steels would produce significant fuel improvements. Such changes, though, would most likely require redesign of the vehicle, retooling and might require retesting of the vehicle's compliance with safety standards for crashworthiness. Similarly, if nonstructural components were to be constructed of alternate materials, they would have to be redesigned, tested and incorporated into production. This process would become more time consuming and costly as the number of affected components were increased.

In light of Rolls-Royce engineering capabilities and general economic position (including the reduction of its profits in model year 1979) this agency has tentatively concluded that it would not have been economically practicable for the company to have used materials substitution to the extent necessary to significantly reduce the weights of its 1979 and 1980 model vehicles and thus increase their fuel economy.

*Aerodynamic improvements.* For all model years after 1978, the EPA has established fuel economy test procedures that take into account the aerodynamics of the test vehicle. Under these procedures, each test vehicle is assigned a dynamometer road load setting which reflects its aerodynamic drag and its inertia or test weight. This value is usually assigned by use of an EPA formula which results in what is commonly referred to as a book value. When calculated in this manner, the road load setting increases to the extent that the vehicle's frontal area is greater than average and to the extent that the combined area of all equipment protruding from the front of the vehicle exceeds established reference values. Failure to use radial tires or to use bodies with low aerodynamic drag further increases the road load setting. The EPA also allows manufacturers to use an alternative procedure to calculate road load settings commonly known as the "coast down method". Using this method, a manufacturer of vehicles that have less than the average amount of aerodynamic drag for their weight class can obtain a lower road load setting.

With respect to Rolls-Royce vehicles, the post 1978 methods for establishing the dynamometer settings were not used until model year 1980. In 1979, all Rolls-Royce models except the Camargue were sufficiently similar to 1978 models that EPA permitted Rolls-Royce to carry-over its 1978 certification test results. These results are based on the road load setting of 15.3 established by the pre-1979 method. According to EPA, a certification test was required for the Camargue designed for sale in California, in order to test compliance with the more stringent California standards which became effective in 1979. The road load setting of 15.9 used in testing was calculated according to the 1978 book method. This was done so that all fuel economy measurements used for calculation of the 1979 corporate average fuel economy would be based on the same set of assumptions and testing procedures.

With respect to Rolls-Royce vehicles, the post 1978 method of calculating road load settings was used for the first time in certification testing of model year 1980 vehicles. As shown in Table 3, use of this method resulted in road load settings significantly lower than those used in calculating the model year 1979 fuel economy measurements. This agency believes that much of the improvement in Rolls-Royce's 1980 corporate average fuel economy is due to this reduction in the road load settings. Rolls-Royce stated that it did not use the coast down method in model years 1979 and 1980 because use of the method would not have resulted in lower road settings since the frontal

area of the Rolls-Royce automobiles is larger than the average and these automobiles do not have less than the average amount of aerodynamic drag for their test weight. Further reductions in road load settings could have been achieved in model years 1979 and 1980 only through design changes which would improve the aerodynamics of Rolls-Royce automobiles. This agency has tentatively concluded that such changes would not have been feasible in the affected model years due to Rolls-Royce's economic limitations and lack of leadtime, as explained above in the discussion of weight reduction.

**Table 3**

| Model | Frontal area (in square feet) [1] | Road load | |
|---|---|---|---|
| | | 1979 [2] setting | 1980 [3] |
| Silver Shadow II/Bentley T2 | 25.2 | 15.3 | 13.9 |
| Silver Wraith II/Bentley T2 LWB | 25.8 | 15.3 | 14.2 |
| Corniche Coupe/Bentley Coupe | 25.5 | 15.3 | 14.0 |
| Corniche Convertible/Bentley Convertible | 26.1 | 15.3 | 14.4 |
| Camargue | 25.9 | 15.9 | 14.7 |

[1] The frontal areas were the same in both model years 1979 and 1980.
[2] The road load settings were the same for both Federal and California certifications. The numbers in this column are all based on 1978 carry-over data, except the figure shown for the Camargue which was submitted for California certification testing for model year 1979.
[3] The road load settings were the same for both Federal and California Certification. Of the models listed only the Silver Shadow II, Corniche Convertible, and Camargue were actually tested for model year 1980. The road load settings shown for Silver Wraith II and the Corniche Coupe are those which would have been used if these vehicles has been tested by EPA.

*Engine improvements.* This agency has also considered whether Rolls-Royce could have further improved the fuel economy of its 1979 and 1980 model automobiles by reducing engine displacement or by using an alternative engine. In establishing general fuel economy standards for 1981–1984 model year passenger automobiles, this agency noted that there are two constraints on the extent to which reduction of engine displacement can be used to improve fuel economy. These are consumer resistance to significantly reduced levels of vehicle acceleration and the increased difficulty of controlling emissions of oxides of nitrogen ($NO_x$) as engine loading increases.

With respect to vehicle acceleration, this agency first looked at the horsepower to inertia weight of 5500 pounds. As shown in Table 4, this ratio was .0309. This ratio also applies to model year 1980 vehicles since those vehicles had the same curb weight, engine displacement and engine horsepower as the 1979 models. A ratio based on the 1980 equivalent test weights or inertia weight classes which changed from 1979 to 1980 due only to EPA procedural changes rather than actual weight reduction would not be as accurate an indicator of the performance characteristics of 1980 models. Typically, a vehicle with a horsepower to inertia weight ratio of .03 can be accelerated from rest to a speed of 60 mph in approximately 15 seconds. This agency noted in the final rule establishing fuel economy standards for 1981–1984 model passenger automobiles that acceleration times of 14 seconds from 0–60 mph can be implemented without incurring substantial consumer resistance and that a fleet average acceleration time of approximately 15 seconds would be phased in by model year 1981. Rolls-Royce vehicles for model year 1979 and 1980 clearly fall within these guidelines. As can be seen in Table 4, they are not overpowered for their weight when compared with comparable 1979 and 1980 model luxury cars such as the General Motors Cadillac Coupe de Ville and the Ford Lincoln Continental. In fact, the horsepower to inertia weight ratios for these vehicles are somewhat higher than the ratio for 1979 and 1980 Rolls-Royce vehicles. In view of this information, it appears that reduction of the engine displacement in 1979 and 1980 model Rolls-Royce vehicles, without accompanying weight reduction, might well have made the performance of these vehicles noncompetitive with other luxury cars.

**Table 4**

| Model year and model | Engine displacement (inch³) | Horsepower | Inertia weight (pounds) | Fuel economy combined | Ratio of horsepower to inertia weight |
|---|---|---|---|---|---|
| 1979 Cadillac Coupe de Ville | 425 Fed | 180 | 4,500 | 16 | 0.040 |
| 1980 Cadillac Coupe de Ville | 368 Fed | 145 | 4,500 | 18 | 0.032 |
| 1979 Lincoln Continental | 400 Fed | 174 | 5,000 | 13 | 0.0348 |
| 1980 Lincoln Continental | 351 Fed | 149 | 4,500 | 18 | 0.033 |
| 1979 Rolls-Royce Bentley | 412 Fed | 170 | 5,500 | 11 | 0.0309 |
| 1980 Rolls-Royce Bentley | 412 Fed | 170 | 5,000 | 11 | 0.0309 |

Information submitted by Rolls-Royce leads this agency to the tentative conclusion that reduction of engine displacement in 1979 and 1980 model Rolls-Royce vehicles without accompanying vehicle weight reduction might well have increased NOx emissions to a level which would have precluded compliance with emissions standards. This conclusion is based on two factors. First, Rolls-Royce reported that a reduction in the axle ratio of approximately 12% resulted in a 10% increase in NOx emissions as a result of increased engine loading at low speeds. Second, Rolls-Royce reported that it had initially planned to meet the Federal emissions standard of 1 gram NOx per mile, which was originally scheduled to become effective in 1979, by increasing the engine displacement of its vehicles.

In view of these factors, this agency has tentatively concluded that it would not have been technologically feasible nor economically practicable for Rolls-Royce to have reduced the engine displacement of its 1979 and 1980 model vehicles without at the same time reducing vehicle weight.

In establishing general fuel economy standards for 1981–1984 model year passenger automobiles, this agency noted that certain alternatives to the conventional homogeneous charge, spark ignition engine (such as the diesel and such stratified charge concepts as the Honda compound vortex controlled combustion engine (CVCC) offer the potential for significantly increased fuel efficiency. It was further noted, however, that use of the diesel engine was not included in the analysis forming the basis for maximum feasible average fuel economy projections due to unresolved questions concerning the unregulated pollutants emitted by this engine.

Rolls-Royce reports that, upon investigating the Honda CVCC engine, it concluded that the concept was unsuitable for use in its vehicles. This conclusion was reached because use of a CVCC engine produced severe heat rejection problems which prevented the use of a 3-way catalyst and caused poor fuel economy in an automobile of Rolls-Royce's weight. In view of the fact that the CVCC engine concept has to this point been demonstrated only in small cars, this agency proposes to conclude that use of the CVCC engine concept in Rolls-Royce vehicles was not technologically feasible in model years 1979 and 1980.

In its petition, Rolls-Royce also indicated that it has tested the Texaco

Controlled Combustion engine and a high compression ratio gasoline engine concept developed by Michael May of Switzerland. To this agency's knowledge, neither of these concepts has yet been marketed, and therefore, use of such engines has not been included in today's proposal of maximum feasible alternative fuel economy standards.

*Emissions control system.* According to Rolls-Royce, fuel injection was added to 1980 vehicles designed for sale in California in order to achieve compliance with California emissions standards. Rolls-Royce's use of fuel injection in conjunction with a three-way catalyst give these vehicles a fuel economy improvement over the 1979 California vehicles, and represents a technically advanced emissions control system. Hence, this agency tentatively concludes that Rolls-Royce could not improve the fuel economy of its 1980 California vehicles by using a different emissions control system.

Since addition of this new emissions control technology will result in improved fuel economy for vehicles subject to California emissions standards, the question arises whether use of such technology on Rolls-Royce 49-state vehicle would have given fuel economy improvements to those vehicles. In the preamble to the final rule estalbishing the 1981–84 passenger automobile average fuel economy standards, NHTSA stated that the use of fuel injection would result in a two percent fuel economy improvement; *see* 49 FR 33534, 33541, June 30, 1977. This figure is an average of the improvements which would occur on fleets of vehicles, and is not necessarily accurate for individual vehicles. The specific amount of fuel economy improvement available from using fuel injection varies from one manufacturer to another and depends on the degree of optimization of the carburetion used on the engine and on the efficiency of the engine.

Results for individual vehicles vary widely. For instance, Volkswagen has indicated that introducing fuel injection and the closed loop system needed to meet the more stringent emission standards for 1981 and subsequent model years would give a fuel economy increase of five percent. Mercedes-Benz has stated that, under the same stringent emissions standards, fuel injection offers three to five percent better fuel economy on its engines. On the other hand, the agency is aware of data indicating that some individual vehicles in recent model years have shown no fuel economy improvement and even slight fuel economy losses when fuel injection is incorporated on their engines.

NHTSA does not have specific information on the degree of optimization of the carburetors used on Rolls-Royce's 1980 49-state vehicles. If the fuel economy of the 49-state vehicles had been increased by two percent, Rolls-Royce's 1980 corporate average fuel economy would have increased by 0.1 mpg.

NHTSA invites the public and particularly Rolls-Royce to submit information and arguments to show that the addition of fuel injection to the 1980 49-state vehicles produced by Rolls-Royce would or would not have been technologically feasible and economically practicable for the manufacturer. Further, the agency invites Rolls-Royce to submit any data it has showing that the incorporation of fuel injection on its 49-state vehicles would have produced a fuel economy benefit of less than two percent. Depending on the agency's analysis of the comments on these matters, the agency may raise the 1980 alternative standard to reflect the use of fuel injection on the 49-state vehicles.

*Reduction of rear axle ratio.* In setting fuel economy standards for 1980–1981 light trucks and 1981–1984 passenger cars, this agency stated that reduction of the ratio of engine speed to vehicle speed (N/V) was projected to result in fuel economy improvements of approximately 4 percent. The agency also stated that where it is possible to make this reduction by such means as reducing the axle ratio it can be implemented in a very economical manner.

As can be seen in the earlier discussion of the characteristics of 1979 and 1980 model Rolls-Royce vehicles, the axle ratios remain unchanged from those in the 1978 model vehicle. Data submitted by the petitioner state that the company did try changing the rear axle ratio from 3.08:1 to 2.69:1 and achieved up to a 7 percent fuel economy improvement at cruise speeds. The company stated, however, that reduction of the axle ratio resulted in an approximately 10% increase in oxides of nitrogen (NOx) exhaust emissions due to the high engine loads imposed at the lower engine speeds during acceleration. Rolls-Royce further stated that in order to compensate for these high emissions it would have to retune the engine and emission control systems. The company concluded that once this retuning had been accomplished, any fuel economy gain derived from the lower axle ratio would be lost, and the vehicle's driveability would be reduced.

In light of these factors, this agency tentatively concludes that it would not have been technologically feasible and economically practicable for Rolls-Royce to have increased the fuel economy of its model year 1979 and 1980 vehicles by reducing the axle ratio.

*Transmission Improvements.* In the final rule establishing generally applicable fuel economy standards for 1981–1984 model passenger cars, this agency noted that automatic transmission improvements such as a lock-up clutch in the torque converter or use of a wide gear ratio range can result in fuel economy improvement of 10%. The purpose of this section is to determine whether Rolls-Royce could have made such improvements on its 1979 and 1980 vehicles.

Rolls-Royce does not manufacture its own transmissions, and therefore, relies on suppliers, most notably General Motors. As noted earlier, 1979 and 1980 Rolls-Royces, like the 1978 models are equipped with the General Motors Turbo-Hydramatic 400, 3-speed automatic transmission. According to the petitioner, General Motors had advised it that a torque converter with lock-up clutch would be available for Rolls-Royce by model year 1980. However, this type of transmission was not made available to outside manufacturers by General Motors in either of model years 1979 or 1980.

In light of this, this agency has also considered whether it would have been feasible for Rolls-Royce to have used a smaller size transmission with lock-up clutch, or alternatively to have obtained a similar transmission from a different supplier. Based on information provided by General Motors, it appears that the smaller size transmission with lock-up clutch was not available to outside companies during either of model years 1979 or 1980. Ford Motor Company manufactures a 4-speed integrated overdrive (FIOD) transmission included in the 1980 model Lincoln Continental. This transmission would apparently be a good alternative to the lighter-duty General Motors automatic transmission with the lock-up clutch. However, Ford representatives have informed this agency that this Ford transmission was not made available to other manufacturers for model year 1980 and will not be available for some time.

Given the problems described above, this agency has tentatively concluded that it would not have been technologically feasible for Rolls-Royce to have changed the transmissions in its 1979 and 1980 vehicles.

*Improved lubricants.* In connection with the final rule setting forth the 1980 and 1981 average fuel economy

standards for light trucks (43 FR 11995; March 23, 1978), this agency projected that the use of synthetic, lower viscosity, or friction modified lubricants in the crankcase and axle of an automobile would result in at least a three percent fuel economy benefit. (2% from the crankcase lubricants and 1% from axle lubricants.) However, the use of crankcase lubricants has not yet been approved by the EPA for use in fuel economy testing. Accordingly, the agency indicated in that rule that it would not project the use of these lubricants before the 1981 model year. The 1981 model year was specified in order to assure ample time for the approval of these lubricants for use in fuel economy testing. Although use of modified axle lubricants in fuel economy testing does not require EPA approval, the notice treated these lubricants in the same manner as crankcase lubricants. This was due to questions regarding the performance of modified axle lubricants in durability testing and the availability of such lubricants to manufacturers prior to model year 1981. In light of this, any fuel economy benefit which Rolls-Royce could have obtained by using these modified crankcase and axle lubricants has not been considered in today's proposed alternative economy standard for the 1979 and 1980 model years.

*Mix shifts.* The term "mix shifts," as used in prior NHTSA fuel economy rulemaking (average fuel economy standards for 1981–1984 passenger automobiles, 42 FR 33534, June 30, 1977, and for 1980–1981 light trucks, 43 FR 11995, March 23, 1978), refers to shifting the percentages of vehicles sold in each of a manufacturer's model types for the purpose of increasing average fuel economy. Since all of Rolls-Royce's models are basically the same, the company cannot accomplish a mix shift in this, the usual sense of the term. However, Rolls-Royce vehicles designed for compliance with the Federal emissions standards achieved better fuel economy than did those designed for compliance with California emissions standards. Moreover, according to Rolls-Royce, the California and Federal specifications for the 1979 model year were sufficiently similar that it was possible to quickly change a vehicle from one specification to the other. Accordingly, it is conceivable that Rolls-Royce could have improved its corporate average fuel economy in the 1979 and 1980 model years by decreasing sales of vehicles built to California specifications and increasing sales of vehicles built to Federal specifications.

Rolls-Royce has stated that although it sold all 1979 model vehicles built to California specifications, it still has not sold all of the 1979 vehicles built to Federal specifications. This data implies that a decrease in the stock of California vehicles would have limited Rolls-Royce's ability to sell automobiles in that state which would have in turn reduced its overall sales in the United States. Clearly, such a decrease in sales would have increased Rolls-Royce's corporate average fuel economy. However, a significant percentage reduction in sales would have been necessary to achieve a fuel economy benefit. The same significant reduction in sales would have been necessary in the 1980 model year. Accordingly, today's proposed alternative fuel economy standards are not based upon any improvement that might have resulted from reduced sales of California vehicles.

*Impact of other Federal standards.* Rolls-Royce did not claim any negative impacts on its 1979 or 1980 average fuel economy above those claimed for the 1978 model year resulting from Federal safety, damageability, emissions, or noise standards applicable to the 1979 and 1980 model years. In the absence of a specific showing of a fuel economy penalty from these standards, NHTSA will assume that whatever fuel economy is lost as a result of compliance with Federal standards will be built into the Environmental Protection Agency's fuel economy test results and will be taken into account by the NHTSA in setting the alternative standards. With respect to be Rolls-Royce petition, NHTSA will tentatively assume that there is no unaccounted-for negative impact on fuel economy caused by applicable Federal standards.

*The need of the Nation to conserve energy.* The daily extra U.S. demand for petroleum that will result from Rolls-Royce achieving an average fuel economy of 10.8 and 11.1 mpg in the 1979 and 1980 model years, respectively, rather than the generally applicable average fuel economy of 19.0 and 20.0 mpg in those model years is estimated to be 34.1 barrels per day over the life of the 1979 Rolls-Royces and 26.8 barrels per day over the life of the 1980 Rolls-Royces. To give a perspective on these numbers, the fuel consumed by passenger automobiles in the United States is about 15 million barrels each day. For all purposes, the United States currently consumes about 17 million barrels of petroleum each day.

*Proposed alternative standard.* This agency has tentatively concluded that it was not technologically feasible and economically practicable for Rolls-Royce to improve the fuel economy of its 1979 and 1980 automobiles above an average of 10.8 and 11.1 mpg, respectively, that compliance with other Federal automobile standards will not adversely affect achievable fuel economy, and that the national effort to conserve energy will negligibly be affected by the granting of the requested exemptions and establishment of alternative standards. Consequently, this agency proposes to conclude that the maximum feasible average fuel economy for Rolls-Royce in the 1979 and 1980 model years is 10.8 and 11.1 mpg, respectively. Therefore, the agency proposes to exempt Rolls-Royce from the generally applicable standards of 19.0 mpg and 20.0 mpg and to establish alternative standards of 10.8 mpg for the 1979 model year and 11.1 mpg for the 1980 model year. The 1980 alternative standard may be raised to 11.2 mpg if the available information indicates that it would have been technologically feasible and economically practicable for Rolls-Royce to have incorporated fueltion on its 1980 49-state vehicles, and that this step would have improved the fuel economy of those vehicles by two percent.

In consideration of the foregoing, it is proposed that 49 CFR Part 531 be amended by revising § 531.5(b)(2) to read as follows:

**§ 531.5 Fuel economy standards.**

(a) * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

(1) * * *

(2) Rolls-Royce Motors, Inc.

**Average fuel economy standard**

| Model year | Miles per gallon |
|---|---|
| 1978 | 10.7 |
| 1979 | 10.8 |
| 1980 | 11.1 |

* * * * *

Interested persons are invited to submit comments on this proposed decision. Comments must be limited so as not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

All comments received before the close of business of the comment closing date indicated at the beginning of the proposal will be considered, and will be available for public inspection in the

docket both before and after the comment closing date. To the extent possible, comments filed after the comment closing date will also be considered. The agency will continue to file relevant material in the docket as it becomes available after the comment closing date, and it is recommended that interested persons continue to examine the docket for new material. Those persons desiring to be notified of the receipt of their comments in the rulemaking docket should enclose a self-addressed, stamped postcard in the envelope with their comments. When the comments are received by the docket supervisor, the postcard will be returned in the mail to the commenter.

The agency has reviewed the impacts of this proposal and determined that they are minimal. The only parties which might be affected by this proposal are Rolls-Royce and prospective purchasers of Rolls-Royce automobiles. Since the proposed alternative standards contained herein are the fuel economy levels Rolls-Royce will achieve in the affected model years, there will be no adverse impacts on either the company or purchasers of its automobiles. Accordingly, the agency has determined that this proposal is not a significant regulation within the meaning of Executive Order 12044.

(Sec. 9, Pub. L. 89-670, 80 Stat. 981 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2002); delegation of authority at 49 CFR § 1.51 and 49 CFR 501.8)

Issued on October 1, 1980.

**Michael M. Finkelstein,**

*Associate Administrator for Rulemaking.*

[FR Doc. 80-31664 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-59-M

# Notices

Federal Register
Vol. 45, No. 198
Thursday, October 9, 1980

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

### Animal and Plant Health Inspection Service

### Advisory Committee on Foreign Animal and Poultry Diseases; Meeting

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice of a meeting of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases.

**SUMMARY:** The purpose of this document is to give notice of a meeting of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases to review actions taken on recommendations made at the previous meetings of the Committee, to review eradication actions for the outbreak of exotic Newcastle disease in pet birds that currently threatens the United States poultry industry, and to discuss the current African swine fever situation in the Western Hemisphere.

**PLACE, DATE, AND TIME OF MEETING:** Epic Room, 7th Floor, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland, October 21, 1980, at 8:30 a.m. to 4:00 p.m.

**SUPPLEMENTARY INFORMATION:** The purpose of the Committee is to advise the Secretary of Agriculture regarding the program operations and measures to prevent, suppress, control, or eradicate an outbreak of foot-and-mouth disease or other destructive foreign animal and poultry disease in the event such disease should enter this country.

The purpose of this meeting is to review actions taken on recommendations made at the previous meetings of the Committee, to review exotic Newcastle disease eradication actions in the United States, to discuss the current African swine fever situation in the Western Hemisphere, and to discuss other foreign animal and poultry diseases.The meeting is open to the public. Written statements may be filed with the Committee before or after the meeting. Any member of the public who wishes to file a statement or who has further questions may contact Dr. H. A. McDaniel, Executive Secretary, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 757, Federal Building, Hyattsville, Md. 20782, telephone number (301) 446–8087.

Dated: October 6, 1980.

**H. C. Mussman,**

*Vice Chairman, Advisory Committee on Foreign Animal and Plant Diseases.*

[FR Doc. 80–31513 Filed 10–8–80; 8:45 am]

BILLING CODE 3410–34–M

### Forest Service

### Black Hills National Forest Grazing Advisory Board; Notice of Meeting

The Black Hills National Forest Grazing Advisory Board will meet at 10:00 a.m., November 12, 1980, in the Conference Room of the Supervisor's Office, Custer, South Dakota. The purpose of this meeting is to discuss and make recommendations regarding allotment management planning goals and range betterment funding priorities which will result in realizing the potential for increasing forage production and livestock use. Also, the procedure for nomination and election of Board members will be decided upon and the By-Laws finalized.

The meeting will be open to the public. Persons who wish to attend should notify Lloyd Todd, Black Hills National Forest, 605/673–2251. Written statements may be filed with the committee before or after the meeting.

Dated: October 1, 1980.

**James R. Mathers,**

*Forest Supervisor.*

[FR Doc. 80–31452 Filed 10–8–80; 8:45 am]

BILLING CODE 3410–11–M

### Rocky Mountain Region, Land and Resource Management Plan; Revised Notice of Intent to Prepare an Environmental Impact Statement

A notice of Intent to Prepare an Environmental Impact Statement for the Rocky Mountain Region Land and Resource Management Plan was published in the **Federal Register**, Volume 45, No. 45, p. 14237, March 5, 1980.

The estimated dates for filing the Draft and Final Environmental Impact Statements with the Environmental Protection Agency and release to the public have been postponed. The Draft Environmental Impact Statement is now expected in March 1981, and the Final Environmental Impact Statement is proposed for release in September 1981.

All other conditions of the original notice of intent remain the same.

Dated: September 26, 1980.

**Craig W. Rupp,**

*Regional Forester.*

[FR Doc. 80–31445 Filed 10–8–80; 8:45 am]

BILLING CODE 3410–11–M

### Salmon National Forest, Idaho, Lemhi, and Valley Counties, Idaho; Intent To Prepare an Environmental Impact Statement for Proposed Forest Land and Resource Management Plan

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an Environmental Impact Statement for the proposed Forest Land and Resource Management Plan for the Salmon National Forest.

Preparation of the Plan will follow direction outlined in the Forest and Rangeland renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976. The Forest Plan will be prepared according to regulations promulgated by the Secretary of Agriculture. The regulations implement section 6 of the National Forest Management Act of 1976.

The resulting Plan will provide for multiple use and sustained yield of products and services from the Salmon National Forest. The Plan will guide all natural resource management activities and establish management standards and guidelines. The Plan will determine resource management practices, harvesting levels and procedures under the principles of multiple use and sustained yield, and the availability and suitability of lands for resource management.

The Forest Plan will be selected from among representative alternatives which will include at least: (1) A no-change in existing resource outputs alternative, (2) A range of alternatives that display possible outputs of resources available at each of several expenditure levels,

and (3) Alternatives designed to resolve the identified major public issues and management concerns.

The Forest Plan will be coordinated with the public, Indian tribes, local city, county, and State Governmental organizations, as well as other Federal agencies.

Public involvement and participation is an integral part and will be encouraged throughout the planning process. A Briefing Guide for the Salmon National Forest, which briefly describes the resources on the Forest, will be sent by mail to those interested individuals, organizations, and Governmental offices on the Forest Plan mailing list. The Briefing Guide will invite each individual to attend a workshop and/or respond by mail. Written responses on issues will be received until December 15, 1980. Opportunities for all to comment on the Forest Plan will be a part of each step of its development.

The Salmon National Forest will hold three pubic participation workshops early in the process to determine the scope and the significance of the issues to be analyzed in depth in the Environmental Impact Statement. Each workshop will be held at 7:00 p.m. at the following locations in Idaho:

*Date, Place, and City*

November 24, 1980, North Fork Ranger Station, North Fork.
November 25, 1980, Pioneer Elementary School, Salmon.
December 2, 1980, Leadora School, Leadora.

Jeff M. Sirmon, Regional Forester, is the responsible official for this plan.

Further information about the planning and Environmental Impact Statement process or comments on the Notice of Intent should be directed to: Roy S. Verner, Land Management Planner, Salmon National Forest, P.O. Box 729, Salmon, Idaho 83467, (208) 756–2215.

The estimated date for filing the Draft Environmental Impact Statement is February 1982, and the anticipated date for filing the Final Environmental Statement is September 1982.

Dated: October 2, 1980.

**Jeff M. Sirmon,**

*Regional Forester, Intermountain Region.*

[FR Doc. 80-31451 Filed 10-8-80; 8:45 am]

BILLING CODE 3410-11-M

## Soil Conservation Service

### Bajura Watershed, P.R.

**AGENCY:** Soil Conservation Service, Department of Agriculture.

**ACTION:** Notice of finding of no significant impact.

**FOR FURTHER INFORMATION CONTACT:**

Ivan R. Emmanuelli, Director, Caribbean Area, Soil Conservation Service, Degetau Federal Building, Chardon Street, Room 633, Hato Rey, Puerto Rico 00918, telephone number (809) 753–4206.

**NOTICE:** Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Bajura Watershed, Cabo Rojo, Hormogueros, Mayaguez, Las Marias, Maricao, San German, Sabana Grande Municipalities, Puerto Rico.

The environmental assessment of this action indicates that deauthorization of Federal funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Ivan R. Emmanuelli, Director, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The project sponsors are not interested in implementing this plan. The sponsors have not acquired landrights for any of the planned structural measures.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Ivan R. Emmanuelli. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until December 8, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: September 29, 1980.

**Joseph W. Haas,**

*Deputy Chief for Natural Resource Projects.*

[FR Doc. 80-31385 Filed 10-8-80; 8:45 am]

BILLING CODE 3410-16-M

### Dead River Watershed, N.H.

**AGENCY:** Soil Conservation Service, U.S. Department of Agriculture.

**ACTION:** Notice of finding of no significant impact.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard L. Porter, State Conservationist, Soil Conservation Service, Federal Building, Durham, New Hampshire 03824; telephone 603–868–7581.

**NOTICE:** Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Dead River Watershed, Coos County, New Hampshire.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Richard L. Porter, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan to provide protection against future floods and erosion damage in the city of Berlin. The planned works of improvement consist of approximately 300 feet of Dead River channel improvement in the downtown area along Moxie Alley. Construction of an open reinforced concrete lined channel will begin just below the Cole Street Bridge and extend down to Main Street. The portions of the channel to be constructed under streets and buildings will be enclosed concrete box conduit.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Richard L. Porter. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until November 10, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated September 29, 1980.

Joseph W. Haas,

*Deputy Chief for Natural Resource Projects.*

[FR Doc. 80-31386 Filed 10-8-80; 8:45 am]

BILLING CODE 3410-16-M

## Eutacutaches Creek Watershed, Miss.

**AGENCY:** Soil Conservation Service, Department of Agriculture.

**ACTION:** Notice of deauthorization of Federal funding.

**FOR FURTHER INFORMATION CONTACT:** James W. Mitchell, Associate Deputy Chief for Natural Resource Projects, Soil Conservation Service, Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013 (202-447-3587).

**NOTICE:** Pursuant to the Watershed Protection and Flood Prevention Act, Public Law 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Eutacutaches Creek Watershed, Rankin County, Mississippi, effective on September 12, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: September 29, 1980.

Joseph W. Haas,

*Deputy Chief for Natural Resource Projects.*

[FR Doc. 80-31387 Filed 10-8-80; 8:45 am]

BILLING CODE 3410-16-M

## Greely High School Land Drainage R.C. & D. Measure, Cumberland County, Maine

**AGENCY:** Soil Conservation Service, U.S. Department of Agriculture.

**ACTION:** Notice of finding of no significant impact.

**FOR FURTHER INFORMATION CONTACT:** Mr. Eddie L. Wood, State Conservationist, Soil Conservation Service, USDA Office Building, University of Maine, Orono, Maine 04473; telephone 207-866-2132.

**NOTICE:** Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Greely High School Land Drainage R.C. & D. Measure, Cumberland County, Maine.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Eddie L. Wood, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for surface and subsurface water control and disposal on an athletic field in the town of Cumberland, Maine. The planned works of improvement consist of installation of a diversion ditch and underground conduit system to collect, convey, and dispose of surface and subsurface water, and seeding the area disturbed by construction.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Eddie L. Wood. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until November 10, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: September 29, 1980.

Joseph W. Haas,

*Deputy Chief for Natural Resource Projects.*

[FR Doc. 80-31388 Filed 10-8-80; 8:45 am]

BILLING CODE 3410-16-M

## Town Creek Watershed, Alabama

**AGENCY:** Soil Conservation Service, Department of Agriculture.

**ACTION:** Notice of finding of no significant impact.

**FOR FURTHER INFORMATION CONTACT:** William B. Lingle, State Conservationist, Soil Conservation Service, 138 South Gay Street, Auburn, Alabama 36830, telephone number (205) 821-8070.

**NOTICE:** Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Town Creek Watershed, Lawrence, Franklin, and Colbert Counties, Alabama.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, William B. Lingle, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The Town Creek Watershed project was approved for operations by Congress on October 1962. Subsequent to this approval and in response to NEPA and specific agency guidelines and regulations, the project was reevaluated and modified to comply with current environmental policies. A multi-agency team of biologists evaluated the modified project and determined that adverse impacts could be avoided by eliminating all channel work and modifying the design of the floodwater retarding structures.

The Notice of Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting William B. Lingle. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until November 7, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: September 30, 1980.

Joseph W. Haas,

*Deputy Chief for Natural Resource Projects.*

[FR Doc. 80-31389 Filed 10-8-80; 8:45 am]

BILLING CODE 3410-16-M

## Salt Lick Creek Watershed, Ky.

**AGENCY:** Soil Conservation Service, Department of Agriculture.

**ACTION:** Notice of availability of record of decision.

**FOR FURTHER INFORMATION CONTACT:** Glen E. Murray, State Conservationist, Soil Conservation Service, 333 Waller

Avenue, Lexington, Kentucky 40504, telephone number (606) 233–2747.

Notice.—Glen E. Murray, responsible Federal official for projects administered under provisions of Pub. L. 83–566, 16 U.S.C. 1001–1008, in the State of Kentucky, is hereby providing notification that a record of decision is available for the Salt Lick Creek Watershed. Single copies of this record of decision may be obtained from Glen E. Murray at the above address.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: September 30, 1980.

**Joseph W. Haas,**

*Deputy Chief for Natural Resource Projects.*

[FR Doc. 80–31390 Filed 10–8–80; 8:45 am]

BILLING CODE 3410–16–M

## CIVIL RIGHTS COMMISSION

### North Carolina Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the North Carolina Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 4:00 p.m., on November 5, 1980, at the Holiday Inn-Four Seasons, Board Room, 3121 High Point Road, Greensboro, North Carolina 27407. The purpose of the meeting is program planning for FY 1981 and a Press Conference to release the SAC report of the Greensboro Race Relations Study.

Persons desiring additional information or planning a presentation to the committee, should contact the Chairperson, Rev. William W. Finlator, 1802 Arlington Street, Raleigh, North Carolina 27608, (919) 828–0897 or the Southern Regional Office, Citizens Trust Bank Building, Room 362, 75 Piedmont Avenue, N.E., Atlanta, Georgia 30303, (404) 242–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 6, 1980.

**Thomas L. Neumann,**

*Advisory Committee Management Officer.*

[FR Doc. 80–31472 Filed 10–8–80; 8:45 am]

BILLING CODE 6335–01–M

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Electronic Instrumentation Technical Advisory Committee; Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Electronic Instrumentation Technical Advisory Committee will be held on Tuesday, October 28, 1980, at 9:30 a.m. in the Gallery Room, Institute of Defense Analysis, 400 Army-Navy Drive, Arlington, Virginia.

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973. On October 7, 1975, October 21, 1977, August 28, 1978, and August 29, 1980 the Assistant Secretary for Administration approved the recharter and extension of the Committee pursuant to Section 5(h)(1) of the Export Administration Act of 1979, 50 U.S.C.A. App. 2401 *et seq.* and the Federal Advisory Committee Act.

The Committtee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to electronic instrumentation, or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

The Committee meeting agenda has seven parts:

**General Session**

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Briefing by Department of Commerce on existing controls affecting export of automatic test equipment (ATE) and software.

(4) Feedback and discussion on electronics manufacturing model.

(5) Discussion on calibration equipment trends and needs for new technology support.

(6) Equipment in the electronics manufacturing process.

**Executive Session**

(7) Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

With respect to agenda item (7), the Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Exective Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: 202–377–4217.

Copies of the minutes of the open portions of the meeting will be available by calling Mrs. Margaret Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202–377–2583.

For further information, contact Mrs. Cornejo, either in writing or by phone at the address or number shown above.

Date: September 30, 1980.

**Kent N. Knowles,**

*Director, Office of Export Administration, International Trade Administration, U.S. Department of Commerce.*

[FR Doc. 80–31437 Filed 10–8–80; 8:45 am]

BILLING CODE 7020–02–M

### Exporters' Textile Advisory Committee; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that a meeting of the exporters' Textile Advisory Committee will be held at 10:00 a.m. on October 29, 1980 in Room 4830, U.S. Department of Commerce, 14th & Constitution Avenue, NW., Washington, D.C.

The Committee, which is comprised of 30 members involved in textile and apparel exporting, advises Department officials concerning ways of increasing U.S. exports of textile and apparel products.

The agenda for the meeting is as follows:

1. Review of Export Data
2. Report on Conditions in the Export Market
3. Recent Foreign Restrictions Affecting Textiles
4. Other Business

A limited number of seats will be available to the public on a first come basis. The public may file written statements with the Committee before or after the meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the ITA Freedom of Information Officer, Freedom of Information Control Desk, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles and Apparel, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202/377–5078.

Dated: September 26, 1980.

**Paul T. O'Day,**

*Deputy Assistant Secretary for Textiles and Apparel.*

[FR Doc. 80–31436 Filed 10–8–80; 8:45 am]

BILLING CODE 7020–02–M

## National Technical Information Service

### Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

**Douglas J. Campion,**

*Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.*

**U.S. Department of the Air Force,** AF/JACP, Washington, D.C. 20324

Patent application 6–115,844: Gun Simulator System; filed Jan. 28, 1980

Patent application 6–132,644: Device for Generating Simulated Waveforms for an Electronic System Maintenance Trainer; filed Mar. 28, 1980

Patent application 6–134,358: Laser Excited Molecular Beam Time and Frequency Standard; filed Mar. 27, 1980

Patent application 6–140,551: Intrusion Detection System Having Look-Up Sensor Instrumentation for Intrusion Range and Altitude Measurements; filed Apr. 15, 1980

Patent application 6–144,465: Minimum Resolvable Contrast Measurement Device for Video Systems; filed Apr. 15, 1980

Patent 4,201,654: Anode Assisted Sputter Etch and Deposition Apparatus; filed Oct. 6, 1978; patented May 6, 1980; not available NTIS

Patent 4,202,369: Gas Relief Valve Design for Low Temperature; filed June 15, 1978; patented May 13, 1980; not available NTIS

Patent 4,202,516: Electronic Tripod Technique; filed June 30, 1978; patented May 13, 1980; not available NTIS

Patent 4,203,285: Partial Swirl Augmentor for a Turbofan Engine; filed Feb. 6, 1978; patented May 20, 1980; not available NTIS

Patent 4,203,286: Cooling Apparatus for an Exhaust Nozzle of a Gas Turbine Engine; filed Oct. 30, 1978; patented May 20, 1980; not available NTIS

Patent 4,203,458: Negative Gravity Swivel Device; filed Sept. 5, 1978; patented May 20, 1980; not available NTIS

Patent 4,204,210: Synthetic Array Radar Command Air Launched Missile System; filed Sept. 15, 1972; patented May 20, 1980; not available NTIS

**U.S. Department of Agriculture,** Program Agreements and Patent Branch, Administrative Service Division, Federal Building, Science and Education Administration, Hyattsville, MD 20782

Patent application 6–146,546: Wrinkle-Resistance and Durable-Press Cotton-Containing Fabric by Treatment with Acrylamide and Glyoxal; filed May 5, 1980

**U.S. Department of Energy,** Assistant General Counsel for Patents, Washington, DC 20545

Patent application 6–005,947: Device and Method for Shortening Reactor Process Tubes; filed Jan. 24, 1979

Patent application 6–009,622: System and Method for Charging Electrochemical Cells in Series; filed Feb. 6, 1979

Patent application 6–009,624: High Temperature Concrete Composites Containing Organosiloxane Crosslinked Copolymers; filed Feb. 6, 1979

Patent application 6–021,292: Passive Environmental Temperature Control System; filed Mar. 16, 1979

Patent application 6–025,503: Polymer Concrete Composites for the Production of High Strength Pipe and Linings in High Temperature Corrosive Environments; filed Mar. 30, 1979

Patent application 6–027,689: High Temperature Chemically Resistant Polymer Concrete; filed Apr. 6, 1979

Patent application 6–030,044: Method and Apparatus for Timing of Laser Beams in a Multiple Laser Beam Fusion System; filed Apr. 13, 1979

Patent application 6–039,527: Improved Method and Apparatus for Electrostatically Sorting Biological Cells; filed May 16, 1979

Patent 4,163,637: Method and Apparatus for Producing Small Hollow Spheres; filed Sept. 29, 1978; patented Aug. 7, 1979; not available NTIS

Patent 4,170,817: Method and Means of Packaging Nuclear Fuel Rods for Handling; filed May 2, 1978; patented Oct. 16, 1979; not available NTIS

Patent 4,175,258: High Level White Noise Generator; filed July 28, 1978; patented Nov. 20, 1979; not available NTIS

Patent 4,178,208: Self Locking Drive System for Rotating Plug of a Nuclear Reactor; filed Feb. 23, 1978; patented Dec. 11, 1979; not available NTIS

**U.S. Department of Health and Human Services,** National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, MD 20205

Patent application 6–101,074: Nuclease-Resistant Hydrophilic Complex of Polyriboinosinic-Polyribocytidylic Acid; filed Dec. 7, 1980

Patent application 6–130,562: Process for the Preparation of Phosphonoacetic Acid; filed Mar. 14, 1980

**U.S. Department of the Navy,** Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA 22217

Patent application 6–109,940: Miniaturized Scan within a Pulse Sonar; filed Apr. 1, 1980

Patent application 6–144,483: Gelled Slurry Explosive; filed Apr. 28, 1980

Patent application 6–148,649: Borescope Guide; filed May 12, 1980

Patent application 6–149,051: TiNi Base Alloy Shape Memory Enhancement through Thermal and Mechanical Processing; filed May 12, 1980

Patent 4,163,681: Desensitized Explosives and Castable Thermally Stable High Energy Explosive Compositions Thereform; filed Apr. 15, 1970; patented Aug. 7, 1979; not available NTIS

Patent 4,165,247: Polyurethane Solid Propellant Binder; filed Feb. 9, 1966; patented Aug. 21, 1979; not available NTIS

Patent 4,183,301: Induction Ground Mine and Firing Mechanism Therefor; filed Aug. 7, 1944; patented Jan. 15, 1980; not available NTIS

Patent 4,183,841: Filled Composition Containing Phenol-Aldehyde Resin and Butadiene-Acrylontrile Polymer. Filed Jul.

16, 1965; patented Jan. 15, 1980; not available NTIS
Patent 4,185,555: Electrolytic Pressure Sensitive Mechanism; filed Jun. 11, 1953; patented Jan. 29, 1980; not available NTIS
Patent 4,188,905: Mine Sweeping Means; filed Apr. 13, 1943; patented Feb. 19, 1980; not available NTIS
Patent 4,190,818: Digital Beamsteering for a Parametric Scanning Sonar System; filed Aug. 25, 1977; patented Feb. 26, 1980; not available NTIS
Patent 4,193,029: Pulsed Helium Magnetometer; filed Mar. 4, 1963; patented Mar. 11, 1980; not available NTIS
Patent 4,193,129: Charging Circuit for Sonar Systems; filed Jan. 2, 1976; patented Mar. 11, 1980; not available NTIS
Patent 4,193,297: Infrared Fuze Test Simulator; filed Jul. 31 1963; patented Mar. 18, 1980; not available NTIS
Patent 4,193,346: Electrolytic Pressure Mechanism; filed Mar. 16, 1953; patented Mar. 18, 1980; not available NTIS
Patent 4,194,194: Piezoelectric Vibration Detector for Sensing a Nearby Intruder; filed Jan. 30, 1978; patented Mar. 18, 1980; not available NTIS
Patent 4,194,202: Grid Pulsed Oscillator and Detector; filed Sep. 16, 1959; patented Mar. 18, 1980; not available NTIS
Patent 4,194,519: Hypersonic Modular Inlet; filed Nov. 18, 1964; patented Mar. 25, 1980; not available NTIS
Patent 4,195,294: Dual Channel Proximity Fuze; filed Nov. 15, 1956; patented Mar. 25, 1980; not available NTIS
Patent 4,195,295: Pulse Doppler-Radio Proximity Fuze; filed Jan. 14, 1959; patented Mar. 25, 1980; not available NTIS
Patent 4,196,433: Doppler Frequency Proximity Fuze; filed Dec. 23, 1959; patented Apr. 1, 1980; not available NTIS
Patent 4,196,448: TV Bandwidth Reduction System Using a Hybrid Discrete Cosine DPCM; filed May 15, 1978; patented Apr. 1, 1980; not available NTIS
Patent 4,197,529: Intrusion Detection Apparatus; filed Feb. 17, 1978; patented Apr. 8, 1980; not available NTIS
Patent 4,202.517: Fluidic Interface Means; filed Jul. 20, 1977; patented May 13, 1980; not available NTIS
Patent 4,203,365: Jammer Apprehending Amplifier for Proximity Fuzes; filed Jul. 20, 1977; patented May 20, 1980; not available NTIS
Patent 4,203,366: FM Fuze Circuit; filed Feb. 1, 1957; patented May 20, 1980; not available NTIS
Pat Application 6,145,210: Metric Half-Span Model Support System; filed Apr. 30, 1980
Pat Application 6,145,272: Photoelectric Detection System; filed Apr. 30, 1980
Pat Application 6,145,273: Biocentrifuge System Capable of Exchanging Specimen Cages While in Operational Mode; filed Apr. 30, 1980
Pat Application 6,150,115: Solar-Heated Fluidized Bed Gasification System; filed May 15, 1980
Patent 4,196,619: Geological Assessment Probe; filed Sep. 25, 1978; patented Apr. 8, 1980; not available NTIS
Patent 4,199,937: Heat Exchanger and Method of Making; filed Nov. 30 1977; patented Apr. 29, 1980; not available NTIS

[FR Doc. 80-31443 Filed 10-8-80; 8:45 am]

BILLING CODE 3510-04-M

## National Telecommunications and Information Administration

### The International Maritime Satellite System (INMARSAT)

**AGENCY:** National Telecommunications and Information Administration, U.S. Department of Commerce.

**ACTION:** Notice of inquiry.

**SUMMARY:** The United States Department of Commerce, pursuant to Section 504(a)(4) of the International Maritime Satellite Telecommunications Act of 1978 (Pub. L. No. 95-564, 92 Stat. 2392, Nov. 7, 1978), is charged with ascertaining the needs of the users of the International Maritime Satellite System. In accordance with that responsibility, the National Telecommunications and Information Administration (NTIA) and the Maritime Administration of the Department of Commerce seek comments from the public concerning the needs of users of the forthcoming maritime communications satellite system which will be owned and operated by the International Maritime Satellite Organization (INMARSAT).

**EFFECTIVE DATE:** Those users and other parties filing initial views and comments should submit them in an original and three copies on or before November 4, 1980. Comments in response to the views of any party should be submitted on or before November 18, 1980.

**FOR FURTHER INFORMATION CONTACT:** M. Barmat, Office of International Affairs, NTIA, 1800 G Street, Room 780M, Washington, D.C. 20504.

### Notice of Inquiry

*Background:* A satellite based maritime communications system (MARISAT), owned by a group of United States Common Carriers,[1] has been providing service to the United States Navy and commercial users since 1976. These geosynchronous satellites positioned over the Atlantic, Pacific, and Indian Oceans provide telephone, telex, facsimile, and data communications services to commercial users in the maritime environment. By the end of 1979, almost 300 commercial ships and other vehicles and structures (including offshore platforms) in the maritime environment were equipped with MARISAT shipboard terminals.

Prior to the initiation of MARISAT, the Intergovernmental Maritime Consultative Organization (IMCO) was investigating the potential of the use of satellites to improve navigation and safety-distress communications. Concurrently, several experiments had established the feasibility of using geosynchronous satellites for communication to ships at sea. In 1973, an IMCO Panel of Experts began to consider the technical, operational, and economic aspects of satellite-based maritime communications systems. Following the completion of this activity, a series of diplomatic conferences were held to negotiate an agreement under which an international organization could undertake the provision of maritime communications by satellite. The final text was opened for signature in September 1976; and by July 1979, the organization, INMARSAT, came into being.

In order to provide for U.S. participation in INMARSAT, Congress amended the Communications Act of 1934 [2] by enacting the International Maritime Satellite Telecommunications Act of 1978 [3] (hereinafter called the Act). The Act designates the Communications Satellite Corporation (COMSAT) as the sole operating entity of the United States for participation in INMARSAT. As such, it will own the largest portion of the proposed International Maritime Satellite System. The Act also assigns specific regulatory and supervisory responsibilities to the Federal Communications Commission, the Secretary of Commerce and the President. Specifically, among the responsibilities assigned by the Act to the Secretary of Commerce is to "take all necessary steps to determine the interests and needs of the ultimate users of the maritime satellite telecommunications system and to communicate the views of the Federal Government on utilization and user needs to INMARSAT." (Section 504(a)(4)).

*Inquiry:* In order to aid the Secretary in fulfilling this responsibility, potential U.S. users of the INMARSAT system and other interested parties are encouraged to submit their views on any and all aspects of maritime communication satellite service. Views are particularly encouraged in regard to user needs for safety and distress and

[1] This group includes Comsat General, a subsidiary of the Communications Satellite Corporation, ITT World Communications, RCA Globcom, and Western Union International.

[2] 47 U.S.C. § 151 *et seq.*

[3] 47 U.S.C. § 751 *et seq.*

other than conventional (*i.e.*, telephone, telex, telegram, etc.) types of communications.

*Procedures:* The Notice of Inquiry form has been chosen to solicit the initial views of users and other parties. The Department is instituting this process to solicit the views of users and will consider those views in the preparation of its recommendations pursuant to its responsibilities under the International Maritime Satellite Act of 1978. Submissions shall be routinely available for routine public inspection at the NTIA Office. All interested parties may file additional comments responding to the views of any party.

In view of the open nature of the proceeding, further comments or views pertaining to INMARSAT may be submitted for consideration at any time after the closing of the comment period, and, as appropriate, will be considered in providing additional U.S. Government views to INMARSAT. Thus, we have specified orderly initial procedures to discharge this agency's responsibility but would welcome pertinent information at any time in light of the continuing nature of the process.

*Proprietary Information:* All comments filed with the Department shall be considered agency records pursuant to 5 U.S.C. § 552, and shall be made available for public inspection. Therefore, any submission containing information considered proprietary or confidential should be so marked to allow for adequate protection.

*Filing of Comments:* Those users and other parties filing initial views and comments should submit them in an original and three copies on or before November 4, 1980. Comments in response to the views of any party should be submitted on or before November 18, 1980. All comments should be submitted to the National Telecommunications and Information Administration, U.S. Department of Commerce, Office of International Affairs, Room 780M, 1800 G Street, N.W., Washington, D.C. 20504. Any additional questions or inquiries concerning this matter may be addressed to M. Barmat at the above address or at (202) 377–1818.

Henry Geller,

*Administrator, National Telecommunications and Information Administration.*

[FR Doc. 80-31444 Filed 10-8-80; 8:45 am]

BILLING CODE 3510-60-M

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

### Draft Environmental Impact Statement (DEIS) for the Neches River and Tributaries, Saltwater Barrier at Beaumont, Tex., Civil Works Project

**AGENCY:** Galveston District, U.S. Army Corps of Engineers, DOD.

**ACTION:** Notice of intent to prepare a DEIS.

**SUMMARY:** 1. The proposed action to be addressed in the DEIS is prevention of saltwater contamination of municipal, industrial, and agricultural water supplies without restricting free use of the Neches River by existing and future navigation. Congressional authorization of the Neches River and Tributaries, Saltwater Barrier at Beaumont, Texas, is contained in the Water Resources Development Act of 1976, Section 102 (Pub. L. 94–587) and is described in House Document No. 94–629.

2. Alternatives to be considered in the DEIS include ground water use, extension of intake canals up stream, flushing of the river, temporary saltwater barriers, a permanent saltwater barrier and navigation gate, and no action. Site selection for a permanent saltwater barrier and navigation gate will be considered in detail.

3. a. Coordination of the project has included three public meetings and circulation of a draft, revised draft, and final EIS (dated September 1975). Coordination in post authorization has inlcuded individual consultation with the U.S. Fish and Wildlife Service and local entities. Proposed plans will be developed in accordance with Corps of Engineers regulations, considering the views expressed by the public and agencies of the local, State, and Federal governments. Another public meeting is tentatively planned after release of the DEIS.

b. Some important environmental considerations to be analyzed because of the potential for special environmental concern include: (1) wetlands, (2) fish and wildlife resources, (3) threatened and endangered species, (4) cultural resources, (5) water quality, (6) recreation, and (7) navigation.

c. Coordination and consultation will continue with appropriate local, State, and Federal agencies and the interested public.

d. Other environmental consultation and review will be conducted in accordance with various laws and regulations.

4. A public meeting specifically held to aid in the DEIS scoping process is not deemed necessary. However all previous and future input to project formulation, analysis and study will be considered in the scoping process.

5. The DEIS is scheduled to be available to the public in April 1981.

**ADDRESS:** Questions about the proposed action and DEIS can be answered by Mr. C. R. Harbaugh, Chief, Environmental Resources Branch, Galvestion District, Corps of Engineers, P.O. Box 1229, Galveston, Texas 77553, (713) 763–1211, extension 492.

Dated: October 10, 1980.

James M. Sigler,

*Colonel, Corps of Engineers District Engineer.*

[FR Doc. 80-31384 Filed 10-8-80; 8:45 am]

BILLING CODE 3710-GK-M

### Environmental Impact Statement (EIS) Supplement for the Taylors Bayou, Tex., Drainage and Flood Control Civil Works Project

**AGENCY:** Galveston District, U.S. Army Corps of Engineers, DOD.

**ACTION:** Notice of intent to prepare an EIS supplement.

**SUMMARY:** 1. The proposed action to be addressed in the EIS Supplement is a redesigned plan for drainage and flood control on Taylors Bayou, Texas. The plan would provide for a more environmentally acceptable plan for drainage and flood control to agricultural lands in the watershed and the western portion of Beaumont, Texas.

2. Alternatives to be considered in the supplement are "no action" or implementation of the redesigned plan. Other alternatives have previously been evaluated in a Revised Final Environmental Statement for this project.

3. a. Coordination of the redesigned plan has included consultation with the U.S. Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection Agency, Department of Agriculture-Soil Conservation Service, and the Texas Parks and Wildlife Department. No Public Meetings have been conducted with regard to the proposed action.

b. Environmental concerns to be analyzed include effects on wetlands and the aquatic habitat of Taylors Bayou, water and sediment quality, threatened and endangered species, cultural resources, and prime and unique farmlands.

c. Coordination will continue with various local, State, and Federal agencies and the interested public by issuance of the EIS Supplement.

d. Other environmental consultation and review will be conducted in accordance with the National Environmental Policy Act and other applicable laws and regulations concerning endangered species, cultural resources, prime and unique farmlands, and others.

4. A public meeting will be held and construed as part of the scoping process and with regard to Section 404 of the Clean Water Act of 1977. This meeting will present the proposed plan and input presented will be considered in preparation of the supplement.

5. The EIS Supplement is scheduled to be available to the public in late November 1980.

**ADDRESS:** Questions about the proposed action and EIS Supplement can be answered by Mr. C. R. Harbaugh, Chief, Environmental Resources Branch, Galveston District, Corps of Engineers, P.O. Box 1229, Galveston, Texas 77553, telephone (713) 763–1211, extension 492.

Dated: September 30, 1980.

**James M. Sigler,**

*Colonel, Corps of Engineers, District Engineer.*

[FR Doc. 80-31482 Filed 10-8-80; 8:45 am]

BILLING CODE 3710-GK-M

## DEPARTMENT OF EDUCATION

### National Direct Student Loan, College Work Study, and Supplemental Educational Opportunity Grant Programs; Closing Dates for Filing Applications for Funds, and Establishing Eligibility

### Application Deadline

The Secretary of Education gives notice that an eligible institution of higher education may apply for fiscal year 1981 funds—for use in the 1981–82 award year—under the National Direct Student Loan (NDSL), College Work-Study (CWS), and Supplemental Educational Opportunity Grant (SEOG) Programs. These programs allocate funds to institutions to assist students who need financial aid to meet the cost of postsecondary education.

The NDSL, CWS, and SEOG Programs are authorized respectively by Titles IV–E, C, and A–2 of the Higher Education Act of 1965.

(20 U.S.C. 1087aa–1087gg; 42 U.S.C. 2751–2756; and 20 U.S.C. 1070b–1070b–3)

a. *Closing date.* The closing date for submitting applications by mail is November 17, 1980. The closing date for hand delivering applications is November 19, 1980.

b. *Application forms and information.* Application forms are being prepared but are not yet available. The application form for 1981–82 is combined with the fiscal-operations report form for the 1979–80 award year. We anticipate that the application/report forms and instructions will be ready for mailing on or about October 14, 1980. An applicant institution shall prepare and submit its application/report in accordance with the instructions included in the package sent to the institution.

c. *Applications sent by mail.* An applicant shall address a mailed application to the U.S. Department of Education, Office of Student Financial Assistance, Division of Program Operations, Campus and State Grant Branch, Room 4621, Regional Office Building 3, 400 Maryland Avenue, SW., Washington, D.C. 20202.

For a mailed application to be assured of consideration, an applicant must mail it on or before November 17, 1980 and must provide proof of mailing. Proof of mailing consists of a legible U.S. Postal Service postmark, a legible mail receipt with the date of the mailing stamped by the U.S. Postal Service, or a legible date on the envelope of a private mailing service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

Note.—The U.S. Postal Service does not uniformly provide a dated postmark. An applicant should check with its local post office before relying on this method.

The Secretary encourages an applicant to use registered or first-class mail.

d. *Applications delivered by hand.* An application that is hand-delivered must be taken to: The U.S. Department of Education, Office of Student Financial Assistance, Division of Program Operations, Campus and State Grant Branch, Room 4621, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C. The Campus and State Grant Branch will accept hand-delivered applications daily between 8 a.m. and 4 p.m. (Washington, D.C., time), (except Saturdays, Sundays, and Federal holidays).

In order to be assured of consideration, an application must be hand-delivered by 4 p.m. on November 19, 1980.

e. *Eligibility deadline.* The Secretary accepts applications only from institutions of higher education that she has determined, on or before November 17, 1980, to be eligible institutions of higher education under sections 481 or 1201(a) of the Higher Education Act of 1965.

f. *Further information.* For further information contact Mr. Robert Coates, Chief, Campus and State Grant Branch, U.S. Department of Education, Office of Student Financial Assistance, Division of Program Operations, Room 4621, Regional Office Building 3, 400 Maryland Avenue, SW., Washington, D.C. 20202; telephone (202) 245–2320.

g. *Applicable regulations.* The regulations applicable to these programs are:

1. NDSL: 45 CFR Part 174;
2. CWS: 45 CFR Part 175; and
3. SEOG: 45 CFR Part 176.

However, portions of these regulations will need to be revised to conform to the provisions of the Education Amendments of 1980.

(20 U.S.C. 1070b–3; 42 U.S.C. 2756; 20 U.S.C. 1087bb(b))

(Catalog of Federal Domestic Assistance No. 13.471, National Direct Student Loan Program; 13.463, College Work-Study Program; and 13.418, Supplemental Educational Opportunity Grant Program)

Dated: September 30, 1980.

**Albert H. Bowker,**

*Assistant Secretary for Postsecondary Education.*

[FR Doc. 80-31368 Filed 10-8-80; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Office of Assistant Secretary for International Affairs

### International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; Canada

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the supply of 1 microcurie of plutonium 242 to Atomic Energy of Canada, Ltd., to be used as a tracer in isotope dilution analysis for environmental studies.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material under contract WC–CA–24 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than October 24, 1980.

For the Department of Energy.

Dated: October 3, 1980.

Harold D. Bengelsdorf,

*Director for Nuclear Affairs, International Nuclear and Technical Programs*

[FR Doc. 80-31380 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-01-M

## International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangements; Japan

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreement involve approval of the following sales:

Contract Number S-JA-279, to the Power Reactor and Nuclear Fuel Development Corporation, Japan, 2.374 kilograms of normal uranium to be used as standard reference material for calibration of equipment.

Contract Number S-JA-280, to the Power Reactor and Nuclear Fuel Development Corporation, Japan, 699.8 grams of uranium, containing 13.4 grams of U-235 (average enrichment 1.92%) to be used as standard reference material.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than October 24, 1980.

For the Department of Energy.

Dated: October 3, 1980.

Harold D. Bengelsdorf,

*Director for Nuclear Affairs, International Nuclear and Technical Programs.*

[FR Doc. 80-31379 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-01-M

## Bonneville Power Administration

## Proposed Adjustments to Operating and Maintenance Charges for Customer-Owned Facilities; Opportunities to Comment

**AGENCY:** Department of Energy, Bonneville Power Administration.

**ACTION:** Notice of proposed adjustments to operating and maintenance charges for customer-owned facilities.

**SUMMARY:** Bonneville Power Administration (Bonneville) is proposing increases in its charges for providing operation and maintenance services for customer-owned transmission related facilities. Written data, views, and comments on the proposed adjustments are requested from interested persons.

**DATES:** Operations and maintenance charges for customer-owned facilities will be increased on January 1, 1981. Data, views, and comments on the proposed charges will be accepted until November 6, 1980.

**ADDRESS:** Written comments should be submitted to the Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

**FOR FURTHER INFORMATION CONTACT:**

Ms. Donna Lou Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503-234-3361, extension 4261. Toll-free numbers for Oregon callers 800-452-8429; for callers from Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California 800-547-6048.

Mr. John H. Jones, Jr., Area Manager, Room 288, Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97208, 503-234-3361, Ext. 4551.

Mr. Ladd Sutton, District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-345-0311.

Mr. Ronald H. Wilkerson, Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. Gordon H. Brandenburger, District Manager, P.O. Box 758, Kalispell, Montana 59901, 406-755-6202.

Mr. Ronald K. Rodewald, District Manager, Room 314, 301 Yakima Street, Wenatchee, Washington 98801, 509-662-4379.

Mr. Randall W. Hardy, Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206-442-4130.

Mr. Roy Nishi, Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, Ext. 701.

Mr. Robert N. Laffel, District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

**SUPPLEMENTAL INFORMATION:** A number of Bonneville Power Administration's electric power and transmission customers own transformers, swtiches and capacitors, power circuit breakers, terminals and other transmission equipment upon which Bonneville performs, pursuant to contract, operations and maintenance. Bonneville's labor and material costs associated with such operations and maintenance services have increased significantly over the last several years. In order to be properly compensated for such services, an average increase in operations and maintenance charges of 133 percent will be necessary effective January 1, 1981. Unlike schedules of rates and charges for the sale of electric power and for the transmission of non-Federal electric power over the Federal transmission system, the operation and maintenance charges are not subject to confirmation and approval by the Assistant Secretary for Resource Applications or the Federal Energy Regulatory Commission, but rather, under terms of various agreements, are subject to unilateral adjustment to recover Bonneville's costs.

The purpose of this notice is to solicit comments on the proposed adjusted charges for operations and maintenance services to be performed by Bonneville. The increased charges are based upon a study conducted by Bonneville's Branch of Financial Requirements. Copies of the study results are available upon request from the address and phone numbers listed under Further Information.

Persons wishing to comment on the proposed charges should submit comments to the above address by November 6, 1980. Thereafter, a notice of final charges will be published in the Federal Register.

Dated: September 30, 1980.

Ray Folern,

*Acting Administrator.*

*Proposed Annual O&M Charges for Customer-Owned Facilities*

| | |
|---|---|
| Terminal Charges: | |
| Low voltage industrial terminal | $5,278 |
| Other low voltage terminal | 3,886 |
| 115kV terminal | 7,449 |
| 230kV terminal | 11,336 |
| 500kV terminal | 28,069 |
| Power circuit breakers: | |
| Low voltage industrial | 4,831 |
| 69kV and under | 3,438 |
| 115kV | 5,811 |
| 230kV | 9,699 |
| 500kV and above | 18,797 |
| Switches and capacitors: | |
| Group operated 345kV and under | 546 |
| Group operated 500kV and above | 3,091 |
| Hook operated 345kV and under | 149 |
| Load break 345kV and under | 10,647 |
| Capacitors per KVAR (series) | [1] 0.46 |
| Capacitors per KVAR (shunt) | [1] 0.331 |
| Transformers: | |
| 230/Low voltage | 11,330 |
| 230/115kV | 24,467 |
| 500/230kV | 85,147 |
| Industry transformers 230/low voltage | 15,662 |

[1] Per KVAR.

[FR Doc. 80-31484 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-01-M

## Economic Regulatory Administration

### Crude Oil Buy/Sell Program; Allocation Period of October 1, 1980, through March 31, 1981

*Correction*

In FR Doc. 80–29294 appearing on page 63046 in the issue of Tuesday, September 23, 1980, on page 63047, second column, in the table, the figure in the third column for "Union Oil" should read: "2,866,411"; in the third column, in the *"Summary of Allocations"* table, the figure for "DOW OHA * * *" should read "2,072,719".

BILLING CODE 1505-01-M

### Consolidated Gas Supply Corp.; Action Taken on Consent Order

Pursuant to 10 CFR 205.199J, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of final action taken on a Consent Order. Under the terms of 10 CFR 205.199J(c), no consent Order involving sums in excess of $500,000 shall become effective until ERA publishes notice of its execution and solicits and considers public comments with respect to its terms.

On April 2 and 10, 1980, ERA published a notice of a Proposed Consent Order which was executed between Consolidated Gas Supply Corporation and the ERA (45 FR 21679–80, April 2, 1980 and 24526, April 10, 1980). With those notices, and in accordance with 10 CFR 205.199J, ERA invited interested persons to comment on the proposed Consent Order. No one submitted comments on the terms and conditions of the Consent Order. The ERA has concluded that the Consent Order as executed between ERA and Consolidated Gas Supply Corporation is an appropriate resolution of the compliance proceedings described in the Notices published April 2 and 10, 1980. Additionally, effectiveness of the Consent Order was dependent upon the submission by purchasers of ⅔ of the propane volume subject to the prospective price reduction of acceptable plans for the pass through of the price reduction to end-users and/or other distributors. The ERA has now received acceptable plans from all of the purchasers of propane volumes subject to the price reduction. Accordingly, DOE gives notices that the Consent Order shall become effective as proposed on April 2, and modified on April 10, 1980.

Issued in Philadelphia, PA on this 24th day of September, 1980.

**Edward F. Momorella,**

*District Manager, Office of Enforcement, Northeast District.*

[FR Doc. 80-31378 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-01-M

**[Docket No. ERA-FC-80-002; OFC Case Nos. 61020-9140-01-12, 61020-9140-05-12, and 61020-9140-06-12]**

### Powerplant and Industrial Fuel Use Act of 1978; Convent Chemical Corp., Exemptions

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Order granting exemptions from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

**SUMMARY:** On December 31, 1979, Convent Chemical Corporation (Convent or the Company) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) seeking a permanent fuels mixture exemption for each of three new major fuel burning installations (MFBI) from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 et seq.). The Act prohibits the use of petroleum or natural gas as a primary energy source in certain new MFBIs. ERA accepted Convent's petition on January 30, 1980. Applicable criteria for petitioning for exemptions from the prohibitions of FUA are published at 10 CFR Part 500, *et seq.* (Interim Rules). ERA published Final Rules relating to New Facilities on June 6, 1980 (45 FR 38726 and 38302) which became effective August 5, 1980.

The MFBIs for which the petition was filed are a field erected, coal-fired boiler (identified as Unit 31–F–1 or Unit 1) and two package, waste-gas boilers (identified as Units 31–F–5 and 31–F–6, or Units 5 and 6) to be installed at Convent's new industrial chemical plant, Convent, Louisiana.

Convent petitioned ERA for a permanent fuels mixture exemption under 10 CFR 505.28 of ERA's Interim Rules to burn a mixture of coal and natural gas or No. 2 fuel oil in Unit 1, to burn a mixture of waste-gas (a gaseous by-product of its chlorine-caustic process and ethylene dichloride (EDC) process plants) and natural gas in Unit 5, and to burn a mixture of waste gas and natural gas or No. 2 fuel oil in Unit 6. On June 9, 1980, ERA determined that the waste gas is an alternate fuel. Convent proposed to burn No. 2 fuel oil in Units 1 and 6, only as a back-up fuel in the event natural gas becomes unavailable for such use. In each case, Convent stated that the amount of oil or natural gas it proposed to use would not exceed the minimum percentage of the total Btu heat input of the primary sources of the units needed to maintain reliability of operation of the units, consistent with maintaining a reasonable level of fuel efficiency.

Pursuant to Section 212(d) of the Act, and subject to specified terms and conditions stated herein, this order grants a permanent fuels mixture exemption to Convent to permit the limited use of natural gas or No. 2 fuel oil in a fuels mixture with coal in Unit 1; natural gas in a fuels mixture with waste-gas in Unit 5; and natural gas or No. 2 fuel oil in a fuels mixture with waste-gas in Unit 6.

In accordance with Section 702(a) of the Act, this order shall not take effect earlier than December 8, 1980.

**FOR FURTHER INFORMATION CONTACT:**

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461. Phone (202) 653–4226;

Edward J. Peters, Jr., Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3126–A, Washington, D.C. 20461. Phone (202) 653–4253;

Allan Stein, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6G–087, Washington, D.C. 20585. Phone (202) 252–2967.

The public file containing a copy of all documents and supporting material in this proceeding is available for inspection upon request at: ERA Room B–110, 2000 M Street, NW., Washington, D.C., Monday–Friday, 8:00 am–4:30 pm.

**SUPPLEMENTARY INFORMATION:** Convent Chemical Corporation (Convent or the Company) petitioned ERA on December 31, 1979, for permanent exemptions from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) for a new field-erected boiler and two new package boilers located at its new industrial chemical plant at Convent, Louisiana. the petition requested a permanent fuels mixture exemption to burn a mixture of natural gas and sub-bituminous coal in the field erected boiler identified as Unit 31–F–1 (Unit 1); a mixture of natural coazl and waste-gas in the package boiler identified as Unit 31–F–5 (Unit 5); and a mixture of natural gas or No. 2 fuel oil and waste-gas in the package boiler identified as Unit 31–F–6 (Unit 6).

Convent also requested that ERA classify the waste gas by-product of its

chlorine-caustic and EDC processes as an alternate fuel in accordance with the provisions of 10 CFR Section 500.2 of the Interim Rules which defines waste-gases from industrial operations as an alternate fuel. On June 9, 1980, ERA determined that the plant was an industrial operation within the meaning of 10 CFR 500.2, and that the wet hydrogen gas by-product of this operation was an alternate fuel.

In its petition for the permanent fuels mixture exemptions, Convent demonstrated to the satisfaction of ERA, with respect to each of the three subject units, that:

(1) It proposes to use a mixture of natural gas or petroleum and an alternate fuel as a primary energy source; and

(2) The amount of petroleum or natural gas proposed for use in the mixture will not exceed the minimum percentage of the total annual Btu heat input of the primary energy sources used by the installation needed to maintain operational reliability consistent with maintaining a reasonable level of fuel efficiency.

Convent certfied that the total amount of natural gas or its oil Btu equivalent in the proposed fuels mixture for Unit 1 will not exceed 25 percent of the total annual Btu heat input of the primary energy sources used by the unit. The Company also certified that after the plant testing anid start-up are completed and the plant has been proved capable of operation at design capacity, the amount of natural gas used in the proposed fuels mixture for Unit 5, and the amount of natural gas or the fuel oil Btu equivalent to be used in the proposed fuels mixture for Unit 6 will not exceed 25 percent of the total annual Btu heat input of the primary energy sources used by each unit. Convent indicated that it expected to reach normal plant operations within 12 months of the date of the commencement of operations (expected to occur on or about Agust 31, 1981).

Prior to that time, to reach this normal operation of the plant and Units 5 and 6 with the proposed fuels mixtures, some additional natural gas is needed in the fuels mixture for Unit 5 and additional natural gas or No. 2 fuel oil in the fuels mixture for Unit 6. The percentages of natural gas requried in the fuels mixture of Unit 5 and natural gas or No. 2 fuel oil equivalent in the fuels mixture for Unit 6 from the effective date of this order through attainment of normal plant operations would average approximately 48 percent of the total Btu heat input for each unit.

In accordance with the procedural requirements of FUA and ERA's implementing Interim Rules, ERA accepted the petition for a permanent exemption to burn a fuels mixture in each boiler on January 30, 1980.

Notice of that acceptance and a statement of the reasons contained in the petition the exemptions were published in the **Federal Register** on Tuesday, February 5, 1980 (45 FR 7828). As required by Sections 701 (f) and (g) of the Act, ERA provided a copy of Convent's petition to the Environmental Protection Agency and the Federal Trade Commission for their comment. The publication of the Notice of Acceptance started a 45-day public comment period pursuant to Section 701 of FUA. Interested persons were also afforded an opportunity to request a public hearing. The period for submitting written comments and to request a public hearing closed on March 2, 1980. A public hearing was not requested and no written comments were received.

On August 19, 1980, ERA published in the **Federal Register** a Notice of Availability of the Tentative Staff Determination recommending that Convent's petition for permanent fuels mixture exemptions be granted. The notice provided until September 13, 1980, for interested persons to submit written comments and requests for a public hearing (45 FR 55254). No comments were received nor was a public hearing requested.

ERA determined that Convent, pursuant to Section 212(d) of the Act and the applicant Interim Rules, has met all the requirements for the requested permanent mixture exemptions from the prohibitions of Title II of the Act. Accordingly, ERA hereby grants Convent's petition for permanent fuels mixture exemptions in order to burn a mixture of coal and natural gas or No. 2 fuel oil in Unit 1, a mixture of waste-gas and natural gas in Unit 5, and a mixture of waste-gas and natural gas or No. 2 fuel oil in Unit 6, provided the amount of natural gas or oil to be used in each unit, after the first commencement of normal plant operations expeected to occur on or about August 31, 1981, does not exceed 25 percent of the total annual Btu heat input of the primary energy sources used by each installation. Further, ERA is persuaded that Convent has demonstrated that the amounts of natural gas or No. 2 fuel oil proposed to be used in the fuels mixtures for Units 5 and 6, prior to such commencement of normal plant operational reliability and a reasonable level of fuel efficiency in each unit. This order, accordingly, grants Convent's petition with respect to the use of natural gass or No. 2 fuel oil in Units 5 and 6 in such minimum amounts until normal plant operations are reached.

This order takes into account the purposes for which the minimum percentage of natural gas or fuel oil equivalent provided by a fuels mixture exemption is to be used, i.e., to maintain reliability of operation, consistent with maintaining a reasonable level of fuel efficiency. Therefore, ERA will not exclude from the definition of primary energy source any fuel used in each boiler for the purposes of unit ignition, start-up, testing, flame stabilization, and control.

**Terms and Conditions:** Section 214(a) of the Act gives ERA the authority to attach terms and conditions to any order granting an exemption. Based upon analysis of the information contained in the record of the proceeding, this order is granted subject to the following terms and conditions:

(1) Convent will, within thirty (30) days of the date of this order, provide ERA with a compliance plan setting forth a complete schedule of milestones for the full completion and startup of the plant. If, as the work on the facility progresses, a completion date is missed, or it appears that a milestone will be delayed for more than thirty (30) days, Convent shall report such occurrence to ERA giving the reasons therefor and an appraisal of the effect, if any, the delay will have on the final completion of the plant and compliance with this order;

(2) Convent must make effective use of each of the fuel conservation measures identified and listed in its Fuels Decision Report furnished with its petition for exemptions and operate each unit in a fuel efficient manner;

(3) Consistent with required compliance with any pertinent rules or regulations concerning the acquisition or distribution of natural gas that are administered by the Federal Energy Regulatory Commission or any appropriate State regulatory agency, Convent is urged to make all reasonable efforts to obtain and use natural gas instead of No. 2 fuel oil in Units 1 and 6. Further, should Convent decide to modify Unit 5 in such a way as to make it capable of burning No. 2 fuel oil, or other petroleum product, Convent pursuant to the provisions of Title II of FUA, would be required to petition ERA for an exemption from the prohibitions of the Act in the event it wishes to use petroleum as a primary energy source in the Unit.

(4) Convent must notify ERA, in writing at the address given in item 7, of the commencement of the first use of natural gas or oil in each of the three boilers, Units 1, 5, and 6.

(5) Natural gas may be used in a fuels mixture in Unit 5 in an amount not to exceed 326 million CF during the one year period following the commencement date of the use of natural gas in the unit, in order to provide the process steam needed to establish reliable generation of a gaseous waste by-product in sufficient volumes that it may be used in the fuels mixture which is to be used as a primary energy source during normal operations;

(6) Natural gas or No. 2 fuel oil (not to exceed the Btu equivalent of the natural gas) may be used in a fuels mixture in Unit 6 in an amount not to exceed 326 million CF, during the one year period following the commencement date of the use of natural gas or No. 2 fuel oil in the unit, for the same purposes described in item 5 above;

(7) Pursuant to the reporting requirements of 10 CFR 503.38(g) of the Final Rules, Convent will submit an annual report to the ERA, Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461, each year, within 30 days after the anniversary of the first use of natural gas or oil in each boiler, containing a certified statement identifying the actual quantities of coal (in tons), waste-gas (in MCF), natural gas (in MCF), and No. 2 fuel oil (in bbls) used during the year in each boiler as well as the heating value (in Btu's) of each of these fuels. The following format for quantities shall be used for each boiler:

| Boiler No. | Types and amounts of fuel used (tons)(MCF)(bbls) | Btu equivalent | Percent of total annual Btu heat input |
|---|---|---|---|

The certification must be executed by a duly authorized representative of the Company.

The exemptions granted by this order shall not become effective earlier than December 8, 1980

Pursuant to Section 702(c) of the Act, any person aggrieved by this order may at any time before December 8, 1980, petition for judicial review in accordance with the procedures outlined in 10 CFR 501.69.

Based upon information provided by Convent, ERA has conducted an environmental analysis which has been reviewed by the DOE's Office of Environment, with consultation from the Office of the General Counsel, and DOE has concluded that the granting of these exemptions will not be a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act. Accordingly, neither an environmental impact statement nor an environmental assessment is required.

Issued in Washington, D.C., on October 2, 1980.

**Robert L. Davies,**

*Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.*

[FR Doc. 80-31382 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-01-M

**[Docket No. ERA-FC-80-031; ERA Case No. 52416-9185-21, 22-22]**

## Powerplant and Industrial Fuel Use Act of 1978, Puget Sound Power & Light Co., Exemption Petition Accepted

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Notice of acceptance of exemption petition.

**SUMMARY:** On August 5, 1980, Puget Sound Power and Light Company (Puget Sound) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy for two permanent peakload powerplant exemptions from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*), which prohibit the use of petroleum or natural gas in new powerplants. Criteria for petitioning for a permanent peakload powerplant exemption were published June 6, 1980, (45 FR 38276, 38320) as §§ 501.3 and 503.41 of the Final Rule implementing the Act.

Puget Sound proposes to install two 81,000 kilowatt natural gas/oil-fired gas combustion turbine units at its Frederickson Generating Station (Frederickson 1 and 2), and certifies that for each unit it will be operated solely as a peakload powerplant and will be operated to meet peakload demand for the life of each unit.

FUA imposes statutory prohibitions against the use of petroleum or natural gas by new powerplants. ERA's decision in this matter will determine whether the proposed powerplants qualify for the requested exemptions.

ERA has accepted Puget Sound's petition pursuant to 10 CFR § 501.3 and 501.63. In accordance with the provisions of Sections 701(c) and (d) of FUA, and 10 CFR § 501.31 and 501.33, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

**DATES:** Written comments are due on or before [November 24, 1980). A request for a public hearing may be made by any interested person within this same 45 day period.

**ADDRESSES:** Fifteen copies of written comments, or a request for a public hearing shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

Docket Number ERA-FC-80-031 should be printed clearly on the outside of the envelope and the document contained therein.

**FOR FURTHER INFORMATION:**

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B-110, Washington, D.C. 20461. Phone (202) 653-4055;

Louis T. Krezanosky, New Powerplants Branch, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3012 B, Washington, D.C. 20461. Phone (202) 653-4208;

Marilyn Ross, Office of General Counsel, Department of Energy, 6G-087 Forrestal Bldg., Washington, D.C. 20461. Phone (202) 252-2967.

**SUPPLEMENTARY INFORMATION:** FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption for such use has been granted by ERA. Puget Sound has filed a petition for two permanent peakload powerplant exemptions to use natural gas/petroleum as a primary energy source in Frederickson 1 and 2.

As part of its petition, Puget Sound submitted a sworn statement by a duly authorized officer, Mr. Robert V. Myers, Vice President, Generation Resources, as required by 10 CFR § 503.41(b)(1). In his statement, Mr. Myers certified that each of the proposed natural gas/oil-fired combustion turbines will be operated solely as a peakload

powerplant and will be operated only to meet peakload demand for the life of the unit.

Mr. Myers also certified that the maximum design capacity of each of the powerplants is 81,000 kilowatts and that the maximum generation that will be allowed during any 12-month period is the design capacity times 1,500 hours or 121,500,000 Kwh per unit.

Under the requirements of 10 CFR § 503.41(a)(2)(ii), if a petitioner proposes to use natural gas or to construct a powerplant to use natural gas in lieu of an alternate fuel as a primary energy source, the Administrator of the Environmental Protection Agency or the director of the appropriate state air pollution control agency must certify to ERA that the use by the powerplant of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within the region, of a pollutant for which any national air quality standard is or would be exceeded. However, since ERA has determined that there are no presently available alternate fuels which may be used in the proposed powerplant, no such certification can be made. The certification requirement is therefore waived with respect to Puget Sound's petition.

ERA retains the right to request additional relevant information from Puget Sound at any time during the pendency of these proceedings where circumstances or procedural requirements may require.

The public file, containing documents on these proceedings and supporting materials, is available for inspection upon request at: ERA, Room B-110, 2000 M Street, NW., Washington, D.C. 20461. Monday–Friday, 8:00 a.m.–4:30 p.m.

Issued in Washington, D.C. on October 2, 1980.

**Robert L. Davies,**

*Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.*

[FR Doc. 80-31377 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-01-M

## Notice of Entitlements Program Crude Oil Cost Data November 1978 Through July 1980

The Economic Regulatory Administration (ERA) hereby issues its bi-monthly notice of crude oil cost data. The purpose of this notice is to make available to the public information on the effect of the entitlements program on the crude oil costs of the various segments of the refining industry. Table I (attached) sets forth the pre-entitlements costs of crude oil to (1) the major refiners (Amoco, Arco, Chevron, Citgo, Conoco, Exxon, Getty, Gulf, Marathon, Mobil, Phillips, Shell, Sunoco, Texaco, and Union-Oil), (2) large independent refiners (Amerada Hess, Sohio, Ashland, Coastal, Toxco, Kerr-McGee, and Champlin), and (3) small refiners. Table II (attached) shows the post-entitlements crude oil cost distribution for the 22 major and large independent companies. Table III (attached) shows the pre-entitlements imported crude oil cost distribution for the same 22 companies. The data are based on the reports filed each month on the Form ERA-49 by all refiners in the entitlements program.

Issued in Washington, D.C. on October 1, 1980.

**Hazel R. Rollins,**

*Administrator, Economic Regulatory Administration.*

**FOR FURTHER INFORMATION CONTACT:**

David A. Welsh (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street, N.W., Room 6128, Washington, D.C. 20461, (202/653-3459).

William Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461. (202/653-4055).

**Table I.**—*Crude Oil Costs Before and After Entitlement Payments*

[Dollars per barrel]

| | Majors (top 15) [2] | | Large independents [3] | | Small refiners | |
|---|---|---|---|---|---|---|
| | Pre | Post [1] | Pre | Post [1] | Pre | Post [1] |
| 1978: | | | | | | |
| Nov | $12.51 | $12.91 | $13.26 | $12.95 | $13.07 | $12.23 |
| Dec | 12.68 | 13.06 | 13.78 | 13.25 | 13.22 | 12.43 |
| 1979: | | | | | | |
| Jan | 12.76 | 13.24 | 14.06 | 13.48 | 13.60 | 12.65 |
| Feb | 13.17 | 13.65 | 14.22 | 13.60 | 13.72 | 12.77 |
| Mar | 13.40 | 13.82 | 14.60 | 14.55 | 14.11 | 13.23 |
| Apr | 14.15 | 14.60 | 15.85 | 15.27 | 14.82 | 13.96 |
| May | 14.82 | 15.42 | 17.10 | 16.41 | 15.89 | 14.78 |
| Jun | 16.43 | 16.93 | 18.61 | 17.39 | 17.76 | 17.17 |
| Jul | 18.13 | 18.71 | 20.74 | 19.19 | 18.74 | 18.11 |
| Aug | 19.11 | 19.62 | 21.73 | 20.25 | 20.52 | 20.06 |
| Sep | 19.29 | 19.85 | 21.43 | 20.10 | 21.43 | 20.78 |
| Oct | 20.02 | 20.68 | 22.63 | 23.89 | 21.60 | 20.62 |
| Nov | 21.03 | 21.81 | 25.87 | 24.61 | 22.92 | 21.97 |
| Dec | 22.71 | 23.55 | 26.00 | 23.65 | 24.96 | 24.23 |
| 1980: | | | | | | |
| Jan | 23.96 | 24.90 | 26.19 | 25.15 | 26.81 | 24.62 |
| Feb | 25.22 | 26.13 | 28.60 | 26.15 | 27.32 | 26.51 |
| Mar | 26.85 | 26.88 | 29.23 | 26.87 | 28.69 | 27.34 |
| Apr | 26.16 | 27.02 | 29.41 | 27.96 | 28.90 | 27.22 |
| May | 26.96 | 26.00 | 29.33 | 29.22 | 29.89 | 27.04 |
| Jun | 27.80 | 26.86 | 31.51 | 30.41 | 30.56 | 27.99 |
| Jul | 28.06 | 26.95 | 29.71 | 29.73 | 30.37 | 27.80 |
| Change Jan. 1979 to Jul. 1980 | 15.55 | 16.04 | 16.45 | 16.78 | 17.30 | 15.57 |

[1] Post Entitlements payments costs show the effect of the entitlements payments in the month for which the notice is published even though the payments take place two months later. For example, November 1979 data are shown in the entitlement notice for November 1979 published in January 1980.

[2] (Amoco, Arco, Chevron, Citgo, Conoco, Exxon, Getty, Gulf, Marathon, Mobil, Phillips, Shell, Sunoco, Texaco and Union-Oil.)

[3] (Hess, Sohio, Ashland, Coastal, Tosco, Kerr, McGee & Champlin.)

**Table II.**—*Post Entitlement Crude Oil Cost Distribution for 22 Major and Large Independent Companies* [1]

| Number of companies with per barrel costs of | Nov 78 | Dec 78 | Jan 79 | Feb 79 | Mar 79 | Apr 79 | May 79 |
|---|---|---|---|---|---|---|---|
| $11.00 to $11.99 | 2 | 1 | 1 | 0 | 0 | 0 | 0 |
| 12.00 to 12.99 | 6 | 6 | 8 | 2 | 3 | 2 | 0 |
| 13.00 to 13.99 | 13 | 11 | 7 | 12 | 5 | 0 | 2 |
| 14.00 to 14.99 | 1 | 4 | 5 | 8 | 13 | 10 | 5 |
| 15.00 to 15.99 | 0 | 0 | 1 | 0 | 0 | 7 | 5 |
| 16.00 to 16.99 | 0 | 0 | 0 | 0 | 1 | 3 | 6 |
| 17.00 to 17.99 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| 18.00 to 18.99 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| 19.00 to 19.99 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| 20.00 to 20.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 21.00 to 21.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 22.00 to 22.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 23.00 to 23.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 24.00 to 24.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 25.00 to 25.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 26.00 to 26.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 27.00 to 27.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 28.00 to 28.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 29.00 to 29.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 30.00 to 30.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

**Table II.**—*Post Entitlement Crude Oil Cost Distribution for 22 Major and Large Independent Companies* [1]— Continued

| Number of companies with per barrel costs of | Jun 79 | Jul 79 | Aug 79 | Sep 79 | Oct 79 | Nov 79 | Dec 79 | Jan 80 |
|---|---|---|---|---|---|---|---|---|
| $11.00 to $11.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 12.00 to 12.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 13.00 to 13.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 14.00 to 14.99 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 15.00 to 15.99 | 3 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 16.00 to 16.99 | 4 | 0 | 1 | 2 | 1 | 0 | 0 | 0 |
| 17.00 to 17.99 | 5 | 4 | 2 | 1 | 1 | 0 | 0 | 0 |
| 18.00 to 18.99 | 6 | 5 | 5 | 1 | 1 | 1 | 0 | 0 |
| 19.00 to 19.99 | 0 | 4 | 2 | 4 | 3 | 1 | 1 | 0 |
| 20.00 to 20.99 | 2 | 6 | 7 | 6 | 1 | 2 | 1 | 0 |
| 21.00 to 21.99 | 0 | 0 | 1 | 3 | 7 | 3 | 4 | 2 |
| 22.00 to 22.99 | 0 | 0 | 3 | 3 | 3 | 5 | 3 | 3 |
| 23.00 to 23.99 | 0 | 2 | 0 | 1 | 2 | 6 | 2 | 1 |
| 24.00 to 24.99 | 0 | 0 | 1 | 1 | 2 | 3 | 5 | 1 |
| 25.00 to 25.99 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 4 |
| 26.00 to 26.99 | 0 | 0 | 0 | 0 | 1 | 0 | 2 | 5 |
| 27.00 to 27.99 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 2 |
| 28.00 to 28.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 4 |
| 29.00 to 29.99 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 0 |
| 30.00 to 30.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| Number of companies with per barrel costs of | Feb 80 | Mar 80 | Apr 80 | May 80 | Jun 80 | Jul 80 |
|---|---|---|---|---|---|---|
| $11.00 to $11.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 12.00 to 12.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 13.00 to 13.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 14.00 to 14.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 15.00 to 15.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 16.00 to 16.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 17.00 to 17.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 18.00 to 18.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 19.00 to 19.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 20.00 to 20.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 21.00 to 21.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 22.00 to 22.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 23.00 to 23.99 | 4 | 1 | 1 | 0 | 0 | 0 |
| 24.00 to 24.99 | 3 | 3 | 2 | 2 | 0 | 1 |
| 25.00 to 25.99 | 4 | 5 | 5 | 0 | 2 | 1 |
| 26.00 to 26.99 | 1 | 1 | 2 | 3 | 1 | 0 |
| 27.00 to 27.99 | 4 | 2 | 1 | 4 | 2 | 3 |
| 28.00 to 28.99 | 1 | 1 | 3 | 2 | 2 | 5 |
| 29.00 to 29.99 | 3 | 6 | 2 | 5 | 4 | 1 |
| 30.00 to 30.99 | 1 | 3 | 2 | 5 | 7 | 6 |
| 31.00 to 31.99 | 0 | 0 | 3 | 0 | 3 | 4 |
| 32.00 to 32.99 | 1 | 0 | 0 | 1 | 1 | 1 |
| 33.00 to 33.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 34.00 to 34.99 | 0 | 0 | 1 | 0 | 0 | 0 |

**Table III.**—*Preentitlement Imported Crude Oil Cost Distribution for 22 Major and Large Independent Companies* [1]

| Number of companies with per barrel crude oil cost of | Nov 78 | Dec 78 | Jan 79 | Feb 79 | Mar 79 | Apr 79 | May 79 |
|---|---|---|---|---|---|---|---|
| $13.00 to $13.99 | 4 | 1 | 0 | 0 | 0 | 0 | 0 |
| 14.00 to 14.99 | 10 | 10 | 5 | 2 | 2 | 0 | 0 |
| 15.00 to 15.99 | 7 | 9 | 7 | 10 | 3 | 1 | 0 |
| 16.00 to 16.99 | 1 | 1 | 8 | 6 | 11 | 8 | 2 |
| 17.00 to 17.99 | 0 | 1 | 0 | 2 | 3 | 2 | 6 |
| 18.00 to 18.99 | 0 | 0 | 1 | 1 | 2 | 3 | 3 |
| 19.00 to 19.99 | 0 | 0 | 0 | 0 | 1 | 5 | 5 |
| 20.00 to 20.99 | 0 | 0 | 0 | 1 | 0 | 2 | 2 |
| 21.00 to 21.99 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| 22.00 to 22.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 23.00 to 23.99 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| 24.00 to 24.99 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| 25.00 to 25.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 26.00 to 26.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 27.00 to 27.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 28.00 to 28.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 29.00 to 29.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 30.00 to 30.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 31.00 to 31.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 32.00 to 32.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

**Table III.**—*Preentitlement Imported Crude Oil Cost Distribution for 22 Major and Large Independent Companies*[1]—*Continued*

| Number of companies with per barrel crude oil cost of | Nov 78 | Dec 78 | Jan 79 | Feb 79 | Mar 79 | Apr 79 | May 79 |
|---|---|---|---|---|---|---|---|
| 33.00 to 33.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 34.00 to 34.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 35.00 to 35.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 36.00 to 36.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 37.00 to 37.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 38.00 to 38.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| Number of companies with per barrel costs of | Jun 79 | Jul 79 | Aug 79 | Sep 79 | Oct 79 | Nov 79 | Dec 79 | Jan 80 |
|---|---|---|---|---|---|---|---|---|
| $13.00 to $13.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 14.00 to 14.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 15.00 to 15.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 16.00 to 16.99 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 17.00 to 17.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 18.00 to 18.99 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 |
| 19.00 to 19.99 | 5 | 0 | 1 | 0 | 0 | 0 | 0 | 0 |
| 20.00 to 20.99 | 1 | 2 | 2 | 2 | 1 | 1 | 0 | 0 |
| 21.00 to 21.99 | 2 | 3 | 2 | 0 | 1 | 0 | 0 | 0 |
| 22.00 to 22.99 | 4 | 4 | 3 | 1 | 4 | 1 | 0 | 0 |
| 23.00 to 23.99 | 1 | 3 | 1 | 5 | 2 | 1 | 1 | 0 |
| 24.00 to 24.99 | 3 | 3 | 4 | 3 | 1 | 2 | 3 | 1 |
| 25.00 to 25.99 | 0 | 1 | 3 | 4 | 0 | 3 | 1 | 0 |
| 26.00 to 26.99 | 1 | 2 | 3 | 2 | 6 | 2 | 2 | 2 |
| 27.00 to 27.99 | 0 | 0 | 1 | 1 | 2 | 4 | 1 | 1 |
| 28.00 to 28.99 | 0 | 2 | 1 | 2 | 2 | 4 | 4 | 3 |
| 29.00 to 29.99 | 0 | 0 | 0 | 2 | 1 | 0 | 2 | 1 |
| 30.00 to 30.99 | 0 | 0 | 0 | 0 | 0 | 1 | 4 | 2 |
| 31.00 to 31.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 |
| 32.00 to 32.99 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 |
| 33.00 to 33.99 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 |
| 34.00 to 34.99 | 0 | 0 | 0 | 0 | 0 | 2 | 2 | 3 |
| 35.00 to 35.99 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 3 |
| 36.00 to 36.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 37.00 to 37.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| 38.00 to 38.99 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |

| Number of companies with per barrel costs of | Feb 80 | Mar 80 | Apr 80[2] | May 80 | Jun 80 | Jul 80 |
|---|---|---|---|---|---|---|
| $13.00 to $13.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 14.00 to 14.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 15.00 to 15.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 16.00 to 16.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 17.00 to 17.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 18.00 to 18.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 19.00 to 19.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 20.00 to 20.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 21.00 to 21.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 22.00 to 22.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 23.00 to 23.99 | 0 | 0 | 0 | 0 | 0 | 1 |
| 24.00 to 24.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 25.00 to 25.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 26.00 to 26.99 | 0 | 0 | 0 | 0 | 0 | 0 |
| 27.00 to 27.99 | 1 | 0 | 0 | 0 | 0 | 0 |
| 28.00 to 28.99 | 1 | 1 | 0 | 0 | 0 | 0 |
| 29.00 to 29.99 | 3 | 3 | 3 | 0 | 2 | 1 |
| 30.00 to 30.99 | 0 | 0 | 1 | 2 | 0 | 0 |
| 31.00 to 31.99 | 2 | 1 | 0 | 4 | 1 | 2 |
| 32.00 to 32.99 | 2 | 1 | 1 | 1 | 1 | 1 |
| 33.00 to 33.99 | 5 | 1 | 2 | 0 | 2 | 2 |
| 34.00 to 34.99 | 1 | 5 | 3 | 2 | 3 | 1 |
| 35.00 to 35.99 | 0 | 3 | 2 | 1 | 3 | 4 |
| 36.00 to 36.99 | 4 | 2 | 3 | 6 | 1 | 0 |
| 37.00 to 37.99 | 0 | 3 | 4 | 3 | 7 | 5 |
| 38.00 to 38.99 | 1 | 0 | 2 | 2 | 2 | 3 |
| 39.00 to 39.99 | 2 | 2 | 0 | 0 | 0 | 1 |
| 40.00 to 40.99 | 0 | 0 | 0 | 1 | 0 | 0 |
| 41.00 to 41.99 | 0 | 0 | 1 | 0 | 0 | 1 |

[1] (Amoco, Arco, Chevron, Citgo, Conoco, Exxon, Getty, Gulf, Marathon, Mobil, Phillips, Shell, Sunoco, Texaco, Union-Oil, Hess, Sohio, Ashland, Coastal, Tosco, Kerr-McGee & Champlin.)

[2] This column contains corrected data for April 1980.

[FR Doc. 80-31234 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-01-M

## Office of Energy Research

### Geothermal Panel of the Energy Research Advisory Board; Open Meeting

Notice is hereby given of the following meeting:

Name: Geothermal Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770).

Date and Time: October 28, 1980—9:30 a.m. to 3:30 p.m.

Place: Electric Power Research Institute, Building I, 3412 Hillview Avenue, Palo Alto, California.

Contact: Eudora M. Taylor, Staff Assistant, Energy Research Advisory Board, Department of Energy, Forrestal Building, MS 3F–032, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: 202/252–8933.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda:

Status of DOE Market Penetration.

Analysis for Electric and Direct Heat Applications of Geothermal Energy.

Overview of FY 1981 Geothermal Budget.

Discussion of Need for New Exploratory Technology.

Discussion of Issues to be Addressed by Panel.

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 5B–180, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:00 a.m. and 4:00 p.m. Monday through Friday, except Federal Holidays.

Issued at Washington, D.C. on October 6, 1980.

**Edward A. Frieman,**

*Director of Energy Research.*

[FR Doc. 80–31483 Filed 10–8–80; 8:45 am]

BILLING CODE 6450–01–M

## Federal Energy Regulatory Commission

**[Docket No. RA80–123]**

### Big Country Exxon; Filing of Petition for Review Under 42 U.S.C. 7194

October 2, 1980.

Take notice that Big Country Exxon on September 23, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before October 17, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before October 17, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H–025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 80–31402 Filed 10–8–80; 8:45 am]

BILLING CODE 6450–85–M

**[Docket No. RP80–122]**

### City Council and Citizens of Erie, Pa.; Petition for Declaratory Order

October 1, 1980.

Take notice, that on July 2, 1980, the City Council and Citizens of Erie, Pennsylvania (the Erie Council), 601 State Street, Erie, Pennsylvania 16501, pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure filed in Docket No. RP80–122 a petition for a declaratory order.[1] The Erie Council seeks, *inter alia*, a declaration regarding the jurisdictionality of certain sales of synthetic natural gas purchased by National Fuel Gas Distribution Corporation (Distribution) from Ashland Oil, Inc.

In addition to the request for a declaratory order, the Erie Council has requested an investigation regarding proposed rate increases by National Fuel Gas Supply Corp. (Supply) and Distribution and whether the Commission should revoke Supply's certificates of public convenience and necessity, a refund of charges paid by Pennsylvania ratepayers to Distribution, a determination as to whether certain costs are properly included in the rate base of Distribution and a suspension of Supply's and Distribution's applications for rate increases pending before the Commission and the Pennsylvania Public Utilities Commission.

Any person desiring to be heard or to make any protest with reference to said petition should, on or before October 31, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be

[1] The Erie Council's petition is styled "Petition for Intervention, Declaratory Judgement and Investigation by the Federal Regulatory [sic] Commission."

taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 80-31403 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

---

**[Docket No. TA81-1-43]**

## Cities Service Gas Co.; Proposed Changes in FERC Gas Tariff

October 2, 1980.

Take notice that Cities Service Gas Company (Cities Service) on September 24, 1980, tendered for filing Eighth Revised Sheet No. 6 and Second Revised Sheet Nos. 6A and 6B to its FERC Gas Tariff, Original Volume No. 1. Cities Service States that pursuant to the Purchased Gas Adjustment in Article 21 and the Incremental Pricing Provision in Article 24 of its FERC Gas Tariff, it proposes to increase its rates effective October 23, 1980, to reflect an increase in the Cumulative Rate Adjustment due to increases in Cities Service's natural gas supplier rates and a reduction in the Surcharge Adjustment to amortize the Deferred Purchased Gas Cost Account balance.

Cities Service states that there will be no reduction in Gas Acquisition Costs due to Estimated Incremental Pricing Surcharges for the period.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket No. RP79-76.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N. E., Washington, D.C. 20426, in accordance with Sections 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All such petitions or protests should be filed on or before October 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 80-31392 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

---

**[Docket No. RP80-140]**

## Columbia Gas Transmission Corp.; Petition for Declaratory Order or Waiver of Commission Regulations

October 2, 1980.

Take notice that Columbia Gas Transmission Corporation (Columbia), on September 4, 1980, tendered for filing a petition for a declaratory order that its costs of gas purchased from producers in Canada and imported pursuant to authorizations granted under Section 3 of the Natural Gas Act can be included in its purchase gas adjustment (PGA) provisions contained in Section 20 of the General Terms and Conditions of Columbia's FERC Gas Tariff, Original Volume No. 1.

Columbia states that it has filed applications with the Commission and the Economic Regulation Administration to import certain volumes of natural gas from Canada. Columbia further states that in its application to the Commission it did not request PGA treatment of Canadian gas purchases because it believes the Commission's PGA Regulations make it unnecessary to obtain prior Commission's approval for PGA treatment of such purchases. However, Columbia states that it seeks a declaratory order because of what it states in uncertainty caused by certain language of *Transcontinental Gas Pipe Line Corporation*, Docket Nos. CP79-242, *et al.*, issued July 18, 1980.

As an alternative to a declaratory order, Columbia requests prior Commission approval and a waiver of the Regulations to permit inclusion of the cost of Canadian gas purchases in its PGA provisions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 1, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 80-31404 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

---

**[Docket No. RP80-144]**

## Commercial Pipeline Co., Inc.; Proposed Changes in FPC Gas Tariff

October 2, 1980.

Take notice that Commercial Pipeline Company, Inc. (Commercial), on September 23, 1980, tendered for filing proposed changes in its Federal Energy Regulatory Commission Gas Tariff, First Revised Volume No. 1 to be effective October 23, 1980. The proposed changes would increase revenues from jurisdictional sales and service by $23,503 based on the 12-month period ending May 31, 1980, as adjusted exclusive of the cost of gas sold.

Commercial states that the principal reasons for its proposed rate increase are: (1) an increase in its cost of purchased gas; (2) increases in its cost of materials and supplies; (3) increased operation and maintenance costs upon its transmission system; and (4) the need to increase revenues to provide for an adequate rate of return.

Copies of the filing were served upon Commercial's jurisdictional customers as well as the Kansas Corporation Commission and the Missouri Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions of protests should be filed before October 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 80-31405 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3368]

## Continental Hydro Corp.; Application for Preliminary Permit

October 2, 1980.

Take notice that Continental Hydro Corporation (Applicant) filed on August 25, 1980, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)) for proposed Project No. 3368 to be known as the Lavon Project located on the East Fork of the Trinity River in the Town of Lavon, Collin County, Texas. Correspondence with the Applicant should be directed to: Mr. A. Gail Staker, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109.

*Project Description*—The proposed project would utilize the existing U.S. Army Corps of Engineers' Lavon Dam and Reservoir and would consist of a powerhouse with one or more generating units having a total rated capacity of 1.8 MW, and a 2-mile long transmission line. The project would be capable of generating up to 7,200,000 kWh annually saving the equivalent of 11,800 barrels of oil or 3,300 tons of coal.

*Purpose of Project.*—Energy generated at the project would likely be sold to Texas Power and Light Company for distribution to it's customers.

*Proposed Scope and Cost of Studies under Permit*—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $45,000.

*Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

*Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have not comments.

*Competing Application*—Anyone desiring to file a competing application must submit to the Commission, on or before *December 4, 1980*, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 2, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), *as amended* 44 *FR* 61328, (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), *as amended*, 4 *FR* 61328 (October 25, 1979).

*Comments, Protests, or Petitions to Intervene*—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 4, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 80-31393 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

---

[Project No. 3396]

## Continental Hydro Corp.; Application for Preliminary Permit

October 2, 1980

Take notice that Continental Hydro Corporation (Applicant) filed on August 27, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for proposed Project No. 3396 to be known as Pleasant Hill Lake Hydroelectric Project located on the Clear Fork River in Ashland County, Ohio. Correspondence with the Applicant should be directed to: Mr. A. Gail Staker, President, Continental Hyrdo Corporation, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109.

*Project Description*—The proposed project would utilize the Army Corps of Engineers' Pleasant Hill Lake Dam and would consist of: (1) a penstock about 250 feet long; (2) a powerhouse with installed capacity of 700 kW; (3) a tailrace; (4) a transmission line of undertermined voltage connecting to Ohio Edison Company's 138-kV line within 10 miles of the project site; and (6) other appurtenances. Applicant estimates the annual generation would average about 2.9 million kWh.

*Purpose of Project*—Project energy would be sold to Ohio Edison Company.

*Proposed Scope and Cost of Studies under Permit*—Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would perform hydraulic, construction, economic, environmental, historic, and recreational studies, and if the proposed project is determined feasible, prepare an application for FERC license. Applicant estimates cost of studies under the permit would not exceed $18,000.

*Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

*Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

*Competing Applications*—Anyone desiring to file a competing application must submit to the Commission, on or before December 4, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than February 2, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (*as amended* 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (*as amended*, 44 FR 61328, October 25, 1979).

*Comments, Protests, or Petitions to Intervene*—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requiements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be sumitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before December 4, 1980. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

**Lois D. Cashell**

*Acting Secretary.*

[FR Doc. 80-31406 Filed 10-6-80; 8:45 am]

BILLING CODE 6450-85-M

---

**[Docket No. ER80-363]**

## Delmarva Power & Light Co.; Electric Rates, Reconsideration, Denial of Stay

Issued October 1, 1980.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, Matthew Holden, Jr., George R. Hall and J. David Hughes

Before the Commission is a "Motion for Stay and for Emergency Expedited Consideration" of Delmarva Power & Light Company ("Delmarva" or the "Company") requesting a stay of the Commission's orders in this docket issued on June 30 and August 22, 1980. These orders, respectively, suspended "phased" rate filings made by Delmarva and denied rehearing of the suspensions. By motion filed on September 12, 1980, Delmarva requests a stay of the orders. Answers in opposition to the requested stay were filed on September 22, 1980 by Delmarva's municipal customers and on September 25, 1980, by the cooperative customers.

### Delmarva's Pleading

Delmarva contends that its filing of April 30, 1980, requested an effective date of July 1, 1980 for two sets of rates, or a "phased" rate increase. However, Delmarva also asked that such rates actually become effective upon the in-service dates of the two new generating units, Indian River #4 and Salem #2, upon which the new rates are based. In addition, the Company requested waiver of the notice requirements of Section 35.3 of the regulations to permit the proposed rates to become effective more than 120 days after the date of filing. The Commission determined that the proposed effective dates of the rates were the dates on which the rates were actually proposed to become effective, and suspended the rates from the dates "they would otherwise become effective,"[1] *i.e.*, from the in-service dates of Indian River #4 and Salem #2.[2]

Delmarva argues that its rate increases must be considered as a "package" and therefore subject to only one suspension for both rate increases, which suspension must run from July 1, 1980, regardless of the actual proposed effective dates of the "phased" rate increases.[3] We find no merit in Delmarva's attempt to thus circumscribe the Commission's suspension powers, but, for the reasons discussed below, we shall grant reconsideration of our prior orders in part.

### Discussion

Delmarva argues that the "proposed effective date" of its "phase I" rate filing is not the date that the rate is actually proposed to become effective, but a date three or so months before, *viz.*, July 1, 1980. This argument is based on the fact that a prior settlement between Delmarva and its wholesale customers includes a moratorium provision preventing any rate from going into efect prior to September 1, 1980, but specifically reserving to Delmarva the right to file a rate prior to that time.[4] The Commission has in the past interpreted such provisions as permissible bargains between customer and wholesale supplier regarding the length of a possible suspension of a future rate increase.[5] For this reason, we shall interpret Delmarva's apparent request for more than one "effective date" as relating to the moratorium provision of the prior settlement agreement. That provision permits the utility to file at any time pursuant to the Federal Power Act as long as the rates do not become effective prior to September 1, 1980. Thus the parties appear to have agreed that Delmarva can file in advance of the September 1, 1980 date in order to permit any possible suspension of the rate increase to occur prior to the settlement effective date. In order to achieve this negotiated result, it is possible to have a "proposed effective date" of the "phase I" rates, for purposes of suspension, that is different from the settlement effective date. Since the customers whom the suspension period was designed to protect appear to have thus agreed to permit a filing prior to the effective date stipulated in the moratorium, we shall accept July 1, 1980 as the "proposed effective date" for purposes of suspension of the "phase I" rate increase.[6]

However, since the rate increase in "phase I" is premised on the increased costs associated with the Indian River #4 unit, which will not be in-service until several months after July 1, 1980, the earlier proposed effective date results in a preliminary finding of more excessive rates than was the case when the increased rates were tied to the expected in-service date of the plant.

As was the Commission's approach to suspensions at the time the Commission issued the subject suspension order, the advisory technical staff reviewed Delmarva's filing and determined the percentage of the proposed increased revenues that would be found excessive under this preliminary analysis, based on an effective date tied to the expected in-service date of the plant. The Commission then suspended the rate in accordance with guidelines consistently applied, in the absence of extraordinary

---

[1] Section 205(e) of Act.

[2] "Order Clarifying Prior Order and Denying Rehearing," issued August 22, 1980.

[3] "Delmarva's Motion for Stay and for Emergency Expedited Consideration," filed September 12, 1980.

[4] Article 4.1 of the Settlement filed in Docket No. ER78-414 between Delmarva and its municipal customers provides: "Delmarva agrees that rates in excess of the settlement rates will not be filed by Delmarva to become effective prior to September 1, 1980. This provision shall be interpreted to affect the effective date only and shall not preclude Delmarva from tendering for filing with the FERC proposed Tariff changes at any time.

[5] *See, Georgia Power Company*, Docket Nos. ER80-327 and ER80-328.

[6] While Delmarva's customers have objected to the company's request for stay, their objections appear to be based on their interpretation of the effective date requested by Delmarva rather than on the terms of the prior settlement.

circumstances, to all suspended electric rate filings. These guidelines relate the length of the suspension to the percentage of a rate increase that would be found excessive under the preliminary analysis described above. In Delmarva's case, our preliminary analysis indicated that such revenues constituted approximately 25 percent of the rate increase, and on this basis a three-month suspension should be ordered. However, if the proposed effective date is not July 1, 1980, the preliminary analysis indicates that over 50 percent of the revenues are excessive.[7] We shall therefore suspend the rates for the maximum period, to become effective subject to refund on December 1, 1980, consistent with our suspension policy at the time of our original suspension order.

We find, however that the moratorium provision in the prior settlement cannot be read to sanction the premature filing of increased rates associated with the Salem #2 unit which may be in-service in late 1980 or early 1981. Delmarva proposes the same "effective" date (July 1, 1980) for two different rates, neither of which is actually to become effective on that date, and argues that both must be suspended concurrently from July 1, 1980. We do not believe that the Commission's suspension powers regarding increased rates under the Federal Power Act are subject to circumvention by the filing of "packaged" or "phased" rates which provide for escalations at a predetermined time but would require that the suspension periods of more than one rate increase would run concurrently. The Commission granted a waiver of its notice requirements to permit Delmarva to make its "phased" second filing more than 120 days prior to its effective date. We shall reaffirm our prior order insofar as it accepts the in-service date of Salem #2 as the "proposed effective date" of the Phase II rate increase, and reaffirm our five-month suspension of that rate from the in-service date of Salem #2. We note that any failure of Delmarva to collect its new rates as of the in-service date of its new plants because of the suspension arises from the fact that such rates appear to be highly excessive from Staff's preliminary analysis—and therefore the maximum suspension is warranted.

**The Commission Orders**

(A) Reconsideration of our orders in this docket issued June 30, 1980 and August 22, 1980 is hereby granted to permit a proposed effective date of July 1, 1980, for Delmarva's "Phase I" rate increase, and to suspend that rate for five months, to become effective December 1, 1980, subject to refund. In all other respects, reconsideration is hereby denied.

(B) Delmarva's motion for stay is hereby denied.

(C) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 80-31408 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

[7] This result occurs because it does not appear appropriate to annualize the costs of Indian River #4, as Delmarva has done in its Period II cost of service, for purposes of preliminary review where the proposed effective date is different from the in-service date of a new unit. In the circumstances of this filing and the July 1 effective date, we believe the preliminary analysis for phase I suspension evaluation purposes should be based on a cost of service which includes Indian River No. 4 only for that part of the test period during which it was estimated to be operational (i.e., September-December 1980). On this basis our preliminary finding of excess revenues is about 54 percent, in lieu of the Commission's originally estimated excess of 24 percent resulting from an annualized analysis based on a proposed effective date which coincided with the in-service date of the unit.

---

[Docket No. ID-1831]

## Peter J. DeMaria; Notice of Filing

October 2, 1980.

Take notice that on August 28, 1980, Peter J. De Maria submitted an application, pursuant to Section 305(b) of the Federal Power Act, to hold the following positions:

Treasurer, Appalachian Power Company, Public Utility
Treasurer, Beech Bottom Power Company, Public Utility
Treasurer, Cardinal Operating Company, Public Utility
Principal Accounting Officer, Columbus & Southern Ohio Electirc Company, Public Utility
Treasurer, Indiana & Michigan Electric Company, Public Utility
Treasurer, Kanawha Valley Power Company, Public Utility
Treasurer, Kentucky Power Company, Public Utility
Treasurer, Kingsport Power Company, Public Utility
Treasurer, Michigan Power Company, Public Utility
Treasurer & Director, Ohio Power Company, Public Utility
Treasurer, Wheeling Electirc Company, Public Utility

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before October 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 80-31407 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

---

[Docket No. CP70-19]

## Great Lakes Gas Transmission; Petition To Amend

October 2, 1980.

Take notice that on October 1, 1980, Great Lakes Gas Transmission Company (Petitioner), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP70-19 a petition pursuant to Section 7(c) of the Natural Gas Act to amend the certificate of public convenience and necessity issued to Petitioner on April 30, 1970, as amended, in the referenced matter, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner requests an amendment to its certificate so as to authorize the reduction in the contract quantity for gas sales to Inter-City Gas Corporation (Inter-City) by 8,000 Mcf per Day and correspondingly to increase the contract quantity for gas sales to Natural Gas Pipeline Company of America (Natural) by 4,000 Mcf per day and to Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) by 4,000 Mcf per day. In addition, Great Lakes requests the Commission to permit it to sell for a period of 12 months under the terms and conditions outlined in the Petition, additional volumes to Inter-City which would allow Inter-City to make-up for the volumes for which Inter-City paid but did not take during the months of June, July and August, 1980.

Petitioner states that the amendment requested herein will provide immediate relief to Inter-City without adversely impacting Petitioner's other customers, and that no new facilities are required and no new volumes of natural gas

would be imported from Canada in order to perform pursuant to the amendment requested herein.

Petitioner further requests that the Commission issue the requested amendment by November 1, 1980, and that the Commission issue temporary authorization before such date if the Commission cannot issue a permanent certificate by November 1, 1980.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 14, 1980, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The expedited comment period set above is authorized in recognition of Great Lakes' assertion that it has served copies of this filing on parties of record in Docket Nos. RP79–10 and RP80–134.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 80-31394 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

**[Docket No. ER80-793]**

## Kansas Gas & Electric Co.; Proposed Tariff Change

October 2, 1980.

The filing Company submits the following:

Take notice that Kansas Gas and Electric Company on September 24, 1980 tendered for filing proposed changes in its FERC Electric Service Tariff No. 126.

Kansas Gas and Electric Company states that the filing is Partial Requirements Service which provides electric power and accompanying energy to be supplied to the City of Burlington, Kansas in the form of firm, emergency and economy power service.

This filing is necessary because the present contract between the Company and the City terminates on December 1, 1980 and both parties desire to continue essentially the same relationship in the future. This filing constitutes a vehicle whereby continuity of service can be maintained.

Copies of the filing were served upon the City of Burlington, Kansas and the Utilities Division of the Kansas Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with paragraph 1.8 and 1.10 of the Commission's Rules and Practice of Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 80-31395 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

**[Docket No. ER80-796]**

## Kansas Gas & Electric Co.; Notice of Cancellation

October 2, 1980.

The filing Company submits the following:

Take notice that Kansas Gas and Electric Company (KGE) on September 25, 1980, tendered for filing a Notice of Cancellation of Service Schedule F dated July 24, 1980, Supplement to Rate Schedule FERC No. 101 between Kansas Gas and Electric Company and Western Power Division of Central Telephone & Utilities Corporation (WPD). KGE indicates that this cancellation is to be effective as of August 31, 1980.

Kansas Gas and Electric Company states that the electric power and energy is no longer required by WPD and KGE will retain and use the service in its service territory.

Copies of the filing were served upon WPD and the Utilities Division of the Kansas Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are filed with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 80-31396 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

**[Docket No. TC80-93]**

## Mid Louisiana Gas Co.; Supplemental Notice of Tariff Filing

October 1, 1980.

Take notice that on September 23, 1980, Mid Louisiana Gas Company (Mid Louisiana), 21st Floor Lykes Center, 300 Poydras Street, New Orleans, Louisiana 70130, filed in Docket No. TC80–93 substitute sheets as part of its FERC Gas Tariff, First Revised Volume No. 1 to implement changes in its plans for the curtailment of deliveries of natural gas, all as more fully set forth in such sheets which are on file with the Commission and open to public inspection.

Applicant submits the following tariff sheets to revise certain tariff sheets previously filed and currently pending in the above-referenced Docket.

Substitute Fourth Revised Sheet No. 23; superseding, Third Revised Sheet No. 23
Substitute Third Revised Sheet No. 23a; superseding, Second Revised Sheet No. 23a
Substitute Third Revised Sheet No. 23b; superseding, Second Revised Sheet No. 23b
Substitute Third Revised Sheet No. 23c; superseding, Second Revised Sheet No. 23c

Substitute Fourth Revised Sheet No. 23d; superseding, Third Revised Sheet No. 23d
Substitute Third Revised Sheet No. 23e; superseding, Second Revised Sheet No. 23e
Substitute Fourth Revised Sheet No. 23i; superseding, Third Revised Sheet No. 23i
Substitute Second Revised Sheet No. 23j; superseding, Third Revised Sheet No. 23j

In making the instant filing, Mid Louisiana states that the revised sheets would make the following change in Section 13.

Section 13.3, "Curtailment Procedure", has been revised in order to clearly set forth that, in the event Mid Louisiana has a shortage of gas in its system all deliveries to Interruptible Service shall be interrupted in full before any reduction is made in daily deliveries to any Buyer of its requirements up to such Buyer's daily contract volume for other than Interruptible Service as specified in the Service Agreement or Direct Sales Contract between Buyer and Seller.

Mid Louisiana requests that the revised tariff sheets be substituted for those previously filed and be accepted for filing to become effective November 1, 1980.

Any person desiring to be heard or to make protest with reference to said filing should on or before October 10, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 80-31409 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

---

**[Docket No. ER80-789]**

## The Montana Power Co.; Agreement for Sale of Firm Energy

October 2, 1980.

Take notice that The Montana Power Company ("Montana") on September 23, 1980, tendered for filing in accordance with Section 35 of the Commission's Regulations, a Letter Agreement dated January 11, 1980, between Montana and Portland General Electric ("Portland") providing for the sale and exchange of firm energy and capacity. Montana on September 23, 1980 tendered for filing in accordance with Section 35 of the Commission's Regulations a Letter Agreement dated January 11, 1980.

Montana states that under the terms of this Letter Agreement, it will make available to Portland firm energy and capacity during September and October of 1979, and that Portland will make varying amounts of firm energy and capacity available to Montana at Montana's request according to the attached Appendix 1.

An effective date of September 12, 1979, is proposed and waiver of the Commission's notice requirements is therefore requested.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 80-31397 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

---

**[Docket No. ER80-797]**

## New England Power Co.; Notice of Filing

October 2, 1980.

The filing Company submits the following:

Take notice that New England Power Company (NEP) on September 25, 1980 tendered for filing its FERC Electric Tariff, Original Volume No. 3, a transmission services tariff. The proposed effective date is November 25, 1980.

NEP states that the proposed tariff will ease the administrative burden of preparing special contracts regarding the transmission of power to a multitude of parties.

NEP states further that the proposed rates used to provide the non-PTF portion of this service were arrived at through settlement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 24, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 80-31398 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

---

**[Project No. 1061]**

## Pacific Gas & Electric Co. Application for a New License

October 2, 1980.

Take notice that on December 26, 1979, the Pacific Gas and Electric Company of San Francisco, California, (Applicant), filed an application with the Federal Energy Regulatory Commission, under the Federal Power Act, 16 U.S.C. 791a–825r, for new major license for the constructed Phoenix Project No. 1061, located on the South Fork Stanislaus River, in the County of Tuolumne, California. The existing license for this project will expire on December 10, 1980. Correspondence with the Applicant should be directed to: Mr. W. M. Gallavan, Vice President, Rates and Valuation, 77 Beale Street, San Francisco, California 94106. There are 27.59 acres of United States Lands within the Stanislaus National Forest within the project boundary.

The Phoenix project consists of: (1) Lyons Reservoir with a gross storage capacity of 6,228 acre-feet and a surface area of 184 acres at elevation 4,226.6 feet; (2) Lyons Dam, a concrete arch structure with a crest length of 535 feet, a maximum height of 132 feet, and an integral spillway consisting of a 284-foot long overflow section surmounted by 4-foot flashboards and a gated section with 20-foot wide by 10-foot high radial gates; (3) a 20-foot high concrete arch division dam located approximately 80 feet downstream of Lyons Dam; (4) the Main Tuolumne Canal with a rated capacity of 52 cfs and a length of 15.39 miles; (6) a steel penstock, about 5,611 feet long, with diameters that vary from 30 to 16 inches extending from a header box on the canal; (7) a powerhouse containing one generating unit with a

rated capacity of 1.8 MW; and (8) a switchyard adjacent to the powerhouse.

Applicant currently leases Lyons Lake Resort, on the south shore of Lyons Reservoir, which provides: 29 units of overnight camping, boat rentals, a coffee shop, and day use parking. Applicant's long range plans call for, among other acitons, a reduction in the overnight units to protect water quality, watershed soils, the visual environment, and recreational user satisfaction.

The project currently pays about $28,719 annually in tax revenue to local, state, and federal governments.

Licensee plans to utilize the full output of the project to serve loads in its service area.

*Competing Applications*—Anyone desiring to file a competing application must submit to the Commission, on or before *November 12, 1980*, either the competing application istelf or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *March 12, 1981*. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), *as amended*, 44 FR 61328 (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d), *as amended*, 44 FR 61328 (October 25, 1979).

*Comments, Protests, or Petitions to Intervene*—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before *November 12, 1980*. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

**Lois D. Cashell**

*Acting Secretary.*

[FR Doc. 80-31411 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

---

[Docket No. RA80-105]

## Rick's Green Trails Texaco Service; Filing of Petition for Review Under 42 U.S.C. 7194

October 2, 1980.

Take notice that Rick's Green Trails Texaco Service on September 2, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before October 17, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before October 17, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE., Washington, D.C. 20426.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 80-31399 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

---

[Docket No. TA81-1-17]

## Texas Eastern Transmission Corp.; Pipeline Rates; Order Accepting for Filing and Suspending Tariff Sheets

Issued: September 30, 1980.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, Matthew Holden, Jr., George R. Hall and J. David Hughes.

On August 29, 1980, Texas Eastern Transmission Corporation (Texas Eastern) filed revised tariff sheets [1] containing rate reductions due to repayments of certain advance payments pursuant to Article VI of the Stipulation and Agreement in Docket No. RP78-87 (approved on April 4, 1980). Specifically, the rate reductions are (1) a 0.11¢/Dth reduction in the commodity charge for Rate Schedules DCQ, GS, SGS, E, I and WS as well as an 0.11¢/Dth reduction in the interim charge for Rate Schedules DCQ and GS and the excess charge for the WS schedule; (2) a 0.10¢/Dth reduction in the commodity charge and minimum bill provisions of the ACQ schedule as well as a 0.10¢ per Dth reduction in the SS Schedule's "purchase in lieu of return charge" and "excess (with gas charge"); and (3) a 1¢/Dth reduction in the over-run charge of the WS-D schedule.

Certain advance payments of Texas Eastern included in this filing are currently the subject of an adjudicatory proceeding in Docket No. RP75-73 (AP79-4). Therefore the instant filing shall be accepted and suspended, subject to refund and subject to the final disposition in Docket No. RP75-73.

Based upon a review of Texas Eastern's filing, the Commission finds that the proposed tariff sheets have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept Texas Eastern's filing, suspend the effective date of the proposed tariff sheets, and make them subject to refund and the conditions set forth below.

A recent decision of the Court of Appeals for the District of Columbia Circuit has led the Commission to reassess the standards that it uses to fix the appropriate duration of a suspension period as we may impose with respect to rate increase filings.[2] We have done this as a predicate to our acting on this matter.

---

[1] The tariff sheets filed were: Fifty-fifth Revised Sheet Nos. 14, 14-A, 14-B, 14-C, and 14-D to Texas Eastern's FERC Gas Tariff, Fourth Revised Volume No. 1.

[2] *Connecticut Light and Power Company* v. *Federal Energy Regulatory Commission*.—F.2d—(D.C. Cir. May 30, 1980).

Though the regulatory schemes that the Commission administers involve a subtle and a difficult balance of producer and transporter interests with consumer and shipper interests, their primary purpose is to protect the consumer and shipper against excessive rates or charges. Hence it is our view that the discretionary power to suspend should be exercised in a way that maximizes this protection.

The decision to suspend a proposed rate increase rests on the preliminary finding that the increase may be unjust and unreasonable or that it may run afoul of other statutory standards. The governing statutes say that "*any* (emphasis added) rate or charge that is not just and reasonable is hereby . . . declared unlawful." [3] This declaration places on the Commission a general obligation to minimize the incidence of such illegality.

Based on the foregoing, the Commission has determined that, in the exercise of its rate suspension authority, rate filings should normally be suspended and the *status quo ante* preserved for the maximum period permitted by statute in circumstances where preliminary study leads the Commission to believe that there is substantial question as to whether a filing complies with applicable statutory standards.

Particular circumstances may warrant shorter suspensions. Situations present themselves from time to time in which rigid adherence to the general policy of preserving the *status quo ante* for the maximum statutory period makes for harsh and inequitable results. Such circumstances are presented here.

The parties to the settlement agreement in Docket No. RP78–87 provided a mechanism for establishing the proper suspension period for the instant advance payment filing, which results in a rate reduction. "If . . . the Commission shall question the reasonableness or any other aspect of any such rate change, the Commission shall suspend the rate change for a period of one day." A shorter suspension thus is in conformance with the express terms of the settlement. Moreover, the shorter suspension period, having been agreed to by the parties to this settlement agreement, provides the necessary protection to the consumer and shipper which underlies the statutes authorizing the Commission to establish a suspension period. Accordingly, we believe we should exercise our discretion to suspend the tariff sheets for one day permitting them to take effect on the date set below.

The instant filing was made on August 29, 1980. The earliest date that the filing can be made effective, on 30 days notice, would be September 30, 1980. Applying the one-day suspension period stipulated to by all parties to that September 30, 1980 date, the Commission determines that an October 1, 1980 effective date is appropriate.

*The Commission Orders:*

The tariff sheets filed by Texas Eastern Transmission Corporation on August 29, 1980 are accepted for filing and suspending. The filed sheets shall be permitted to become effective October 1, 1980, subject to refund and the outcome of the proceedings in Docket No. RP75–73 (AP79–4).

By the Commission.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 80-31400 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

[3] Section 205(a) of the Federal Power Act, Section 4(e) of the Natural Gas Act, and Section 15 of the Interstate Commerce Act.

**[Docket No. RP78–88]**

## Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

October 2, 1980.

Take notice that Transwestern Pipeline Company (Transwestern) on September 24, 1980, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheets: Substitute Sixteenth Revised Sheet No. 5; Substitute Sixteen Revised Sheet No. 6.

On August 29, 1980 Transwestern filed its October 1, 1980 semi-annual tracker. On September 10, 1980 the Commission unconditionally approved Transwestern's RP78–88 Stipulation and Agreement. In light of the Commission's order, Transwestern filed on September 15, 1980 tariff sheets in accordance with Article II(1) of its RP78–88 Stipulation and Agreement, reflecting the interim rates for the period March 1, 1979 through September 30, 1980. The above substitute tariff sheets reflect a restatement of Transwestern's proposed October 1, 1980 rates in accordance with Transwestern's RP78–88 Stipulation and Agreement.

The proposed effective date of the above tariff sheets is October 1, 1980.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Lois D. Cashell,**

*Acting Secretary.*

[FR Doc. 80-31401 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

## Notice of Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued September 24, 1980.

BILLING CODE 6450-85-M

( Issued September 24, 1980 )

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| LOUISIANA OFFICE OF CONSERVATION | | | | | | | | |
| *ACE * MALMAC | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056627 | AO-3002 | 1711122172 | 108 | | J B ALBRITTON #1 | MONROE | 3.0 | TEXAS GAS TRANSMISSI |
| *AMOCO PRODUCTION CO | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056708 | AO-3067 | 1706120188 | 103 | | HOSS L SUK JAMES NO 1 | SIMSBORO | 130.0 | LA GAS INTRASTATE OF |
| 8056738 | AO-3066 | 1707720212 | 107 | | 18100 TUSC RA SUB A WILBERTS #1 | MOORE-SAMS | 3650.0 | TEXAS GAS TRANSMISSI |
| *APOLLO PETROLEUM CORP | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056648 | AO-3116 | 1702120458 | 103 | | OLINKRAFT NO 2 | MOUNT PLEASANT | 54.0 | OLINKRAFT INC |
| 8056645 | AO-3119 | 1702120576 | 103 | | VUA DEWEY MAY NO 1 | BEAUCOUP CREEK | 54.0 | UNITED GAS PIPELINE |
| 8056646 | AO-3118 | 1702120628 | 103 | | VUA DEWEY MAY NO 2 | BEAUCOUP CREEK | 54.0 | UNITED GAS PIPELINE |
| 8056647 | AO-3117 | 1702110457 | 103 | | VUA OLINKRAFT NO 1 | MOUNT PLEASANT | 54.0 | OLINKRAFT INC |
| *ARKLA EXPLORATION COMPANY | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056730 | AO-3097 | 1711920234 | 102 | | GRAY RB SU D J H PRUITT #1 | COTTON VALLEY | 150.0 | ARKANSAS LOUISIANA G |
| 8056604 | AO-3095 | 1711122139 | 103 | | K D LANGFORD ET AL #4 | MONROE | 2.0 | |
| 8056603 | AO-3096 | 1704920130 | 102 | | L JAMES SU H KAVANAUGH #1 | CLAY | 290.0 | |
| *BASS ENTERPRISES PRODUCTION CO | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056665 | AO-3027 | 1706120231 | 102 | | CV DAVIS RB SUD DAYTON MCGEE NO 1 | MIDDLEFORK | 90.0 | UNITED GAS PIPE LINE |
| 8056665 | AO-3027 | 1706120231 | 103 | | CV DAVIS RB SUD DAYTON MCGEE NO 1 | MIDDLEFORK | 90.0 | UNITED GAS PIPE LINE |
| 8056618 | AO-2966 | 1707522683 | 103 | | UL-2 RB SUB MORGAN CITY NO 26 | POINTE-A-LA-HACHE | 365.0 | SOUTHERN NATURAL GAS |
| *BILLY E BAYLES | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056731 | AO-3098 | 1708320499 | 103 | | HATCH ESTATE #2 167658 | RICHLAND | 9125.0 | MID LOUISIANA GAS CO |
| *BLACK BAYOU MANAGEMENT CO INC | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056587 | AO-2955 | 1702120623 | 102 | | MADDEN RA SUE FOOTE LUMBER CO NO 1 | PISTOL THICKET | 120.0 | LOUISIANA INTRASTATE |
| *C F BRAUN & CO | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056693 | AO-3073 | 1704720548 | 102 | | BAIST COOPERAGE & LUMBER * 1 | FROG LAKE | 500.0 | DOW CHEMICAL |
| *C H C GERARD | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056696 | AO-2950 | 1707320523 | 108 | | CVD RA SUK CALLOWAY * #1 | SOUTH DREW | 9.0 | ARKANSAS LOUISIANA G |
| *CEKA GAS CORP | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056622 | AO-3007 | 1707320430 | 108 | | MSU 788 PERRY HEIRS #4 | MONROE | 1.4 | GAS TRANSPORTATION C |
| *CHEVRON U S A INC | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056736 | AO-3071 | 1709720545 | 102 | | DELAND PLANTATION #1 | ELBA | 0.9 | |
| 8056737 | AO-3072 | 1709720565 | 102 | | DELAND PLANTATION NO 2 | ELBA | 45.0 | |
| 8056655 | AO-3031 | 1712120099 | 107 | | 19100 TUSC RA SUT BUECHE HEIRS #1 | PROFIT ISLAND | 700.0 | |
| *CRYSTAL OIL COMPANY | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056728 | AO-3083 | 1703121161 | 103 | | BAGLEY A * #1 | BETHANY-LONGSTREET | 350.0 | ARKANSAS LOUISIANA G |
| 8056633 | AO-3120 | 1703121233 | 103 | | BURFORD A #1 | BETHANY LONGSTREET | 82.1 | ARKANSAS LOUISANA GA |
| *ENTEX INC | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056668 | AO-2583 | 1705520177 | 102 | | ENTEX INC ELIAS W SPELL NO 1 | WILDCAT | 500.0 | LOUISIANA INTRASTATE |
| *ERGON INC | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056568 | AO-3040 | 1711121874 | 103 | | BROOKS JONES NO 1 | MONROE (6824) | 1.9 | TEXAS GAS TRANSMISSI |
| 8056624 | AO-3005 | 1711122143 | 103 | | D MILLER NO 2 | MONROE (6824) | 7.8 | TEXAS GAS TRANSMISSI |
| 8056592 | AO-3019 | 1711121441 | 108 | | E L MEDLIN NO 1 | MONROE (6824) | 6.2 | TEXAS GAS TRANSMISSI |

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8056554 | AO-3025 | 1711121816 | 108 | | EXXON E NO 1 | MONROE (6824) | 8.2 | TEXAS GAS TRANSMISSI |
| 8056555 | AO-3023 | 1711121974 | 108 | | EXXON E NO 3 | MONROE (6824) | 8.5 | TEXAS GAS TRANSMISSI |
| 8056557 | AO-3021 | 1711121316 | 108 | | H D GREEN NO 3 | MONROE (6824) | 3.5 | TEXAS GAS TRANSMISSI |
| 8056625 | AO-3004 | 1711121805 | 103 | | H D GREEN NO 4 | MONROE (6824) | 9.3 | TEXAS GAS TRANSMISSI |
| 8056651 | AO-3113 | 1711122023 | 103 | | HARRY L PARKER NO 1 | MONROE (6824) | 6.2 | TEXAS GAS TRANSMISSI |
| 8056558 | AO-3020 | 1711121823 | 108 | | JOHN GREENE NO 2 | MONROE (6824) | 6.7 | TEXAS GAS TRANSMISSI |
| 8056595 | AO-3016 | 1711121723 | 108 | | L I DOHER NO 1 | MONROE (6824) | 18.1 | TEXAS GAS TRANSMISSI |
| 8056593 | AO-3018 | 1711121318 | 108 | | MARY PHILLIPS NO 3 | MONROE (6824) | 4.2 | TEXAS GAS TRANSMISSI |
| 8056652 | AO-3112 | 1711122303 | 103 | | MCDERMOTT ESTATE NO 1 | MONROE (6824) | 12.4 | TEXAS GAS TRANSMISSI |
| 8056594 | AO-3017 | 1711121724 | 108 | | MIKE ESTATE NO 1 | MONROE (6824) | 8.3 | TEXAS GAS TRANSMISSI |
| 8056591 | AO-3015 | 1711121881 | 108 | | MILAS MEDLIN NO 3 | MONROE (6824) | 7.4 | TEXAS GAS TRANSMISSI |
| 8056640 | AO-3110 | 1711121815 | 103 | | R L EDWARDS NO 5 | MONROE (6824) | 7.8 | TEXAS GAS TRANSMISSI |
| 8056556 | AO-3022 | 1711121820 | 108 | | R L EDWARDS NO 7 | MONROE (6824) | 2.9 | TEXAS GAS TRANSMISSI |
| 8056642 | AO-3108 | 1711122496 | 103 | | R L LONG NO 3 | MONROE (6824) | 4.7 | TEXAS GAS TRANSMISSI |
| 8056641 | AO-3109 | 1711121991 | 103 | | T W GREEN NO 1 | MONROE (6824) | 7.8 | TEXAS GAS TRANSMISSI |
| 8056653 | AO-3111 | 1711122306 | 103 | | VUA ETHEL ALLEN ET AL NO 1 | MONROE (6824) | 15.5 | TEXAS GAS TRANSMISSI |
| *F E HARGRAVES & SONS DRLG CO INC | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056553 | AO-3064 | 1711920108 | 108 | | BL RA SU E DAVID LEWIS #1 | MINDEN | 0.0 | TEXAS GAS TRANSMISSI |
| *FRANKS PETROLEUM & WEBB | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056549 | AO-2994 | 1707320653 | 102 | | GR RA SUL S P HARRELL NO 1 | PETTICOAT BAYOU | 300.0 | TEXAS GAS TRANSMISSI |
| *GAS RESOURCES INC | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056663 | AO-3033 | 1711122409 | 103 | | EXXON #13 #168456 | MONROE | 22.0 | IMC PIPELINE CO INC |
| 8056664 | AO-3038 | 1711122410 | 103 | | EXXON #14 #168457 | MONROE | 26.0 | IMC PIPELINE CO INC |
| 8056659 | AO-3037 | 1711122391 | 103 | | EXXON #15 #168279 | MONROE | 16.0 | IMC PIPELINE CO INC |
| 8056660 | AO-3036 | 1711122392 | 103 | | EXXON #16 #168280 | MONROE | 18.0 | IMC PIPELINE CO INC |
| 8056661 | AO-3035 | 1711122502 | 103 | | EXXON #18 #169046 | MONROE | 20.0 | IMC PIPELINE CO INC |
| 8056662 | AO-3034 | 1711122500 | 103 | | EXXON #19 #168997 | MONROE GAS | 11.0 | IMC PIPELINE CO INC |
| 8056717 | AO-3060 | 1711122544 | 103 | | EXXON #20 #169325 | MONROE | 26.0 | IMC PIPELINE CO INC |
| *GAS TRANSPORTATION CORPORATION | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056689 | A02906 | 1711122207 | 108 | | GTC HOLLOWAY NO 1 | MONROE GAS | 0.0 | PETRO-LEWIS FUNDS IN |
| 8056691 | AO-2904 | 1711122179 | 108 | | GTC L NOLAN NO 4 | MONROE GAS | 0.0 | PETRO-LEWIS FUNDS IN |
| 8056690 | AO-2905 | 1711122209 | 108 | | GTC R W ROAN NO 1 | MONROE | 0.0 | PETRO-LEWIS FUNDS IN |
| *GEORGE R SCHURMAN | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056711 | AO-3086 | 1703121179 | 103 | | W J COLBERT #6 | SPIDER | 200.0 | LOUISIANA INTRASTATE |
| *GETTY OIL COMPANY | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056667 | AO-2754 | 1711320840 | 102 | | CEVA RICHARD NO 2 | ERATH | 1000.0 | COLUMBIA GAS TRANSMI |
| *GULF OIL CORPORATION | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056726 | AO-3080 | 1707522626 | 103 | | J G TIMOLAT B NO 139 | WEST BAY | 116.8 | TEXAS EASTERN TRANSM |
| 8056716 | AO-3074 | 1707522626 | 103 | | J G TIMOLAT B NO 139-D | WEST BAY | 200.0 | TEXAS EASTERN TRANSM |
| *HARVEY BROYLES | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056685 | AO-2910 | 1701320415 | 103 | | UPPER MOSS STRAY SUA T A LOE EST #3 | BEAR CREEK | 730.0 | SOUTHERN NATURAL GAS |
| *HAWTHORNE OIL & GAS CORPORATION | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056725 | AO-3081 | 1701920881 | 103 | | KLUMPP NO 1 | SOUTH LAKE CHARLES | 365.0 | |
| 8056724 | AO-3082 | 1701920911 | 103 | | KLUMPP NO 2 | SOUTH LAKE CHARLES | 365.0 | |
| *HENRY GOODRICH D/B/A GOODRICH OIL C | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056644 | AO-3028 | 1702720573 | 103 | | R A HASSELL #1 | SUGAR CREEK | 365.0 | LOUISIANA GAS PURCHA |
| 8056657 | AO-3029 | 1702720573 | 103 | | R A HASSELL #1-D | SUGAR CREEK | 365.0 | LOUISIANA GAS PURCHA |
| *HOOTKINS-SMITH LA LTD | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056526 | AO-2983 | 1711121707 | 103 | | EDWARDS #2 | MONROE GAS | 42.0 | TEXAS GAS TRANSMISSI |
| 8056526 | AO-2983 | 1711121707 | 108 | | EDWARDS #2 | MONROE GAS | 42.0 | TEXAS GAS TRANSMISSI |
| 8056674 | AO-2922 | 1711121419 | 108 | | F R ROGERS #2 | MONROE GAS FIELD | 52.0 | TEXAS GAS TRANSMISSI |
| 8056675 | AO-2921 | 1711121421 | 108 | | F R ROGERS #4 | MONROE GAS FIELD | 44.0 | TEXAS GAS TRANSMISSI |

| JC NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8056615 | AO-2933 | 1711121254 | 108 | | IRIS GRAFTON #1 | MONROE | 2.0 | TEXAS GAS TRANSMISSI |
| 8056616 | AO-2932 | 1711121440 | 108 | | J T SAVAGE #1 | MONROE | 9.0 | TEXAS GAS TRANSMISSI |
| 8056673 | AO-2923 | 1711121292 | 108 | | K S THOMPSON ESTATE #2 | MONROE GAS FIELD | 50.0 | TEXAS GAS TRANSMISSI |
| 8056590 | AO-2924 | 1711121263 | 108 | | ROAN #1 | MONROE | 17.0 | TEXAS GAS TRANSMISSI |
| 8056589 | AO-2925 | 1711121422 | 108 | | ROAN #2 | MONROE | 9.0 | TEXAS GAS TRANSMISSI |
| 8056602 | AO-2926 | 1711121265 | 108 | | ROAN #3 | MONROE | 43.0 | TEXAS GAS TRANSMISSI |
| 8056601 | AO-2927 | 1711121423 | 108 | | ROAN #4 | MONROE | 6.0 | TEXAS GAS TRANSMISSI |
| 8056600 | AO-2928 | 1711121424 | 108 | | ROAN #5 | MONROE | 11.0 | TEXAS GAS TRANSMISSI |
| 8056599 | AO-2929 | 1711121425 | 108 | | ROAN #6 | MONROE | 4.0 | TEXAS GAS TRANSMISSI |
| 8056598 | AO-2930 | 1711121418 | 108 | | ROGERS #1 | MONROE | 17.0 | TEXAS GAS TRANSMISSI |
| 8056597 | AO-2931 | 1711121420 | 108 | | ROGERS #3 | MONROE | 24.0 | TEXAS GAS TRANSMISSI |
| 8056684 | AO-2912 | 1711121256 | 108 | | V C EDWARDS EST #1 | MONROE | 20.0 | TEXAS GAS TRANSMISSI |
| *IMC EXPLORATION COMPANY | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056608 | AO-3091 | 1706120213 | 102 | | LA METHODIST ORPHANAGE #1 | TERRYVILLE | 183.0 | LOUISIANA GAS PURCHA |
| *KERR-MCGEE CORPORATION | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056714 | AO-3076 | 1772620186 | 103 | | S L 2000 NO 53 | BRETON SOUND BLOCK 20 | 19.0 | SOUTHERN NATURAL GAS |
| 8056723 | AO-3077 | 1772620190 | 103 | | S L 2000 NO 55 | BRETON SOUND BLOCK 20 | 134.0 | SOUTHERN NATURAL GAS |
| 8056722 | AO-3078 | 1772620190 | 103 | | S L 2000 NO 55-D | BRETON SOUND BLOCK 20 | 59.0 | SOUTHERN NATURAL GAS |
| *LADD PETROLEUM CORPORATION | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056540 | AO-3013 | 1707522664 | 107 | | LL&E NO 3 | LAKE WASHINGTON | 1368.8 | SOUTHERN NATURAL GAS |
| *LAMSON/ONSHORE PETROLEUM CORP | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056715 | AO-3075 | 1700120816 | 103 | | W M HOYT ESTATE NO 1 | MIDLAND | 399.0 | COLUMBIA GAS TRANSMI |
| *LANKFORD & NANCE | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056700 | AO-2946 | 1711122314 | 103 | | ALLEN #1 | MONROE GAS | 18.0 | TEXAS GAS TRANSMISSI |
| 8056702 | AO-2944 | 1711122300 | 103 | | BARR #1 | MONROE GAS | 22.0 | TEXAS GAS TRANSMISSI |
| 8056697 | AO-2949 | 1711122302 | 103 | | BARR #3 | MONROE GAS | 16.0 | TEXAS GAS TRANSMISSI |
| 8056699 | AO-2947 | 1711122411 | 103 | | CROW #1 | MONROE GAS | 10.0 | TEXAS GAS TRANSMISSI |
| 8056698 | AO-2948 | 1711122282 | 103 | | HAILE NO 1 | MONROE GAS | 13.0 | TEXAS GAS TRANSMISSI |
| 8056524 | AO-2968 | 1711122308 | 103 | | HAILE NO 4 | MONROE GAS | 12.0 | TEXAS GAS TRANSMISSI |
| 8056623 | AO-3006 | 1711122007 | 103 | | JENNY NO 1 | MONROE GAS | 12.0 | MID-LOUISIANA GAS CO |
| 8056701 | AO-2945 | 1711122412 | 103 | | K D LANKFORD NO 5 | MONROE GAS | 18.0 | TEXAS GAS TRANSMISSI |
| 8056617 | AO-2967 | 1711122422 | 103 | | W G BEASLEY NO 1 | MONROE | 12.6 | TEXAS GAS TRANSMISSI |
| *LIBERTY OIL & GAS CORP | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056632 | AO-3121 | 1700500029 | 108 | | FRIDGE SUB C C MYERS #1 | SORRENTO | 6.0 | TRANSCONTINENTAL GAS |
| 8056713 | AO-3089 | 1708920402 | 103 | | WATERFORD OIL #1 | BAYOU COUBA | 46.8 | TRANSCONTINENTAL GAS |
| *M M THOMSON | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056536 | AO-3009 | 1707321148 | 108 | | THOMSON #1 | MONROE | 8.3 | MID LOUISIANA GAS CO |
| *MARATHON OIL COMPANY | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056584 | AO-2958 | 1711900708 | 108 | | CVSU HUNT CRAWFORD #2 | COTTON VALLEY | 3.0 | UNITED GAS PIPE LINE |
| 8056692 | AO-2903 | 1711901149 | 108 | | CVSU HUNT DAVIS #10 | COTTON VALLEY | 3.0 | UNITED GAS PIPE LINE |
| 8056734 | AO-3069 | 1711900801 | 108 | | CVSU MAGNOLIA J T MARSHALL #7 | COTTON VALLEY | 3.0 | UNITED GAS PIPE LINE |
| 8056666 | AO-3026 | 1711920256 | 103 | | CVSU MOC GRAY NO 4 | COTTON VALLEY | 657.0 | UNITED GAS PIPE LINE |
| 8056539 | AO-3012 | 1711901012 | 108 | | CVSU OMID BODCAW LUMBER A/C 3 #49 | COTTON VALLEY | 3.0 | UNITED GAS PIPE LINE |
| *MARSHALL EXPLORATION INC | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056729 | AO-3085 | 1703120662 | 103 | | CV RA SUC JAMES R HOLMES #1 | BELLE BOWER | 55.0 | ARKLA GAS PIPELINE C |
| *MAY PETROLEUM INC | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056631 | AO-3122 | 1700120792 | 102 | | HMSKRS E RB SUA J MELANCON #1 | RAYNE | 730.0 | MONTEREY PIPELINE CO |
| 8056631 | AO-3122 | 1700120792 | 103 | | HMSKRS E RB SUA J MELANCON #1 | RAYNE | 730.0 | MONTEREY PIPELINE CO |
| *MID LOUISIANA GAS COMPANY | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056639 | AO-3106 | 1711121381 | 108 | | MLGC FEE GAS NO 664 | MONROE | 20.6 | |
| 8056643 | AO-3107 | 1711121449 | 108 | | MLGC FEE GAS NO 684 | MONROE | 20.7 | |
| 8056638 | AO-3105 | 1711121528 | 108 | | MLGC FEE GAS NO 711 | MONROE | 20.8 | |

| JD NO | JA DKT | API NU | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8056637 | AO-3104 | 1711122327 | 103 | | MLGC FEE GAS NO 871 | MONROE | 43.2 | |
| 8056636 | AO-3103 | 1711122413 | 103 | | MLGC FEE GAS NO 877 | MONROE | 41.8 | |
| 8056566 | AO-3042 | 1711122414 | 103 | | MLGC FEE GAS NO 878 | MONROE | 57.6 | |
| 8056565 | AO-3043 | 1711122415 | 103 | | MLGC FEE GAS NO 879 | MONROE | 56.8 | |
| 8056564 | AO-3044 | 1711122416 | 103 | | MLGC FEE GAS NO 880 | MONROE | 38.5 | |
| 8056563 | AO-3045 | 1711122417 | 103 | | MLGC FEE GAS NO 881 | MONROE | 33.1 | |
| 8056562 | AO-3046 | 1711122418 | 103 | | MLGC FEE GAS NO 882 | MONROE | 89.3 | |
| 8056561 | AO-3047 | 1711122419 | 103 | | MLGC FEE GAS NO 883 | MONROE | 73.8 | |
| 8056582 | AO-3048 | 1711122434 | 103 | | MLGC FEE GAS NO 885 | MONROE | 15.5 | |
| 8056581 | AO-3049 | 1711122435 | 103 | | MLGC FEE GAS NO 886 | MONROE | 14.7 | |
| 8056580 | AO-3050 | 1711122436 | 103 | | MLGC FEE GAS NO 887 | MONROE | 22.6 | |
| 8056579 | AO-3051 | 1711122438 | 103 | | MLGC FEE GAS NO 889 | MONROE | 15.5 | |
| 8056578 | AO-3052 | 1711122451 | 103 | | MLGC FEE GAS NO 892 | MONROE | 22.6 | |
| 8056577 | AO-3053 | 1711122452 | 103 | | MLGC FEE GAS NO 893 | MONROE | 23.4 | |
| 8056576 | AO-3054 | 1711122453 | 103 | | MLGC FEE GAS NO 894 | MONROE | 45.0 | |
| 8056575 | AO-3055 | 1711122461 | 103 | | MLGC FEE GAS NO 895 | MONROE | 93.6 | |
| 8056574 | AO-3056 | 1711122482 | 103 | | MLGC FEE GAS NO 897 | MONROE | 51.8 | |
| 8056720 | AO-3057 | 1711122492 | 103 | | MLGC FEE GAS NO 898 | MONROE FIELD | 59.0 | |
| 8056719 | AO-3058 | 1711122493 | 103 | | MLGC FEE GAS NO 899 | MONROE FIELD | 65.2 | |
| 8056718 | AO-3059 | 1711122494 | 103 | | MLGC FEE GAS NO 900 | MONROE FIELD | 22.6 | |
| -MID SOUTH OIL & GAS EXPL INC | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056709 | AO-3068 | 1702120635 | 102 | | 2100 RA SUA CRAIN ETAL #1 | NEWPORT | 118.0 | |
| -OXY PETROLEUM INC | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056567 | AO-3041 | 1703100327 | 108 | | M G HOLLOWELL NO 1 | WEST GRAND CANE | 11.8 | LOUISIANA INTRASTATE |
| -PACIFIC-ATLANTIC OIL CO | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056695 | AO-2996 | 1711120293 | 108 | | F H MEEKS NO 1 - 141796 | MONROE | 0.0 | MID LOUISIANA GAS CO |
| 8056694 | AO-2997 | 1711120294 | 108 | | F H MEEKS NO 1 - 141797 | MONROE | 0.0 | MID LOUISIANA GAS CO |
| -PATRICK PETROLEUM CORP (MI) | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056658 | AO-2960 | 1705721472 | 102 | | SBBF M-1 RA SU BOWIE LBR CO #11 | SOUTH BAYOU BOEUF | 1.3 | LOUISIANA RESOURCES |
| 8056620 | AO-2964 | 1705721553 | 102 | | SBBF M-1 RA SU BOWIE LBR CO #14 | SOUTH BAYOU BOEUF | 1.0 | LOUISIANA RESOURCES |
| 8056619 | AO-2965 | 1705721608 | 102 | | SBBF M-1 RB SU BOWIE LBR CO #17 | SOUTH BAYOU BOEUF | 1.3 | LOUISIANA RESOURCES |
| 8056583 | AO-2959 | 1705721377 | 102 | | SBBF O RA SU BOWIE LBR CO #9-D | SOUTH BAYOU BOEUF | 1.3 | LOUISIANA RESOURCES |
| 8056560 | AO-2961 | 1705721429 | 102 | | SBBF P RA SU BOWIE LBR CO LTD NO 12 | SOUTH BAYOU BOEUF | 0.5 | LOUISIANA RESOURCES |
| 8056548 | AO-2963 | 1705721542 | 102 | | SBBF P RA SU BOWIE LBR CO LTD NO 13 | SOUTH BAYOU BOEUF | 0.5 | LOUISIANA RESOURCES |
| 8056559 | AO-2962 | 1705721377 | 102 | | SBBF P RA SU BOWIE LBR CO LTD NO 9 | SOUTH BAYOU BOEUF FIELD | 1.3 | LOUISIANA RESOURCES |
| -PEL-TEX OIL COMPANY INC | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| *8056552 | AO-3063 | 1711320714 | 102 | | GOD RA SUC W J KUEHLING #1 | INTRACOASTAL CITY | 63.0 | TRANSCONTINENTAL GAS |
| -PETROSIL RESOURCES INC | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056710 | AO-3087 | 1702720412 | 103 | | SIMONS NO 1 | SUGAR CREEK | 600.0 | UNITED GAS PIPE LINE |
| -PHILLIPS PETROLEUM COMPANY | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056721 | AO-3079 | 1711920243 | 103 | | DAVIS V NO 1 | ADA | 1.4 | SOUTHWESTERN ELECTRI |
| -PRIDE EXPLORATION INC | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056649 | AO-3115 | 1701723215 | 103 | | S HEROLD #1 | GREENWOOD-WASKOM | 55.0 | ARKANSAS LOUISIANA G |
| -PRIMOS PRODUCTION CO | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056535 | AO-2986 | 1711122384 | 103 | | PETRO LEWIS FROST LUMBER #1 | MONROE GAS | 15.4 | PETRO-LEWIS FUNDS IN |
| 8056542 | AO-2988 | 1711122444 | 103 | | PETRO LEWIS PENNZOIL FEE 107 #1 | MONROE GAS | 12.3 | PETRO LEWIS FUNDS IN |
| 8056534 | AO-2985 | 1711122352 | 103 | | PETRO LEWIS PENNZOIL FEE 127 #3 | MONROE GAS | 20.5 | PETRO LEWIS FUNDS IN |
| 8056541 | AO-2987 | 1711122385 | 103 | | PETRO-LEWIS FROST LUMBER #2 | MONROE GAS | 20.5 | PETRO-LEWIS FUNDS IN |
| 8056525 | AO-2984 | 1711122351 | 103 | | PETRO-LEWIS PENNZOIL FEE 127 #2 | MONROE GAS | 12.3 | PETRO-LEWIS FUNDS IN |
| 8056543 | AO-2989 | 1711122373 | 103 | | PETRO-LEWIS PENNZOIL FEE 65 #3 | MONROE GAS | 18.5 | PETRO-LEWIS FUNDS IN |
| 8056544 | AO-2990 | 1711122367 | 103 | | PETRO-LEWIS PENNZOIL FEE 65 #4 | MONROE GAS | 14.4 | PETRO-LEWIS FUNDS IN |
| 8056545 | AO-2991 | 1711122369 | 103 | | PETRO-LEWIS PENNZOIL FEE 65 #6 | MONROE GAS | 16.4 | PETRO-LEWIS FUNDS IN |

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8056546 | AO-2992 | 1711122405 | 103 | | PETRO-LEWIS PENNZOIL FEE 65 #8 | MONROE GAS | 15.4 | PETRO-LEWIS FUNDS IN |
| -RELIANCE TR-JV | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056671 | AO-2952 | 1711122157 | 103 | | BEN POST #1 | MONROE | 35.0 | TEXAS GAS TRANSMISSI |
| 8056628 | AO-3001 | 1711122182 | 108 | | G WARD EST #1 | MONROE | 44.0 | TEXAS GAS TRANSMISSI |
| 8056705 | AO-2941 | 1711122166 | 103 | | HOPKINS ESTATE #1 | MONROE | 40.0 | TEXAS GAS TRANSMISSI |
| 8056704 | AO-2942 | 1711122167 | 103 | | HOPKINS ESTATE #2 | MONROE | 35.0 | TEXAS GAS TRANSMISSI |
| 8056703 | AO-2943 | 1711122181 | 103 | | HOPKINS ESTATE #3 | MONROE | 40.0 | TEXAS GAS TRANSMISSI |
| 8056596 | AO-2998 | 1711122173 | 103 | | J B ALBRITTON #2 | MONROE | 20.0 | TEXAS GAS TRANSMISSI |
| 8056630 | AO-2999 | 1711122164 | 103 | | OLINKRAFT #1 | MONROE | 30.0 | TEXAS GAS TRANSMISSI |
| 8056629 | AO-3000 | 1711122165 | 103 | | OLINKRAFT #2 | MONROE | 35.0 | TEXAS GAS TRANSMISSI |
| 8056672 | AO-2951 | 1711122168 | 103 | | OLINKRAFT #8 | MONROE | 45.0 | TEXAS GAS TRANSMISSI |
| -RELIANCE TRUSTS | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056533 | AO-2976 | 1711121257 | 108 | | OLINKRAFT #1 | MONROE GAS | 7.0 | TEXAS GAS TRANSMISSI |
| 8056680 | AO-2916 | 1711121369 | 108 | | OLINKRAFT #10 | MONROE | 3.0 | TEXAS GAS TRANSMISSI |
| 8056588 | AO-2939 | 1711121370 | 108 | | OLINKRAFT #11 | MONROE | 59.0 | TEXAS GAS TRANSMISSI |
| 8056519 | AO-2973 | 1711121371 | 108 | | OLINKRAFT #12 | MONROE GAS | 17.0 | TEXAS GAS TRANSMISSI |
| 8056520 | AO-2972 | 1711121372 | 108 | | OLINKRAFT #13 | MONROE GAS | 9.0 | TEXAS GAS TRANSMISSI |
| 8056521 | AO-2971 | 1711121373 | 108 | | OLINKRAFT #14 | MONROE GAS | 6.0 | TEXAS GAS TRANSMISSI |
| 8056522 | AO-2970 | 1711121375 | 108 | | OLINKRAFT #16 | MONROE GAS | 5.0 | TEXAS GAS TRANSMISSI |
| 8056523 | AO-2969 | 1711121376 | 108 | | OLINKRAFT #17 | MONROE GAS | 14.0 | TEXAS GAS TRANSMISSI |
| 8056678 | AO-2918 | 1711121400 | 108 | | OLINKRAFT #18 | MONROE | 53.0 | TEXAS GAS TRANSMISSI |
| 8056682 | AO-2914 | 1711121401 | 108 | | OLINKRAFT #19 | MONROE | 54.0 | TEXAS GAS TRANSMISSI |
| 8056683 | AO-2913 | 1711121258 | 108 | | OLINKRAFT #2 | MONROE | 56.0 | TEXAS GAS TRANSMISSI |
| 8056614 | AO-2934 | 1711121402 | 108 | | OLINKRAFT #20 | MONROE | 19.0 | TEXAS GAS TRANSMISSI |
| 8056613 | AO-2935 | 1711121427 | 108 | | OLINKRAFT #21 | MONROE | 7.0 | TEXAS GAS TRANSMISSI |
| 8056676 | AO-2920 | 1711121403 | 108 | | OLINKRAFT #22 | MONROE | 6.0 | TEXAS GAS TRANSMISSI |
| 8056612 | AO-2936 | 1711121404 | 108 | | OLINKRAFT #23 | MONROE | 9.0 | TEXAS GAS TRANSMISSI |
| 8056677 | AO-2919 | 1711121405 | 108 | | OLINKRAFT #24 | MONROE | 55.0 | TEXAS GAS TRANSMISSI |
| 8056611 | AO-2937 | 1711121406 | 108 | | OLINKRAFT #25 | MONROE | 10.0 | TEXAS GAS TRANSMISSI |
| 8056610 | AO-2938 | 1711121429 | 108 | | OLINKRAFT #27 | MONROE | 15.0 | TEXAS GAS TRANSMISSI |
| 8056706 | AO-2940 | 1711121670 | 103 | | OLINKRAFT #28 | MONROE GAS FIELD | 45.0 | TEXAS GAS TRANSMISSI |
| 8056530 | AO-2979 | 1711121671 | 108 | | OLINKRAFT #29 | MONROE | 48.0 | TEXAS GAS TRANSMISSI |
| 8056531 | AO-2978 | 1711121672 | 108 | | OLINKRAFT #30 | MONROE | 16.0 | TEXAS GAS TRANSMISSI |
| 8056527 | AO-2982 | 1711121673 | 103 | | OLINKRAFT #31 | MONROE GAS | 48.0 | TEXAS GAS TRANSMISSI |
| 8056527 | AO-2982 | 1711121673 | 108 | | OLINKRAFT #31 | MONROE GAS | 48.0 | TEXAS GAS TRANSMISSI |
| 8056529 | AO-2980 | 1711121675 | 108 | | OLINKRAFT #33 | MONROE | 29.0 | TEXAS GAS TRANSMISSI |
| 8056517 | AO-2975 | 1711121261 | 108 | | OLINKRAFT #4 | MONROE GAS FIELD | 17.0 | TEXAS GAS TRANSMISSI |
| 8056518 | AO-2974 | 1711121262 | 108 | | OLINKRAFT #5 | MONROE GAS | 19.0 | TEXAS GAS TRANSMISSI |
| 8056679 | AO-2917 | 1711121311 | 108 | | OLINKRAFT #6 | MONROE GAS FIELD | 43.0 | TEXAS GAS TRANSMISSI |
| 8056532 | AO-2977 | 1711121312 | 108 | | OLINKRAFT #7 | MONROE | 47.0 | TEXAS GAS TRANSMISSI |
| 8056681 | AO-2915 | 1711121367 | 108 | | OLINKRAFT #8 | MONROE | 31.0 | TEXAS GAS TRANSMISSI |
| 8056528 | AO-2981 | 1711121706 | 108 | | SHACKLEFORD #1 | MONROE | 51.0 | TEXAS GAS TRANSMISSI |
| -ROY M TEEL | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056670 | AO-2953 | 1706720136 | 108 | | BENNETT-MORGAN #2 | MONROE GAS ROCK FIELD | 0.0 | GEORGIA-PACIFIC |
| 8056669 | AO-2954 | 1706720504 | 108 | | MRS S S PATTON #1 | MONROE GAS ROCK FIELD | 0.0 | UNITED GAS PIPE LINE |
| -RUTLEDGE H DEAS | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056656 | AO-3030 | 1710922259 | 103 | | A M DUPONT CORP #1 | LAPEYROUSE | 36.0 | UNITED GAS PIPELINE |
| -SAND HILL LTD | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056621 | AO-3008 | 1711122311 | 103 | | CLARK ET AL NO 2 | MONROE | 30.0 | PETRO-LEWIS FUNDS IN |
| 8056635 | AO-3101 | 1711122313 | 103 | | FROST LUMBER CO NO 1 | MONROE | 25.0 | PETRO-LEWIS FUNDS IN |
| 8056634 | AO-3102 | 1711122316 | 103 | | FROST LUMBER CO NO 2 | MONROE | 25.0 | PETRO-LEWIS FUNDS IN |
| 8056687 | AO-2908 | 1711122394 | 103 | | SPEARS NO 1 | MONROE | 27.0 | PETRO-LEWIS FUNDS IN |

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8056686 | A0-2909 | 1711122390 | 103 | | SPEARS NO 2 | MONROE | 15.0 | PETRO-LEWIS FUNDS IN |
| -SHELL OIL CO | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056712 | A0-3088 | 1770920222 | 103 | | EI 18 Q RA NVU SL 1665 NO 29 | EUGENE ISLAND BLOCK 18 | 1.0 | TENNESSEE GAS PIPELI |
| -SOUTH LOUISIANA PRODUCTION CO INC | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056732 | A0-3099 | 1703320075 | 107 | | 17600 TUSC RA SUF DOT MCVEA #1 | IRENE FIELD | 1825.0 | TRANSCONTINENTAL GAS |
| 8056707 | A0-3065 | 1712120100 | 107 | | 19800 TUSC RB SUA J R MORRIS #2 | FALSE RIVER FIELD | 1825.0 | LOUISIANA INTRASTATE |
| -SUGAR CREEK PRODUCING COMPANY | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056586 | A0-2956 | 1702720593 | 103 | | CV RA SUI SIMS #1 | SUGAR CREEK | 365.0 | UNITED GAS PIPE LINE |
| 8056585 | A0-2957 | 1702720593 | 103 | | TRAVIS PEAK SUB SIMS #1-D | SUGAR CREEK | 365.0 | UNITED GAS PIPE LINE |
| -TEEL 79 A | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056573 | A0-2899 | 1707321267 | 103 | | COLE HEIRS A #10 | MONROE GAS ROCK | 9.9 | IMC PIPELINE CO INC |
| 8056572 | A0-2900 | 1707321243 | 103 | | COLE HEIRS A #2 | MONROE GAS ROCK | 16.4 | IMC PIPELINE CO INC |
| 8056571 | A0-2901 | 1707321244 | 103 | | COLE HEIRS A #3 | MONROE GAS ROCK | 18.3 | IMC PIPELINE CO INC |
| -TEXACO INC | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056727 | A0-3084 | 1770720095 | 103 | | SL 340 MOUND POINT WELL NO 74 | MOUND POINT | 2000.0 | TEXAS GAS TRANSMISSI |
| -TEXOIL COMPANY | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056733 | A0-3100 | 1707522687 | 102 | | CAZEZU HEIRS NO 1 | BURAS | 500.0 | DELTA GAS INC |
| -THE DOW CHEMICAL COMPANY | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| *8056654 | A0-3032 | 1709920769 | 107 | | WILLIAMS INC B NO 1 | MYSTIC BAYOU 6984 | 1300.0 | SUGAR BOWL GAS CORP |
| -TRITON OIL & GAS CORP | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056606 | A0-3093 | 1704920140 | 102 | | L JAMES SU A O B CLINTON #2 | CLAY | 500.0 | UNITED GAS PIPE LINE |
| 8056607 | A0-3092 | 1704920138 | 102 | | L JAMES SU E KAVANAUGH #1 | CLAY | 500.0 | UNITED GAS PIPE LINE |
| 8056650 | A0-3114 | 1704920149 | 102 | | L JAMES SUJ CONTINENTAL GROUP #1 | CLAY | 150.0 | UNITED GAS PIPE LINE |
| -VARCO OIL | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056605 | A0-3094 | 1708120380 | 103 | | ROD RA SUJ J W COATS #10 | RED OAK LAKE | 0.0 | LOUISIANA INTRASTATE |
| -VERNON E FAULCONER | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056550 | A0-3061 | 1703900509 | 108 | | HAAS SUD PARDEE 008 #34558 | REDDELL | 7.2 | CONOCO INC |
| 8056551 | A0-3062 | 1703900521 | 108 | | TATE RD SUD H HAAS 001 #28276 | REDDELL | 1.0 | CONOCO INC |
| -VIKING RESOURCES CORPORATION | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056688 | A0-2907 | 1711122454 | 103 | | FROST D NO 1 | MONROE | 22.0 | PETRO-LEWIS FUNDS IN |
| 8056538 | A0-3011 | 1711122455 | 103 | | FROST D NO 2 | MONROE | 60.0 | PETRO-LEWIS FUNDS IN |
| 8056626 | A0-3003 | 1707321256 | 108 | | I L & I NO 1 | MONROE | 18.0 | UNITED GAS PIPE LINE |
| 8056537 | A0-3010 | 1711122475 | 103 | | UNION POWER C NO 3 | MONROE | 40.0 | PETRO-LEWIS FUNDS IN |
| 8056569 | A0-3039 | 1711122476 | 103 | | UNION POWER C NO 4 | MONROE | 51.0 | PETRO-LEWIS FUNDS IN |
| -W M INABNET AGENT | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056570 | A0-2902 | 1707321143 | 108 | | WM INABNET #1 #161862 | MONROE GAS | 12.0 | MID LOUISIANA GAS CO |
| -WESTALL OIL & GAS | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056609 | A0-3090 | 1705120503 | 103 | | S/L 2914 WELL NO 5 | W LAKE PONTCHARTRAIN BLK | 650.0 | SHELL OIL CO |
| -WESSELY ENERGY CORPORATION | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056735 | A0-3070 | 1704920104 | 103 | | CAMP #1 | VERNON | 550.0 | UNITED GAS PIPE LINE |
| -WHELESS INDUSTRIES INC | | | | | RECEIVED: 09/08/80 JA: LA | | | |
| 8056547 | A0-2993 | 1711920220 | 102 | | SMK RA SUA W E & J T BROWNING NO 1 | DYKESVILLE | 180.0 | ARKANSAS LOUISIANA G |

**********

PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

**********

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| -ARMCLAR GAS CO | | | | | RECEIVED: 09/11/80 JA: PA | | | |
| 8056749 | 5493 | 3700322443 | 103 | | WOLFE #11 84A | HOGBACK | 18.0 | COLUMBIA GAS TRANSMI |
| -CASTLE GAS CO INC | | | | | RECEIVED: 09/11/80 JA: PA | | | |
| 8056771 | 5517 | 3706324921 | 103 | | A C IRWIN #1 C-478 IND-24921 | WHITE | 70.0 | COLUMBIA GAS TRANSMI |
| 8056770 | 5516 | 3706324922 | 103 | | A C IRWIN #2 C-479 IND-24922 | WHITE | 70.0 | COLUMBIA GAS TRANSMI |
| 8056769 | 5515 | 3706324923 | 103 | | A C IRWIN #3 C-480 IND-24923 | WHITE | 75.0 | COLUMBIA GAS TRANSMI |
| 8056784 | 5531 | 3706325215 | 103 | | BOYD ABEL #2 C-591 IND-25215 | GRANT | 70.0 | COLUMBIA GAS TRANSMI |
| 8056783 | 5530 | 3706325395 | 103 | | BOYD E ABEL #3 C-648 | GRANT TOWNSHIP | 50.0 | COLUMBIA GAS TRANSMI |

| JD NO | JA DKT | API NO | SEC | D | WELL NAME | FIELD NAME | PROD | PURCHASER |
|---|---|---|---|---|---|---|---|---|
| 8056785 | 5532 | 3706325214 | 103 | | BOYD E ABEL C-590 IND-25214 | GRANT | 70.0 | COLUMBIA GAS TRANSMI |
| 8056780 | 5527 | 3706325381 | 103 | | CLAIR BROWN #1 C-595 IND-25381 | GRANT | 50.0 | COLUMBIA GAS TRANSMI |
| 8056779 | 5526 | 3706325382 | 103 | | CLAIR BROWN #2 C-645 IND 25382 | GRANT | 60.0 | COLUMBIA GAS TRANSMI |
| 8056772 | 5518 | 3706325387 | 103 | | E I HENRY #2 C-649 IND 25387 | GRANT | 70.0 | COLUMBIA GAS TRANSMI |
| 8056773 | 5519 | 3706325207 | 103 | | EDNA I HENRY #1 C-593 IND 25207 | GRANT | 60.0 | COLUMBIA GAS TRANSMI |
| 8056762 | 5508 | 3706325275 | 103 | | EDWARD LEWIS #1 C-589 | GRANT TOWNSHIP | 75.0 | COLUMBIA GAS TRANSMI |
| 8056768 | 5514 | 3706325515 | 103 | | FRED KOLB #3 C-282 IND-24689 | YOUNG | 65.0 | COLUMBIA GAS TRANSMI |
| 8056767 | 5513 | 3706325516 | 103 | | FRED KOLB #5 C-284 IND-25516 | YOUNG | 65.0 | COLUMBIA GAS TRANSMI |
| 8056756 | 5502 | 3706325150 | 103 | | GUY M SAVASTA #1 C-585 | GRANT TOWNSHIP | 70.0 | COLUMBIA GAS TRANSMI |
| 8056755 | 5501 | 3706325385 | 103 | | GUY M SAVASTA #2 C-592 | GRANT TOWNSHIP | 55.0 | COLUMBIA GAS TRANSMI |
| 8056757 | 5503 | 3706325097 | 103 | | HARRY E NEESE #2 C-611 | YOUNG TOWNSHIP | 50.0 | COLUMBIA GAS TRANSMI |
| 8056761 | 5507 | 3706325208 | 103 | | LEONARD MUMAU (167-A) #1 C-599 | GRANT TOWNSHIP | 65.0 | COLUMBIA GAS TRANSMI |
| 8056760 | 5506 | 3706325209 | 103 | | LEONARD MUMAU (167-A) #2 C-600 | GRANT TOWNSHIP | 70.0 | COLUMBIA GAS TRANSMI |
| 8056759 | 5505 | 3706325269 | 103 | | LEONARD MUMAU (167-A) #3 C-646 | GRANT TOWNSHIP | 55.0 | COLUMBIA GAS TRANSMI |
| 8056758 | 5504 | 3706325270 | 103 | | LEONARD MUMAU #4 C-647 | GRANT TOWNSHIP | 60.0 | COLUMBIA GAS TRANSMI |
| 8056765 | 5510 | 3706324657 | 103 | | R & P COAL CO C-546 IND 24657 | CENTER | 70.0 | COLUMBIA GAS TRANSMI |
| 8056766 | 5512 | 3706324615 | 103 | | R & P COAL CO C-547 IND-24615 | CENTER | 70.0 | COLUMBIA GAS TRANSMI |
| 8056764 | 5510 | 3706324673 | 103 | | R & P COAL CO C-564 IND-24673 | CENTER | 60.0 | COLUMBIA GAS TRANSMI |
| 8056754 | 5499 | 3706324914 | 103 | | R & P COAL CO C-580 IND-24914 | CENTER TOWNSHIP | 60.0 | COLUMBIA GAS TRANSMI |
| 8056763 | 5509 | 3706324745 | 103 | | R & P COAL CO C-582 IND-24745 | CENTER TOWNSHIP | 60.0 | COLUMBIA GAS TRANSMI |
| 8056782 | 5529 | 3706324979 | 103 | | R&P COAL C-510 IND-24979 | CENTER TOWNSHIP | 65.0 | COLUMBIA GAS TRANSMI |
| 8056781 | 5528 | 3706324980 | 103 | | R&P COAL C-511 IND-24980 | CENTER TOWNSHIP | 65.0 | COLUMBIA GAS TRANSMI |
| 8056776 | 5522 | 3706324660 | 103 | | R&P COAL CO #3 C-548 IND-24660 | CENTER | 50.0 | COLUMBIA GAS TRANSMI |
| 8056775 | 5521 | 3706324659 | 103 | | R&P COAL CO C-565 IND-24659 | CENTER | 50.0 | COLUMBIA GAS TRANSMI |
| 8056753 | 5498 | 3706324915 | 103 | | R&P COAL CO C-581 IND-24915 | CENTER TOWNSHIP | 75.0 | COLUMBIA GAS TRANSMI |
| 8056774 | 5520 | 3706324913 | 103 | | R&P COAL CO C-584 IND-24913 | CENTER | 65.0 | COLUMBIA GAS TRANSMI |
| 8056778 | 5525 | 3706325134 | 103 | | ROBERT BUTERBAUGH #1 C-586 | GRANT | 75.0 | COLUMBIA GAS TRANSMI |
| 8056777 | 5523 | 3706325136 | 103 | | ROBERT BUTERBAUGH #3 C-588 | GRANT TOWNSHIP | 65.0 | COLUMBIA GAS TRANSMI |
| 8056752 | 5497 | 3706325216 | 103 | | WILLIAM WALLS #1 C-598 IND-25216 | GRANT TOWNSHIP | 70.0 | COLUMBIA GAS TRANSMI |
| -CONSOLIDATED GAS SUPPLY CORPORATION | | | | | RECEIVED: 09/11/80 JA: PA | | | |
| 8056743 | 5153 | 3706322002 | 108 | D | CLAYTON SUNDERLAND WN-1261 | ROCHESTER MILLS 063423 | 20.0 | GENERAL SYSTEM PURCH |
| | | | | | RECEIVED: 09/11/80 JA: PA | | | |
| -FLANIGAN BROTHERS | | | | | | | | |
| 8056746 | 5414 | 3704700000 | 108 | | SHARON #2 | BENEZETTE | 8.0 | CONSOLIDATED GAS SUP |
| -FRED J RUSSELL DBA LOUDEN PROPERTIE | | | | | RECEIVED: 09/11/80 JA: PA | | | |
| 8056748 | 5470 | 3701900000 | 108 | | P K JONES 1426-1 | CURTISVILLE | 0.4 | CRUCIBLE INC |
| 8056747 | 5460 | 3701900000 | 108 | | W BICKER ET AL 1438-1 | WORTHINGTON | 0.3 | CRUCIBLE INC |
| -MERIDIAN OIL & GAS ENT INC | | | | | RECEIVED: 09/11/80 JA: PA | | | |
| 8056742 | 3613 | 3706323229 | 108 | | PAUL J KEELEY #1 | BLAIRSVILLE | 6.5 | T W PHILLIPS GAS & O |
| -MID-EAST OIL CO | | | | | RECEIVED: 09/11/80 JA: PA | | | |
| 8056741 | 2614 | 3700521829 | 108 | | DONALD L FLEMING #1 | ELDERTON | 3.5 | EQUITABLE GAS |
| 8056739 | 2593 | 3706323559 | 108 | D | JAMES AND FRANK CAMPBELL #5 | BRUSH VALLEY | 13.0 | NATIONAL FUEL GAS SU |
| 8056740 | 2596 | 3706323660 | 108 | D | JAMES AND FRANK CAMPBELL #8 | BRUSH VALLEY | 6.5 | NATIONAL FUEL GAS SU |
| | | | | | RECEIVED: 09/11/80 JA: PA | | | |
| -OILMARK & CO INC | | | | | | | | |
| 8056745 | 5322 | 3712327696 | 102 | | CORNISH #3 | SUGARGROVE | 8.0 | NATIONAL FUEL GAS DI |
| 8056744 | 5321 | 3712327695 | 102 | | LAUGER #1 | SUGARGROVE | 8.0 | NATIONAL FUEL GAS DI |
| | | | | | RECEIVED: 09/11/80 JA: PA | | | |
| -RENNIE KELLY ENTERPRISES | | | | | | | | |
| 8056750 | 5494 | 3706521744 | 103 | | JOHN LELLOCK #1 | BELL TOWNSHIP | 0.0 | CONSOLIDATED GAS SUP |
| 8056751 | 5495 | 3706521756 | 103 | | JOHN LELLOCK #2 | BELL TOWNSHIP | 0.0 | CONSOLIDATED GAS SUP |

OTHER PURCHASERS VOLUME NO 1288

8056552 LOUISIANA RESOURCES CO
8056654 DOW CHEMICAL CO

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days after the date of publication of this notice in the **Federal Register.**

Please reference the FERC Control Number (JD No.) in all correspondence related to these determinations.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-31077 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

## Office of the Special Counsel for Compliance

### Remedial Orders; Koch Industries, Inc.

**AGENCY:** Department of Energy.

**ACTION:** Notice of proposed remedial order to Kocvh Industrties, Inc., and opportunity for objections.

Pursuant to 10 CFR 205.192(c), the Special Counsel for Compliance, Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued on September 9, 1980 to Koch Industries, Inc., Wichita, Kansas.

The Proposed Remedial Order sets forth findings of fact and conclusions of law concerning Koch's failure to supply two retail outlets in Austin, Texas with motor gasoline. The outlets are presently owned by Startex Petroleum, Inc., (Startex) with one outlet being operated by Startex and the other being operated by Startex's lessee, Beverage Barn Drive Thru (BBDT). According to the order, Koch (the base period supplier) sold these stations to Startex in August, 1979, pursuant to a contract which attempted to terminate Koch's base period supply obligation. However, approval of the Department of Energy was not obtained as required by 10 CFR 211.9(a)(2)(i) until August 18, 1980. The Proposed Order cites Koch's consistent refusal to supply these outlets between August, 1979 and August, 1980 as a violation of 10 CFR 211.9(a)(1).

The Order requires Koch to offer to supply each station with its base period entitlement of gasoline which Koch has withheld from August, 1979 to August, 1980 at the prices in effect at the time the gasoline should have been supplied.

Any person may obtain a copy of the Proposed Remedial Order, with confidential information deleted, from the ERA. Requests may be addressed to: Milton Jordon, Director, Division of Freedom of Information, Forrestal Building, Room 5B-180, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

On or before October 24, 1980, any aggrieved person may file a Notice of Objection in accordance with 10 CFR 205.193. If a Notice of Objection is not filed, the Proposed Remedial Order may be issued as a final order. Such Notice should be filed with: Office of Hearings and Appeals, Department of Energy, 2000 M Street, N.W., Washington, D.C. 20461.

Issued in Washington, D.C., on September 30, 1980.

**Paul L. Bloom,**

*Special Counsel for Compliance.*

[FR Doc. 80-31381 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-01-M

## ENVIRONMENTAL PROTECTION AGENCY

[AD-FRL-1628-2]

### Air Pollution; Kraft Pulp Mills; Total Reduced Sulfur Emission Guideline; Correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice corrects a recommended emission guideline for the control of total reduced sulfur from existing kraft pulp mills that was published incorrectly in the **Federal Register** on May 22, 1979.

**ADDRESSES:** The final guideline document (specify "Kraft Pulping—Control of TRS Emissions from Existing Mills," EPA-450/2-78-003b) may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan R. Wyatt, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone: (919) 541-5477.

**SUPPLEMENTARY INFORMATION:** On May 22, 1979, a notice of availability of the final guideline document for the control of total reduced sulfur (TRS) emissions from existing kraft pulp mills was published in the **Federal Register** (44 FR 29828). In that notice, the recommended emission guideline for smelt dissolving tanks was mistakenly published as 0.084 gram of TRS per kilogram of black liquor solids (dry weight).

In the guideline document, the emission guideline was correctly published as 0.0084 gram of TRS per kilogram of black liquor solids (dry weight). Because the guideline document correctly published this emission guideline, the mistaken publication of this emission guideline in the **Federal Register** should not delay the development and submittal of plans for control of TRS at existing kraft pulp mills. Notice is hereby given that the recommended emission guideline for smelt dissolving tanks is 0.0084 gram of TRS per kilogram of black liquor solids (dry weight).

This notice is issued under the authority of Sections 111, 114, and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411, 7414, 7601(a)].

Dated: October 1, 1980.

**Edward F. Tuerk,**

*Acting, Assistant Administrator for Air, Noise, and Radiation.*

[FR Doc. 80-31325 Filed 10-8-80; 8:45 am]

BILLING CODE 6560-26-M

[AMS-FRL 1629-2]

### Fuel Economy Retrofit Devices; Evaluation of Retrofit Device

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Retrofit Device Evaluation.

**SUMMARY:** This announcement summarizes the conclusions of the EPA following evaluation of the W/A WAAG-Injection System under the provisions of Section 511 of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C., Section 2011.

**FOR FURTHER INFORMATION OR COPIES OF THIS REPORT CONTACT:** F. Peter Hutchins, Emission Control Technology Division, Office of Mobile Source Air Pollution Control, Environmental

Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, 313–668–4340.

**SUPPLEMENTARY INFORMATION:**

Background: Section 511(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2011(b)) requires that:

(b)(1) Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon his own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit device are accurate.

(c) The EPA Administrator shall publish in the Federal Register a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

(1) the effect of any retrofit device on fuel economy;

(2) the effect of any such device on emissions of air pollutants; and

(3) any other information which the Administrator determines to be relevant in evaluating such device.

On September 5, 1979, the EPA received a request from the Engineered Fuel Systems, Incorporated of Fort Lauderdale, Florida for evaluation of a fuel saving system termed the "W/A WAAG-Injection System." An evaluation has been made under Section 511 of the "Motor Vehicle Information and Cost Savings Act," based upon technical data available as of September 30, 1980. This evaluation is described in an EPA report entitled "Emissions and Fuel Economy Effects of the WAAG Injection System." Copies of this report are available upon request.

Summary of Evaluation: There were three separate test programs conducted at the EPA laboratory during the period of time between receipt of the application and September 30, 1980.

In the first, or base program, three vehicles were provided by the applicant representing each of the three largest domestic passenger car manufacturers. It was determined that accomplishment of the applicant's instructions as to carburetor and ignition timing adjustments (parameter adjustments) plus vehicle equilibration (or clean out) with the water/alcohol, together with EPA's need to know the independent effects of the parameter adjustments and Water/alcohol injection, could be accomplished by:

1. Testing at each vehicle manufacturer's specifications (baseline).

2. Testing with the applicant's recommended changes to ignition timing and carburetor-jects (parameter adjustments) *without* the use of water/alcohol injection. Parameter adjustments to be used were; (a) carburetor main jets 3 sizes (0.003") smaller and (b) ignition timing advanced by an amount selected by the applicant (judged to be the amount which would be used following "clean-out" with water/alcohol).

3. Mileage accumulation to achieve "cleanout" using the WAAG Injection System and parameters adjusted as in No. 1 above. The mileage accumulation period was to be approximately 1,000 miles and/or the consumption of 4 gallons of the water/alcohol mixture.

4. Testing after mileage accumulation with the WAAG Injection System in operation and parameters adjusted in No. 2 above.

Engineered Fuel Systems, Inc. reported to EPA early in the program that they were experiencing difficulties in collecting the data requested by EPA in a timely manner at the commercial laboratory with which they had contracted to obtain these data. Since the applicant's previously submitted data indicated a potential fuel economy improvement, EPA decided to test the WAAG Injection System at the EPA laboratory, using three vehicles provided by the applicant. Later, a fourth vehicle was furnished by EPA for supplementary testing, because of unanswered questions following the three vehicle test program. In accordance with EPA policy on device evaluation, a technical representative of the applicant was present throughout the first two test programs, to ensure that the device was properly installed and functioning correctly on all test vehicles, including the one provided by EPA.

*Base Program*

The WAAG Injection System was evaluated using two of the test vehicles furnished by the applicant. (A third vehicle furnished by the applicant was also tested, however, the test results were later deleted by mutual agreement, due to vehicle ignition system problems.) The applicant-furnished vehicles were tested in each of three configurations: (1) "stock" or baseline, (2) "parameters adjusted" only, and (3) "WAAG" System operational with parameters adjusted following 1,000 miles with the WAAG Injection in operation. Both the Federal Test Procedure (FTP) and the Highway Fuel Economy Test (HFET) procedure were used for the device evaluation. On-the-road testing was conducted on all vehicles in the project, to evaluate vehicle driving behavior and engine detonation (knock) characteristics.

The Test results showed that use of the WAAG Injection System, in conjunction with the applicant-recommended engine parameter adjustments resulted in: (1) on the FTP—an increase in HC and $NO_x$ emissions, a reduction in CO emissions and an improvement in fuel economy; and (2) on the HFET—an increase in HC and $NO_x$ emissions, a reduction in CO emissions and no change in fuel economy.

The road evaluations, though subjective, showed that use of the WAAG Injection System and the associated engine design parameter adjustments produced a slight lean surge under steady state conditions due to the smaller (leaner) carburetor jets. Engine knock was either substantially reduced or eliminated.

*First Supplemental Program*

An EPA-furnished test vehicle was utilized to evaluate more completely the influence of ignition timing on the test results observed during the Base Program, since the above results did not confirm previous opinions of the applicant as to the effects of the candidate system. Test procedures used in this supplemental program were the same as those used for the applicant-furnished vehicles, except that the mileage accumulation or clean-out phase was not conducted. Two Hot LA–4 tests[1] at each FTP/HFET sequence were added.

One other change was that the engine parameter adjustments selected by the applicant for this vehicle did not include substitution of smaller carburetor jets.

Test results on the EPA-furnished vehicle were essentially the same as those observed during the Base Program, except for increases in CO emissions.

*Second Supplemental Program*

Due to continued concerns on the part of the Applicant with regard to the emissions test results, additional supplemental testing was conducted by EPA. The applicant contended that two factors could have caused the unanticipated results: (1) it was noted that the armature and stator of the distributor in the EPA-furnished vehicle were "misaligned" in the static

[1] Hot LA–4 tests consist of the first 1372 seconds of the complete Federal Test Procedure, but starting with a warmed up vehicle rather than a vehicle which has cooled off over night.

condition and could have introduced a significant error in initial timing of the vehicle;[2] and (2) the amount of water/alcohol mixture consumed during testing at the EPA facility may have been insufficient to properly control emissions. In addition to the applicant's concerns, EPA was concerned that the distributor modifications made by the applicant's representatives during installation and calibration of the system were not consistent with the installation instructions. To investigate these concerns EPA conducted additional *LA–4 tests* using a different spring in the device to increase water flow and using another distributor calibrated by EPA staff members. These tests showed statistically significant increases in all regulated emissions with *no* significant impact on fuel economy.[3]

*Overall Program*

In summary, throughout all three phases of the testwork reported on the WAAG Injection System, significant increases were found in fuel economy; however, corresponding increases were found in regulated emissions, both as measured from the vehicle manufacturers specifications.

As the testing progressed, several pieces of data were challenged by the applicant, which were rejected from consideraton by mutual agreement between the applicant and EPA. Nevertheless, there were sufficient data remaining to support the foregoing conclusions.

Throughout the approximately one year period encompassed by the testing reported herein, the applicant expended considerable efforts and private resources in the acquisition of test vehicles and in contracted testing with a private laboratory, in an effort to provide EPA with technical information concerning the effects of the WAAG system on fuel economy and emissions.

Dated: October 6, 1980.

**David G. Hawkins,**

*Assistant Administrator for Air, Noise, and Radiation.*

[FR Doc. 80–31512 Filed 10–8–80; 8:45 am]

BILLING CODE 6560–26–M

[2] EPA disagrees with this hypothesis, based on discussions with the vehicle manufacturer.

[3] It is noted that the WAAG installation instructions suggest carburetor jet changes. However, the WAAG Representatives did not elect this option when installing the system on the EPA furnished vehicle. It is anticipated that such a change would have tended to reduce the observed increases in HC and CO emissions, but would increase further the $NO_x$ emissions; fuel economy would have also tended to increase with enleanment.

## FEDERAL ELECTION COMMISSION

**[Notice 1980–29]**

### Public Records; Indexes to Statements and Reports

The Federal Election Commission today reminds the public of the availability of its indexes and cross-references to statements and reports filed under the Federal Election Campaign Act of 1971, as amended. These indexes include statements and reports filed for the period April 7, 1972 to the present, from candidates for the federal offices of President, Vice President, U.S. Senator and U.S. Representative, and their supporting political committees, organizations and individuals. These documents may have been filed with the Commission or any of the former Supervisory Officers: the Clerk of the U.S. House of Representatives, the Secretary of the U.S. Senate, or the Comptroller General of the U.S.

The Federal Election Commission is required by 2 U.S.C. Section 438(a)(6) "* * * to compile and maintain a cumulative index of reports and statements filed with it, which shall be published in the Federal Register at regular intervals and which shall be available for purchase directly or by mail for a reasonable price." This Notice of Availability of Indexes is published to meet that requirement.

**Max L. Friedersdorf,**

*Chairman, for the Federal Election Commission.*

October 6, 1980.

### Summary

The campaign finance laws passed in 1971, 1974, 1976, and 1979 require detailed campaign finance reports on contributions and expenditures from candidates for federal office (President, Vice President, U.S. Senator, U.S. Representative) and their supporting Political committees. As a result, over 250,000 reports totaling more than two million pages have been filed since April 7, 1972.

From 1972 through 1974 these reports were filed with one or more of the three Supervisory Officers of the Act: The Clerk of the U.S. House of Representatives, the Secretary of the U.S. Senate and the Comptroller General of the United States. With the establishment of the Federal Election Commission in 1975, the Commission assumed control of all documents filed with the Comptroller General, as well as duplicate sets of those filed with the Secretry and the Clerk. The Commission now has available a single, central office with facilities for easy access to review and copy all of these statements and reports. The Commission encourages the greatest possible use of these documents. The Commission also hopes its indexes and cross-references to statements and reports will serve as easy reference guides for the public to use in understanding and obtaining those records.

### Records Office

*Federal Election Commission* Public Records Office, 1325 K Street, NW., Washington, D.C. 20463 (open 9 a.m. to 5 p.m. Monday–Friday), provides a central ground floor facility at the FEC where all reports relating to campaign finance filed since April 7, 1972 (the effective date of the FECA), are readily available for public inspection and copying. These include statements and reports from candidates for the offices of President, Vice President, U.S. Senator, U.S. Representative, as well as political committees supporting those candidates.

The FEC Public Records Office is a library-type facility with ample work space, reference tables and a knowledgeable staff to help locate documents. Microfilm is the official record of all documents filed since 1972. Documents may be viewed and copied from the several reader-printers in the office. Paper copies of the most recent reports as well as Commission memorandum are also available for review and copying. Because the reports are required to include a listing of every receipt and expenditure in excess of $200, a simple review may involve numerous reports with many pages. For general reference, however, each report includes a summary page for that period, as well as year-to-date totals, listing amounts of total receipts, total expenditures, cash on hand, debts, owed, and other breakdowns.

*Documents Available*

Campaign finance statements and reports submitted by candidates, political committees and individuals:

* Statements of Candidacy and designation of Principal Campaign Committee
* Statements of Organization of Political Committees
* Candidate Authorization of a Political Committee
* Reports of Receipts and Expenditures
* Statements of Independent Expenditures
* Communication Costs by Corporations, Labor Organizations, Membership Organizations and Trade Associations
* Office Accounts
* Debt Settlement Statements.

Ethics In Government Act of 1978:

* Personal Financial Disclosure Reports filed by Presidential and Vice Presidential candidates.

FEC Reports (published indexes which consolidate and summarize data taken from financial disclosure reports):

* FEC Disclosure Series (1975–1976)
* FEC Reports on Financial Activity (1977-Present)
* Index to Qualified Multicandidate Political Committees.

FEC Documents:

* Complete set of Advisory Opinion Requests, Advisory Opinions, Opinion Requests and comments submitted on the AORs. (Topical Index and Cross-References to the Act and Regulations available.)
* All closed compliance actions (Chronological and Numeric Index available)
* Commission memoranda (except Executive Session items), agenda items and agendas for Commission open meetings, Sunshine certifications for closed Commission meetings and minutes of all Commission open meetings
* Completed Audits
* Press releases
* Issues of the FEC newsletter *Record*
* Federal Register Notices.

**Indexes Available**

The Commission has designed and makes available various computer indexes to campaign finance data. The indexes are designed to make the mass amount of data in the statements and reports more accessible and understandable for the public. Some of these indexes may focus, for example, on selected political committees cross-indexes against the candidates they support and the amount of financial support, or the total financial activity (receipts and expenditures) of a candidate or committee. The following types of indexes are available:

*Names and Addresses of Candidates (A Index)*

Sorted by type of office sought (President, U.S. Senator, U.S. Representative), and alphabetically by last name or by State/Congressional district.

*Names and Addresses of Committees (B Index)*

Includes name of connected organization, name of treasurer, committee ID number, notation if it is "qualified" as multicandidate committee and filing frequency. This index can be sorted alphabetically by committee name, by committee ID number, by state, and by type (Presidential, Senate, House, Party, NonParty).

*Political Action Committee Name Index (35o and 35c Index)*

The names of political action committees are arranged alphabetically with the sponsoring or connected organization listed below.

Another version of this index lists the sponsoring or connected organization alphabetically, with its political action committee names cross referenced.

*Nonparty Related Political Committees Arranged By Date Registered*

This index arranges the names and addresses of political committees in chronological order by the date they registered with the Commission. One index lists those from January 1, 1977 through December 31, 1978. The second lists committees from January 1, 1979 to the present.

*Disclosure Documents Filed by Political Committees (C Index)*

Includes, for each committee, its name, ID number, list of each document filed (name of report, period receipts, period expenditures, coverage dates, number of pages and microfilm location), total gross receipts and expenditures and number of pages.

*Index of Candidates Supported by Committees (D Index)*

Includes, for each committee, its name, ID number, name of connected organization, notation if it is "qualified" as multicandidate committee, and a listing of all Federal candidates supported, together with total aggregate contributions to or expenditures on behalf of each candidate. In the case of party committees, coordinated party expenditures (§ 441a(d)) are listed in place of independent expenditures.

*Index of Candidate and Supporting Committees (E Index)*

Includes for each candidate the following:

1. Candidate name, district/State, party affiliation and candidate ID number.
2. Listing of all documents filed by the candidate (type, coverage dates, period receipts, period expenditures, number of pages, microfilm location).
3. Listing of all documents filed by the principal campaign committee (See C Index for explanation).
4. Listing of all documents filed by other authorized committees of the candidate.
5. Listing of all committees (other than those authorized by the candidate) forwarding contributions to the candidate, the principal campaign committee, or an authorized committee, and the aggregate total of such contributions given to date. This listing also identifies committees making expenditures to the candidate, or making independent expenditures for or against the candidate, or a party committee making coordinated party expenditures Section 441a(d)), a committee forwarding honoraria, or a vote recount contribution.
6. Listing of all persons or unauthorized single candidate committees filing reports indicating they made independent expenditures on behalf of the candidate.
7. Listing of all persons or committees filing unauthorized delegate reports.
8. Listing of all corporations or labor unions filing reports of communication costs on behalf of the candidate.

*Index of Itemized Transaction for Each Candidate and Political Committee (G Index)**

Itemized receipt and disbursement transactions are listed, along with the amounts of the transactions, keys to reports in which the transactions were indicated, and the microfilm location of transactions. Five categories were represented:

1. Individual transactions, including individual contributions and loan activity.
2. Selected loan and loan repayment transactions, including loans from banks.
3. Unregistered political organization transactions; that is, contributions to candidates from organizations which are not registered under the Act.
4. Corporate refund/rebate transactions with itemized receipts showing refunds of deposits.
5. Transactions among registered candidates/committees which indicate transfers and loan activity.

*Office Account Index*

The first part of this index lists Office Account Reports Filed in 1977–1978 by Federal Office holders and by State office holders who are also condidates for Federal office.

The second part of this Index lists Office Account Reports filed during the first six months of 1979 by Federal Office holders and by State office holders who are also candidates for Federal office.

*Multicandidate Political Committee Index*

This Index lists those Party and NonParty political committees which

*Pursuant to restrictions in 2 U.S.C. § 438(a), (4), the G Index with its names of contributors and addresses is available for public inspection exclusively at the Commission and may not be mailed out or copied.

have met the qualifications for Multicandidate committee status, which is defined by 2 U.S.C. 441a(a)(4) of the Federal Election Campaign Act of 1971, as amended, as a political committee "* * * registered under Section 433 for a period not less than 6 months which has received contributions from more than 50 persons, and except for any State political party organization, has made contributions to 5 or more candidates for Federal office."

*Special Inquiry*

This immediate access system permits direct video display or printout of selected information in the Disclosure Information System. It consists of between 40 and 50 separate programs which may be used to locate, retrieve or display individual items or categories of information. For example, if one did not know the name of a political committee, but knew the Treasurer's name, a Special Inquiry search would provide the political name. If one only knew a key word in the title of the political committee, a Special Inquiry search would provide a list of all political committee names with that key word in the title.

*Organization and Indexing of Paper Files*

The paper files are organized in the following manner:

1. *Mutlicandidate Committees:* Over 1,900 political committees supporting more than one Federal candidate are arranged alphabetically in file cabinets by Committee name. These files include those committees which have qualified as "multicandidate committees," as well as those which have not. A cross-reference file is available to help determine the name of a particular group by its affiliation with a labor organization, corporation, trade association or other membership organization.

2. *National Party Related:* Files of major national party committees are arranged by party, then alphabetically by committee name.

3. *Presidential Candidates:* These files are arranged alphabetically by candidate name.

4. *U.S. Senate Candidates:* Files are arranged by State, then alphabetically by candidate name.

5. *U.S. House of Representative Candidates:* Files are arranged by State, then Congressional District number, then alphabetically by candidate last name.

6. *Communications of Corporations and Unions (Form 7):* Reports on costs of internal communications which advocate the election or defeat of Federal candidates are alphabetized by name of reporting corporation or union.

*Copying and Ordering Reports*

Copies of all statements, Commission issuances and reports on file with the FEC are available for purchase for $.05–.10 per page. Anyone visiting the office may use the photocopy machines or the microfilm reader-printers for copying all or part of any report. All mail requests for reports should clearly identify the full name of the candidate or committee reporting, the specific report(s) and the year(s) desired. Once a request is received, a page count is done in order to compute the copy charge. The FEC indexes, for any document received after January 1, 1977, provides the number of pages included in each report to assist in a quick turnaround time for page counts. Full payment in advance is required. Checks should be made payable to the "U.S. Treasurer." If an order required more than one-half hour of the Commission staff time, there is an additional charge of $2.50 for each following half hour. Authentication with the Commission Seal may also be obtained for a fee of $2.00 per document.

*Further Information*

Information regarding these indexes and files may be obtained from the Commission's Public Records Office.

The Office is located at 1325 K Street, N.W., Washington, D.C. Telephone 202–523–4181, toll free 800–424–9530. Information may also be obtained by writing the FEC at the following address: Public Records Office, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463.

*Restrictions on Use of FEC Disclosure Documents*

The Federal Election Campaign Act of 1971, as amended, and Commission Regulations contain broad restrictions on the use of information in FEC disclosure documents. A person contemplating use of FECA reports for any commercial purpose or to solicit contributions of any kind should be aware of these limitations.

Title 2, United States Code, Section 438(a)(4) provides:

> * * * information copied from [FEC disclosure] reports and statements shall not be sold or used by any person for the purpose of soliciting contributions or for any commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

Commission Regulations (11 CFR 104.13) state:

> (a) Any information copied, or otherwise obtained from any report or statement, or any copy, reproduction, or publication thereof, filed with the Commission, Clerk of the House, Secretary of the Senate, or any Secretary of State or other equivalent State officer, shall not be sold or used by any person for the purpose of soliciting contributions or any commercial purpose, except that the name and address of any political committee may be used to solicit contributions from such committee.
>
> (b) * * * "soliciting contributions" includes soliciting any type of contribution or donation, such as political or charitable organizations.

It is therefore unlawful, for example, to use information (except the names and addresses of political committees) in disclosure reports to solicit contributions to a state or local candidate, or to a referendum campaign, or to a charity or other non-profit organization.

> (c) The use of information, which is copied or otherwise obtained from reports * * *, in newspapers, magazines, books or other similar communications is permissible as long as the principal purpose of such communication is not to communicate any contributor information listed on such reports for the purpose of soliciting contributions or for other commercial purposes.

An example of a commercial purpose would be compiling a mailing list of the names and addresses of contributors to solicit sales of a product or service, whether or not for profit.

Violations of 2 U.S.C. 438(a)(4) are punishable by payment of a civil penalty of up to $10,000 or twice the amount of the violation, whichever is greater. (See 2 U.S.C. 437g.)

Inquiries concerning the use of disclosure documents should be addressed to the Public Records Office.

[FR Doc. 80-31509 Filed 10-8-80; 8:45 am]
BILLING CODE 6715-01-M

## FEDERAL RESERVE SYSTEM

### Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce

benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Fedeal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than November 3, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice president) 33 Liberty Street, New York, New York 10045:

Manufacturers Hanover Corporation, New York, New York (commercial finance; Tennessee): to engage through its subsidiary Manufacturers Hanover Commercial Corporation (Delaware) in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commercial finance company; and arranging or servicing such loans and other extensions of credit for any person. These activities would be conducted from an office located in Nashville, Tennessee serving the states of Alabama, Kentucky and Tennessee.

B. *Federal Reserve Bank of Chicago* (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

Fennimore Bancorporation, Inc., Fennimore, Wisconsin (insurance activities; Wisconsin): to engage directly in the sale of various types of insurance, including fire, hail, casualty, automobile, and life insurance, in a community that has a population not exceeding 5,000. These activities would be conducted from the office of Applicant's subsidiary bank in Fennimore, Wisconsin, serving the area within a five-mile radius around Fennimore.

C. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Security Pacific Corporation, Los Angeles, California (finance and credit-related insurance activities; California): to engage through its subsidiary, Security Pacific Finance Corp. in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit-related life, accident and health insurance and credit-related property and casualty insurance. These activities would be conducted from offices of Security Pacific Finance Corp. located in Santa Ana, San Bernardino and Santa Barbara, California, serving the State of California.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, October 3, 1980.

**Jefferson A. Walker,**

*Assistant Secretary of the Board.*

[FR Doc. 80-31424 Filed 10-8-80; 8:45 am]

BILLING CODE 6210-01-M

## Bank Holding Companies; Notice of Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than November 3, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

The Chase Manhattan Corporation, New York, New York (consumer lending, related lending and insurance brokerage activities and sale of travelers checks at retail; Florida): proposes, through its subsidiary, Chase Manhattan Financial Services, Inc., to make or acquire, for its own account and for the account of others, loans and other extensions of credit, both secured and unsecured, including but not limited to, consumer and business lines of credit, installment loans for personal, household and business purposes and mortgage loans secured by real property; to service loans and other extensions of credit; to sell travelers checks at retail; to act as insurance agent or broker for credit life insurance and credit accident and health insurance directly related to such lending and servicing activities. These activities will be conducted from an office in Boca Raton, Florida serving the State of Florida.

B. *Federal Reserve Bank of Cleveland* (Harry W. Hunning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

Pittsburgh National Corporation, Pittsburgh, Pennsylvania (mortgage banking activities; Maryland): to engage through its subsidiary, The Kissel Company, in mortgage banking including the making or acquiring and servicing for its own accounts or for the accounts of others, loans and other extensions of credit. These activities would be conducted from an office in Kensington, Maryland, serving the metropolitan area of Kensington, Montgomery, Prince Georges, Frederick, Howard, Anne Arundel, Washington, Carroll, Baltimore, Charles, Cecil, Calvert, St. Marys, Queen Annes, Wicomico, Kent, Talbot, Worcester and Dorchester Counties, Maryland, and the District of Columbia. Comments on this application must be received by October 31, 1980.

C. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

U.S. Bancorp, Portland, Oregon (mortgage, consumer, and commercial lending activities and insurance activities; Oregon): to engage through its subsidiary, U.S. Creditcorp, in the following activities: making, acquiring, and servicing consumer loans and other extensions of credit for its own account and for the account of others, including consumer installment and real estate sales finance contracts and consumer home equity loans secured by real estate; making industrial loans; and acting as insurance agent for the sale of credit life and disability insurance solely in connection with extensions of credit by U.S. Creditcorp.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, October 2, 1980.

**Jefferson A. Walker,**

*Assistant Secretary of the Board.*

[FR Doc. 80-31428 Filed 10-8-80; 8:45 am]

BILLING CODE 6210-01-M

## Brunswick Bancshares, Inc.; Formation of Bank Holding Company

Brunswick Bancshares, Inc., Brunswick, Nebraska, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Brunswick State Bank, Brunswick, Nebraska. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Brunswick Bancshares, Inc., Brunswick, Nebraska, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire all of the voting shares of Brunswick Insurance Agency, Inc., Brunswick, Nebraska.

Applicant states that the proposed subsidiary would engage in the activities of a general insurance agency in a community with a population of less than 5,000. These activities would be performed from offices of Applicant's subsidiary in Brunswick, Nebraska, and the geographic area to be served is the community of Brunswick, Nebraska. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 29, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, September 29, 1980.

**Jefferson A. Walker,**

*Assistant Secretary of the Board.*

[FR Doc. 80-31426 Filed 10-8-80; 8:45 am]

BILLING CODE 6210-01-M

## CCB Corp.; Formation of Bank Holding Company

CCB Corp., Atlanta, Georgia, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Clayton County Bank, Riverdale, Georgia. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 1, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 2, 1980.

**Jefferson A. Walker,**

*Assistant Secretary of the Board.*

[FR Doc. 80-31431 Filed 10-8-80; 8:45 am]

BILLING CODE 6210-01-M

## CDB Corp.; Formation of Bank Holding Company

CDB Corp., Atlanta, Georgia, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Citizens Dekalb Bank, Clarkston, Georgia. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 1, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 2, 1980.

**Jefferson A. Walker,**

*Assistant Secretary of the Board.*

[FR Doc. 80-31433 Filed 10-8-80; 8:45 am]

BILLING CODE 6210-01-M

## Central Oklahoma Bancshares, Inc.; Formation of Bank Holding Company

Central Oklahoma Bancshares, Inc., Depew, Oklahoma, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Central Oklahoma Bank, Depew, Oklahoma. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 1, 1980. Any comment on an application that requires a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 2, 1980.

**Jefferson A. Walker,**

*Assistant Secretary of the Board.*

[FR Doc. 80-31422 Filed 10-8-80; 8:45 am]

BILLING CODE 6210-01-M

---

### Central Trust Investment, Inc.; Formation of Bank Holding Company

Central Trust Investment, Inc., Cherokee, Iowa, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Central Trust and Savings Bank, Cherokee, Iowa. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 3, 1980.

**Jefferson A. Walker,**

*Assistant Secretary of the Board.*

[FR Doc. 80-31420 Filed 10-8-80; 8:45 am]

BILLING CODE 6210-01-M

---

### Columbus Corp.; Formation of Bank Holding Company

Columbus Corp., Columbus, Kansas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring at least 82.5 percent of the voting shares of The First National Bank of Columbus, Columbus, Kansas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 3, 1980.

**Jefferson A. Walker,**

*Assistant Secretary of the Board.*

[FR Doc. 80-31436 Filed 10-8-80; 8:45 am]

BILLING CODE 6210-01-M

---

### FCB Corp.; Formation of Bank Holding Company

FCB Corp., Atlanta, Georgia, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First Commercial Bank, Buford, Georgia. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 1, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 2, 1980.

**Jefferson A. Walker,**

*Assistant Secretary of the Board.*

[FR Doc. 80-31434 Filed 10-8-80; 8:45 am]

BILLING CODE 6210-01-M

---

### FBH Corp.; Formation of Bank Holding Company

FBH Corp., Atlanta, Georgia, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First Cornelia Corp., Cornelia, Georgia. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 1, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 2, 1980.

**Jefferson A. Walker,**

*Assistant Secretary of the Board.*

[FR Doc. 80-31430 Filed 10-8-80; 8:45 am]

BILLING CODE 6210-01-M

---

### FMB Corp., Formation of Bank Holding Company

FMB Corp., Atlanta, Georgia, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842)(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Farmers & Merchants, Summerville, Georgia. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 1, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 2, 1980.

**Jefferson A. Walker,**

*Assistant Secretary of the Board.*

[FR Doc. 80-31427 Filed 10-8-80; 8:45 am]

BILLING CODE 6210-01-M

---

### Freeport Bancshares, Inc.; Formation of Bank Holding Company

Freeport Bancshares, Inc., Freeport, Minnesota, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Freeport State Bank, Freeport, Minnesota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to

comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 3, 1980.

**Jefferson A. Walker,**

*Assistant Secretary of the Board.*

[FR Doc. 80-31423 Filed 10-8-80; 8:45 am]

BILLING CODE 6210-01-M

---

### Hudson Bancshares Corp.; Formation of Bank Holding Company

Hudson Bancshares Corporation, Hudson, Wisconsin, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 85.4 per cent of the voting shares of The State Bank of Hudson, Hudson, Wisconsin. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 3, 1980.

**Jefferson A. Walker,**

*Assistant Secretary of the Board.*

[FR Doc. 80-31419 Filed 10-8-80; 8:45 am]

BILLING CODE 6210-01-M

---

### Pennbancorp; Formation of Bank Holding Company

Pennbancorp, Titusville, Pennsylvania, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1) to become a bank holding company by acquiring 100 per cent of the voting shares of The Pennsylvania Bank and Trust Company, Warren, Pennsylvania; 5.01 per cent of the voting shares of Bucks County Bank and Trust Company, Perkasie, Pennsylvania; 6.9 per cent of the voting shares of Easton National Bank and Trust Company, Easton, Pennsylvania; 10.0 per cent of the voting shares of The Morrisville Bank, Morrisville, Pennsylvania; 7.8 per cent of the voting shares of Southeast National Bank, Chester, Pennsylvania; 8.2 per cent of the voting shares of Third National Bank and Trust Company, Scranton, Pennsylvania, and 6.0 per cent of the voting shares of Williamsport National Bank, Williamsport, Pennsylvania. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 3, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 3, 1980.

**Jefferson A. Walker,**

*Assistant Secretary of the Board.*

[FR Doc. 80-31421 Filed 10-8-80; 8:45 am]

BILLING CODE 6210-01-M

---

### Roswell Bancshares; Formation of Bank Holding Company

Roswell Bancshares, Atlanta, Georgia, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Roswell Bank, Roswell, Georgia. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 1, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 2, 1980.

**Jefferson A. Walker,**

*Assistant Secretary of the Board.*

[FR Doc. 80-31432 Filed 10-8-80; 8:45 am]

BILLING CODE 6210-01-M

---

### Ruthven Investment, Ltd.; Formation of Bank Holding Company

Ruthven Investment, Ltd., Ruthven, Iowa, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Ruthven State Bank, Ruthven, Iowa. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 1, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 2, 1980.

**Jefferson A. Walker,**

*Assistant Secretary of the Board.*

[FR Doc. 80-31425 Filed 10-8-80; 8:45 am]

BILLING CODE 6210-01-M

---

### TGB Corp.; Formation of Bank Holding Company

TGB Corp., Atlanta, Georgia, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Gordon Bank, Gordon, Georgia. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 1, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of

fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 2, 1980.

**Jefferson A. Walker,**

*Assistant Secretary of the Board.*

[FR Doc. 80-31429 Filed 10-8-80; 8:45 am]

BILLING CODE 6210-01-M

## GENERAL SERVICES ADMINISTRATION

**[Intervention Notice 127]**

### Commonwealth Edison Co., the Illinois Commerce Commission; Proposed Intervention in Electric Rate Increase Proceeding

The General Services Administration seeks to intervene in a proceeding before the Illinois Commerce Commission concerning the application of the Commonwealth Edison Company for an increase in its electric rates. GSA represents the interest of the executive agencies of the U.S. Government as users of utility services.

Persons desiring to make inquiries to GSA concerning this case should submit them in writing to Leonard A. Salters, Acting Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets, N.W., Washington, DC (mailing address: General Services Administration (LT), Washington, DC 20405), telephone 202-566-0750, within 30 days of the publication of this notice in the Federal Register, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Sec. 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4))

Dated: September 23, 1980.

**Ray Kline,**

*Acting Administrator of General Services.*

[FR Doc. 80-31442 Filed 10-8-80; 8:45 am]

BILLING CODE 6820-AM-M

## Office of the Federal Register

### Standard Building Code; Research and Education Conference

**AGENCY:** Office of the Federal Register.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Southern Building Code Conference International (SBCCI) will hold its annual Research and Education Conference. The Conference will include hearings on proposed changes to the Standard Building Code and other related codes. All interested parties are invited to participate at this open meeting. The Office of the Federal Register is announcing this meeting as a public service.

**DATE:** October 26, 1980 through October 30, 1980.

**ADDRESS:** Rivermont Holiday Inn, Memphis, Tennessee.

**FOR FURTHER INFORMATION CONTACT:** Registration information and code change agenda: William G. Vasvary, Executive Director, Southern Building Code Congress International, 900 Montclair Road, Birmingham, AL 35213. (205) 591-1853. Federal Register contact: Gary Segal (202) 523-4534.

**Martha Girard,**

*Acting Director of the Federal Register.*

[FR Doc. 80-31471 Filed 10-8-80; 8:45 am]

BILLING CODE 6820-26-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Assistant Secretary for Health

### Health Maintenance Organizations

**AGENCY:** Public Health Service, HHS.

**ACTION:** Notice, August list of qualified health maintenance organizations.

**SUMMARY:** This notice sets forth the names, addresses, service areas, and dates of qualification of entities determined by the Secretary to be qualified health maintenance organizations (HMOs). In addition, a name change is reported at the end of the list.

**FOR FURTHER INFORMATION CONTACT:** Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building—Third Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

**SUPPLEMENTARY INFORMATION:** Regulations issued under Title XIII of the Public Health Service Act, as amended, (42 CFR 110.605(b)) require that a list and description of all newly qualified HMOs be published on a monthly basis in the Federal Register. The following entities have been determined to be qualified HMOs under Section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)):

### Qualified Health Maintenance Organizations

*Name, address, service area, and date of qualification.*

(Operational Qualified Health Maintenance Organization: 42 CFR 110.603(a)).

1. Group Health Association, Inc., (Staff Model, see section 1310(b)(1) of the Public Health Service Act), 2121 Pennsylvania Avenue, N.W., Washington, D.C. 20037. Service area: Washington, D.C.; zip codes in Charles County, Maryland (20601, 20612-13, 20616-17, 20640, 20646, 20675, 20695), and Howard, Montgomery, and Prince Georges' Counties, Maryland; Arlington, Fairfax, Loudoun, and Prince William Counties, Virginia, and the independent cities of Alexandria, Falls Church, and Fairfax, Virginia. Date of qualification: July 18, 1980. (Transitionally qualified: July 18, 1977.)

(Transitionally Qualified Health Maintenance Organization: 42 CFR 110.603(b)).

1. New Mexico Health Care Corporation, dba Mastercare, (Individual Practice Association, see section 1310(b)(2)(A) of the Public Health Service Act), 2350 Alamo, S.E., Albuquerque, New Mexico 87107. Service area: Bernalillo County, New Mexico and zip codes in the following counties:

| Sandoval | Santa Fe | Torrance | Valencia |
|---|---|---|---|
| 87001 | 87015 | 87056-7 | 87002 |
| 87004 | | 87061 | 87031 |
| 87024 | | | 87042 |
| 87041 | | | 87060 |
| 87043 | | | 87068 |
| 87048 | | | |
| 87052 | | | |
| 87124 | | | |

Date of qualification: August 15, 1980.

*Name Change*

*Change from:* Georgetown University Community Health Plan, Inc. Suite 300, 4200 Wisconsin Avenue, N.W., Washington, D.C. 20016.

*Change to:* Kaiser-Georgetown Community Health Plan, Inc.

Effective date: August 1, 1980.

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m. on Tuesdays and Thursdays, except for Federal holidays, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health and Human Services, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857.

Questions about the qualification review process or requests for information about qualified HMOs should be sent to the same office.

Dated: September 26, 1980.

**Howard R. Veit,**

*Director, Office of Health Maintenance Organizations.*

[FR Doc. 80-31447 Filed 10-8-80; 8:45 am]

BILLING CODE 4110-85-M

## National Council on Health Care Technology; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the Subcommittee on Dissemination of the National Council on Health Care Technology (Council), which was established pursuant to the Health Research, Health Statistics, and Health Care Technology Act of 1978 (Pub. L. 95-623) and which advises the Secretary and the Director of the National Center for Health Care Technology (Center) on the activities of the Center, will convene on Friday, November 7, 1980 at 10:00 a.m. in the Board room of the Milbank Memorial Fund, 1 East 75th St., New York, N.Y. This meeting will be open to the public from 10:00 a.m. to 4:00 p.m. to discuss the business of the Subcommittee. Principal consideration and discussion will be devoted to discussion of processes for dissemination of technology assessment information.

Further information regarding the Council may be obtained by contacting Sharon Paino, Executive Secretary, National Council on Health Care Technology, Room 17A-29, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: October 3, 1980.

**Wayne C. Richey, Jr.,**

*Acting Executive Secretary, Office of Health Research, Statistics, and Technology.*

[FR Doc. 80-31469 Filed 10-8-80; 8:45 am]

BILLING CODE 4110-85-M

## Alcohol, Drug Abuse, and Mental Health Administration

### National Advisory Bodies; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of November 1980.

*Epidemiologic and Services Research Review Committee*

November 3-6; 9:00 a.m., Conference Room A, Holiday Inn-Georgetown, 2101 Wisconsin Avenue, Washington, D.C. 20007
Open—November 3, 9:00 to 10:00 a.m.
Closed—Otherwise
Contact: Shirley R. Margolis, Ph. D., Room 9C-24, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6470
Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of mental health epidemiology, mental health systems research, and mental health services development, evaluation methodology and knowledge transfer, and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00 to 10:00 a.m. on November 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

*Life Course Review Committee*

November 5-7; 9:00 a.m., Lobby Room and Suite 905, Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20015
Open—November 6, 9:00 to 10:00 a.m.
Closed—Otherwise
Contact: Mrs. Nell Brock, Room 9C-18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-1367
Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of child, family, and aging, and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00 to 10:00 a.m. on November 6, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

*Basic Sociocultural Research Review Committee*

November 6-7; 9:00 a.m., Holdiay Inn-Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20015
Open—November 6, 9:00 to 9:30 a.m.
Closed—Otherwise
Contact: Marilyn Andersen, Room 9C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3936
Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of social psychology, sociology, antropology, and other social sciences focusing on social and cultural behaviors, processes, and institutions, and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00 to 9:30 a.m. on November 6, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

*Cognition, Emotion, and Personality Research Review Committee*

November 7-9:00 a.m., Connecticut Inn Motel, 4400 Connecticut Avenue, N.W., Washington, D.C. 20008
Open—November 7, 9:00 to 10:00 a.m.
Closed—Otherwise
Contact: Shirley Maltz, Room 9C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3944
Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the field of personality, cognition, emotion and higher mental processes, and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00 to 10:00 a.m. on November 7, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

*Treatment Development and Assessment Research Review Committee*

November 19-21; 9:00 a.m., Bethesda Marriott, 2 Pooks Hill Road, Bethesda, Maryland 20014
Open—November 19, 9:00 to 10:00 a.m.
Closed—Otherwise
Contact: Mary G. Keffer, Room 9C-24, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6470
Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities in the fields of treatment development and assessment, and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00 to 10:00 a.m. on November 19, the meeting will open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance

and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

*Mental Health Services Manpower Development Review Committee*

November 20–21; 10:00 a.m., Conference Rooms Shenandoah C and Board Room, Westpark Hotel, 1900 N. Fort Myer Drive, Arlington, Virginia 22209
Open—November 21, 9:00 to 10:00 a.m.
Closed—Otherwise
Contact: Mrs. Barbara McCracken, Room 9C–02, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1220
Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for State mental health manpower development projects, and research and demonstration projects concerning mental health services manpower, and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00 to 10:00 a.m. on November 21, the meeting will open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

*Mental Health Small Grant Review Committee*

November 20–22; 1:30 p.m., The Shoreham Hotel, Council and Colonial Rooms, 2500 Calvert Street, NW., Washington, D.C. 20008
Open—November 20, 1:30 to 2:30 p.m.
Closed—Otherwise
Contact: LaVerl P. Klein, Room 9–104, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4843
Purpose: The Committee is charged with the initial review, based on the scientific and technical merit of applications submitted to the NIMH for Federal assistance of activities for research in all disciplines pertaining to alcohol, drug abuse, and mental health, including psychology, sociology, anthropology, psychiatry, and the biological sciences, and makes recommendations to the National Advisory Councils of the respective Institutes for final review.
Agenda: From 1:30 to 2:30 p.m. on November 20, the meeting will open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).
Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of committee members will be furnished upon request by the NIMH Committee Management Office, Mrs. Uvalda Dowdy, Office of the Associate Director for Extramural Programs, National Institute of Mental Health, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: (301) 443–4333.

Dated: October 6, 1980.

**Elizabeth A. Connolly,**

*Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.*

[FR Doc. 80–31470 Filed 10–8–80; 8:45 am]

BILLING CODE 4110–88–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Assistant Secretary for CPD

**[Docket No. D–80–622]**

### Regional Administrators, et al.

**AGENCY:** U.S. Department of Housing and Urban Development (HUD).

**ACTION:** Redelegation of authority.

**SUMMARY:** This redelegation of authority is issued to coincide with the implementation of the Department's plan for restructuring its field organization and to improve the delivery and administration of the HUD Indian Programs.

**FOR FURTHER INFORMATION CONTACT:** John Mayer or Robert Rusin, Director, Organization and Management Services Division, Office of Management, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, (202) 755–6433. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** The Department of Housing and Urban Development is restructuring its field organization to provide a more centralized and focused, coherent, and productive emphasis on Indian Programs. As a result the present delegation of authority applicable to the Community Development Block Grant Program for Indian Tribes and Alaskan Natives must be revised to conform with the new regional structure.

Responsibility for administering and delivering all Departmental Indian Community Planning and Development programs will be delegated to five Offices of Indian Programs, plus the Anchorage Area Office. The location and jurisdiction of these offices follows:

The Office of Indian Programs in the Regional Office of Region V (Chicago) serving all locations in Region I (Boston), Region II (New York), Region III (Philadelphia), Region IV (Atlanta), and Region V (Chicago), plus all locations in the State of Iowa
The Office of Indian Programs in the Regional Office of Region VIII (Denver) serving all locations in that Region, plus all locations in the State of Nebraska
The Division of Indian Programs reporting to the Area Manager within the Oklahoma City Area Office of Region VI serving all locations in the States of Oklahoma, Kansas, Missouri, Texas, Arkansas, and Louisiana
The Office of Indian Programs in the Regional Office of Region IX (San Francisco) serving all locations in that Region, plus all locations in the State of New Mexico
The Office of Indian Programs in the Regional Office of Region X (Seattle) serving all locations in that Region, except for the State of Alaska. The existing Anchorage Area Office in Region X will serve all locations in the State of Alaska

All Indian activities for the Department's Community Planning and Development programs will be administered through the Offices indicated above, rather than through the Department's normal field structure. As such, the present delegation of authority 43 FR 34102 Section A which redelegated from the Assistant Secretary for CPD to Regional Administrators, Deputy Regional Administrators, Area Managers, Deputy Area Managers, and Directors, Office of Indian Programs, in Regions VIII and IX, the power and authority of the Assistant Secretary under section 107(a)(7), must be revised.

As part of this revision Section B is also amended to:

—allow the officials designated to waive the Housing Assistance Plan requirements of 24 CFR Part 571.305(d) and 571.405(e); and

—except from the authority redelegated the power to make final determinations of eligibility of Indian Tribes and Alaskan Native Villages as defined in 24 CFR Part 571.3(o).

Accordingly 43 FR 34102 is amended as follows:

*Section A. Authority redelegated.* Each Regional Administrator, Deputy Regional Administrator, Area Manager, Deputy Area Manager, and the Director of Regional Community Planning and

Development in Region VIII is authorized to exercise the power and authority of the Assistant Secretary for Community Planning and Development with respect to the community development block grant program, pursuant to title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301), as amended, except as provided in section B of this redelegation of authority, and except as follows: the power and authority of the Assistant Secretary under Section 107(a)(7) is redelegated only to the Regional Administrator, Deputy Regional Administrator, and Director, Office of Indian Programs, in Regions V, VIII, IX, and X; to the Regional Administrator and Deputy Regional Administrator in Region VI; to the Area Manager, Deputy Area Manager, and Director, Division of Indian Programs, Oklahoma City Area Office, and to the Area Manager and Deputy Area Manager, Anchorage Area Office.

*Section B.* * * *

* * * * *

13. Waive any requirement of 24 CFR Parts 570 and 571, except that those officials designated in section A may waive the timing requirements for submission of full applications, grantee performance reports, A–95 reviews, audits for a period not to exceed two calendar months, and the Indian Community Development Block Grant Housing Assistance Plan requirements in accordance with 24 CFR 571.305(d) and 571.405(e).

14. * * *

15. * * *

16. Make determinations of the eligibility of Indian Tribes and Alaskan Native Villages (as defined in 24 CFR 571.3(o)) to participate in the Indian Community Development Block Grant Program, except that those officials designated in Section A may make those determinations of eligibility that can be made from lists provided to them each fiscal year by the Assistant Secretary for Community Planning and Development.

* * * * *

**Authority:** Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95–128), and section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

**Effective Date:** This redelegation of authority is effective October 1, 1980 or the Regionally established date for transfer of Indian Community Development Block Grant Program, whichever comes last.

Issued at Washington, D.C., October 2, 1980.

**Robert C. Embry, Jr.,**

*Assistant Secretary for Community Planning and Development.*

[FR Doc. 80-31391 Filed 10-8-80; 8:45 am]

BILLING CODE 4210-01-M

## Office of Environmental Quality

**[Docket No. NI-30]**

## Intended Environmental Impact Statements

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for each of the following projects under HUD programs as described in the appendices of the Notice: Sienna Plantation Subdivision, Fort Bend County, Texas; Indian Creek Subdivision, Albany, Georgia; Winding Creek Planned Development, McHenry, Illinois; Briarwood Planned Development, Yellowstone County, Montana; Hollywood and Vine Regional Center, Los Angeles, California; and the New Town of Harbison, Richland and Lexington Counties, South Carolina. This Notice is required by the Council on Environmental Quality under its rules (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning a particular project to the specific person or address indicated in the appropriate part of the appendices.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C., October 1, 1980.

**Francis G. Haas,**

*Deputy Director, Office of Environmental Quality.*

### Appendix

*EIS on Sienna Plantation Subdivision, Fort Bend, Tex.*

The Dallas Area Office of the Department of Housing and Urban Development proposes to prepare an Environmental Impact Statement on a subdivision in the southwest region of metropolitan Houston to be known as Sienna Plantation. The purpose of this Notice is to solicit comments and recommendations from all interested persons, local, state and Federal agencies regarding the issues to be addressed in depth in the Environmental Impact Statement.

*Description.* The Johnson Corporation, Houston, Texas, has filed an application with the Houston Multifamily Service Office for mortgage insurance under Section 203(b) of Title II of the National Housing Act of 1934. The Johnson Corporation proposes to develop the property for Sienna Plantation, Incorporated. The total proposed development will comprise 6,465 acres and provide 20,383 single family residences and 6,000 multifamily housing units, as well as 283 acres of commercial property. When fully developed the area will provide housing for an estimated population of 70,000 persons.

*Need.* The Sienna Plantation Levee Improvement District proposes to construct a levee system on three sides of the proposed development which will alter the floodplain of the Brazos River. The development will be planned in consideration of Executive Orders 11988, Floodplain Management and 11990, Protection of Wetlands. Due to the size and scope of the total proposed project, the Dallas Area Office has determined that an Environmental Impact Statement will be prepared pursuant to Pub. L. 91–190, the National Environmental Policy Act of 1969.

*Alternatives.* The alternatives available to the Department are (1) accept the proposed project as submitted, (2) accept the proposed project with modifications, or (3) reject the proposed project.

*Scoping.* No formal scoping meeting is anticipated for the proposed development. It is the intent of this Notice to be a part of the process used for scoping the issues to be discussed in the Environmental Impact Statement. Any responses to this Notice will be used to help (1) determine significant issues, and (2) identify data which the EIS should address.

*Contact.* Comments should be sent on or before October 30, 1980 to I. J. Ramsbottom, Environmental Clearance Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201. The commercial telephone number is 214–767–8347, and the FTS number is 729–8347.

*EIS on Indian Creek Subdivision, Albany, Ga.*

The Area Office in Atlanta, Georgia intends to prepare an EIS on the project described below and solicits information and comments for consideration in the EIS.

*Description.* Indian Creek Subdivision, sponsored by Tift and Westbrook, Inc., is a 617 acre project within the city limits of Albany in Dougherty County, Georgia. Condominiums, apartments, single family homes, a commercial area and a lake and natural area are planned. The development will provide quality housing at a price range of about $35,000 to $45,000. Approximately 1100 units will be constructed. The site borders Cooleewahee Creek, south of State Road 234, as shown on the Geological Survey's "Pretoria" quadrangle map. Portions of the site have already been developed. The underdeveloped areas are in woodlands, former farmlands and wetlands. Approximately 250 units have been completed. The project is expected to be finished by about 1985.

HUD's participation in this land development project is through its Federal mortgage insurance program which is intended to facilitate homeownership and the construction and financing of housing. By insuring commercial lenders against loss HUD encourages such lenders to invest capital in the home mortgage market.

*Need.* An EIS is proposed due to HUD threshold requirements in accordance with housing program environmental regulations and probable impact on: water resources, energy, transportation systems and community services.

*Alternatives Perceived.* At this time the HUD alternatives include: No project, accept project as proposed, accept project with conditions, or modification of project.

*Scoping.* HUD will hold a "scoping" meeting in accordance with Section 1501.7 of the regulations for implementing the National Environmental Policy Act. At this meeting, open to all individual persons, groups, Federal, State and local agencies, HUD wishes to identify all significant issues to be addressed in the environmental impact statement. The meeting will be held at 10:00 a.m. on Wednesday, October 15, 1980, in the Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303.

*Comments.* All persons having relevant information or concerns to be presented in this meeting should contact Mr. William A. Hartman, Jr., Area Manager, Attention: Harry T. Walls, Environmental Officer, U.S. Department of Housing and Urban Development, Atlanta Area Office, 75 Spring Street, S.W., Atlanta, Georgia 30303. The commercial telephone number of this office is (404) 221–4036, and the FTS number is 242–4036.

*EIS on Winding Creek Planned Development, McHenry County, Ill.*

The Department of Housing and Urban Development intends to prepare an Environmental Impact Statement (EIS) for a planned development known as Winding Creek located in the City of McHenry, McHenry County, Illinois and hereby solicits comments and information for consideration in the EIS.

*Description.* The developer, Residential Development Group, Inc. is planning to build approximately 1,278 units on 385 acres. There are plans for 750 single family units and 528 multi-family units, as well as 12 acres of commercially zoned property (B–1), a 50 acre park and school site and another 8 acres of open space and 4 acres of large lot single family property (R–1). The Development is located in the Southwest section of the City of McHenry along Crystal Lake Road. Both wetland and flood plain areas are located on the site. Construction has begun and is continuing on the project using private funds. The proposed Federal action is to make available FHA mortgage insurance for individual home buyers under Sections 203(b) and 245 of the National Housing Act of 1934.

*Need.* An EIS is being prepared because the project exceeds the threshold level for EIS's established by HUD (700 units for McHenry County) and its Departmental Procedure for Protection and Enhancement of Environmental Quality (24 CFR 50). The draft EIS is expected to be completed and distributed in the fall of 1980.

*Alternatives.* Alternatives that will be studied for this particular site include: 1) no Federal action. 2) open space. 3) project as proposed. 4) less intense zoning (Agriculture use).

*Scoping.* Response to this notice will identify data sources and significant environmental issues which the EIS should address. Issues identified to date include: Impact on Boone Creek (water quality and flooding), conversion of prime farmland, soil suitability, conflict with County plans, controversy, and possible encroachment of wetlands areas.

*Comments.* Comments should be sent on or before October 30, 1980 to Mr. Eugene Goldfarb, Acting Environmental Officer, Department of Housing and Urban Development, 1 North Dearborn Street, Chicago, Illinois 60602. The commercial telephone number is (312) 886–5312 and the FTS number is 886–5312.

*EIS on Briarwood Planned Development, Yellowstone County, Mont.*

The HUD Area Office in Denver, Colorado intends to prepare and EIS on the Briarwood Planned Development, described below, and requests information and comments for consideration in the EIS.

*Description.* Approximately 3,455 dwelling units (single-family and multi-family) will be constructed in Yellowstone County, Montana, approximately three miles south of the city of Billings, Montana.

*Need.* An EIS is required because the total number of dwelling units exceeds a HUD established threshold.

*Alternatives.* The alternatives are HUD participation in the development as proposed by the developer, participation in the development provided that HUD required modifications are implemented by the developer, or reject participation in the development.

*Scoping.* A scoping meeting will not be held. HUD will request input from the appropriate government agencies and service organizations. This notice will also appear in a paper of local circulation in Billings, Montana.

*Comments.* Comments should be forwarded on or before October 30, 1980 to Mr. Carroll F. Goodwin, Area Environmental Clearance Officer, U.S. Department of Housing and Urban Development/Area Office, 1405 Curtis Street—Executive Tower Inn, Denver, Colorado 80202. The FTS telephone number is 327–3102, and the commercial number is (303) 327–3102.

*EIS on Hollywood and Vine Regional Center, Los Angeles, Calif.*

The purpose of this project is the construction of a major commercial and residential center proposed to be built at the intersection of Hollywood Boulevard and Vine Street as the eastern anchor of the Hollywood commercial revitalization area. The project will provide needed services to the community, create approximately 5,000 jobs, serve as a catalyst for further revitalization on Hollywood Boulevard.

The project site is composed of the four block area bounded by Hollywood Boulevard, Sunset Boulevard, Vine Street, and El Centro Avenue exclusive of the existing Palladium, United California Bank, and Home Savings and Loan developments. The proposed development includes a regional shopping center totaling 1,035,000 square

feet, 750,000 square feet of office space, a 450-room hotel and a 400-unit condominium tower.

The development is proposed to be built by the Palladium Development Corporation. Total project cost including all sources of funding will be approximately $275,000,000. In addition to private investment, the project contemplates use of a HUD Urban Development Action Grant of $20,000,000 as secondary financing in the first phase.

*Need.* It has been determined that due to the size and scope of this project, it is an action that may significantly affect the quality of the human environment, and a Draft Environment Impact Report/Statement will be prepared by the City of Los Angeles in accordance with the California Environmental Quality Act of 1970 and the National Environmental Policy Act of 1969. Possible environmental issues and impacts that have thus far been identified include impacts on circulation, historical places, energy conservation, air quality, relocation, and shade/shadow effect of the taller buildings. Also of concern is the economic impact on the existing Hollywood commercial district.

*Alternatives Perceived.* Alternatives perceived available to the City of Los Angeles which will be given considerable attention are as follows: (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

*Scoping.* Scoping meetings will be conducted under the California Environmental Quality Act. The minutes of these meetings will be made part of the public record.

*Comments.* Comments and information regarding this project should be submitted to Mr. Brad Crowe, City of Los Angeles, 200 North Spring Street, Room 2008, Los Angeles, California 90012. Mr. Crowe's telephone number is (213) 485–6154. Written comments should be received on or before November 10, 1980 and all comments so received will be considered prior to the preparation of the Environmental Impact Statement.

*EIS on the New Town of Harbison, Richland, and Lexington Counties, S.C.*

The Regional Environmental Team in Atlanta, Georgia intends to prepare for the New Communities Development Corporation, a supplement to a previously circulated (1974) EIS described below. We are soliciting your information and comments for consideration in the EIS.

*Description.* The New Town of Harbison, sponsored by the Harbison Development Corporation, Incorporated, is an 1800 acre planned community in Richland and Lexington Counties, South Carolina. Single family, multifamily, office/commercial/industrial, institutional, recreational, and open space/and uses have been and will be developed. The majority of the housing will be priced at $52,000–65,000. The site is located symmetrically about I–26 approximately between the Piney Grove Road and South Carolina Route 60 exits, eight miles northwest of Columbia. Approximately 20 percent of the total land area has been developed. The remaining undeveloped land is second growth pine timberland. The development is expected to be completed by 1995.

HUD's participation is through the New Communities Development Corporation which guaranteed the initial construction financing for the proposed New Town. Additionally, HUD will make available FHA mortgage insurance to qualifying buyers within the development.

*Need.* A supplement to the EIS is required due to the NCDC enabling legislation and because land use schemes differ from original proposals.

*Alternatives.* At this time, the HUD alternatives are to continue participation as per previous commitments or to continue participation with development restrictions.

*Scoping.* HUD will hold a scoping meeting in accordance with Section 1501.7 of the regulations for implementing NEPA. At this public meeting, HUD will attempt to identify all significant issues to be addressed in the EIS. The meeting will be held at 10:00 a.m. on Thursday, October 30, 1980, in the 12th Floor Training Room, Strom Thurmond Federal Building, 1835–45 Assembly Street, Columbia, South Carolina 29201.

*Comments.* All persons having information or concerns to be presented should contact: Dick Jansen, RIEAT-Room 834, Department of Housing and Urban Development, 75 Spring Street, S.W., Richard B. Russell Federal Building, Atlanta, Georgia 30303.

[FR Doc. 80-31481 Filed 10-8-80; 8:45 am]

BILLING CODE 4210-01-M

## DEPARTMENT OF THE INTERIOR
### Geological Survey
### Oil and Gas and Sulphur Operations in the Outer Continental Shelf

**AGENCY:** U.S. Geological Survey, Department of the Interior.

**ACTIONS:** Notice of the receipt of a proposed development and production plan.

**SUMMARY:** Notice is hereby given that C & K Offshore Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0224, Block 40, West Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

**FOR FURTHER INFORMATION CONTACT:** U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

**SUPPLEMENTARY INFORMATION:** Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 1, 1980.

E. A. Marsh,

*Staff Assistant for Operations, Conservation Manager, Gulf of Mexico OCS Region.*

[FR Doc. 80-31460 Filed 10-8-80; 8:45 am]

BILLING CODE 4310-31-M

### Oil and Gas and Sulphur Operations in the Outer Continental Shelf

**AGENCY:** U.S. Geological Survey, Department of the Interior.

**ACTION:** Notice of the receipt of a proposed development and production plan.

**SUMMARY:** This Notice announces that Exxon Company, U.S.A., Unit Operator of the South Timbalier Block 172 Federal Unit Agreement No. 14–08–001–8946, submitted on September 19, 1980, a proposed Annual Plan of Development/Production describing the activities it proposes to conduct on the South Timbalier Block 172 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of

Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

**FOR FURTHER INFORMATION CONTACT:** U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

**SUPPLEMENTARY INFORMATION:** Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 3, 1980.

E. A. Marsh,

*Staff Assistant for Operations, Conservation Manager, Gulf of Mexico OCS Region.*

[FR Doc. 80-31461 Filed 10-8-80; 8:45 am]

BILLING CODE 4310-31-M

## Heritage Conservation and Recreation Service

### National Registry of Natural Landmarks

**AGENCY:** Heritage Conservation and Recreation Service, Department of the Interior.

**ACTION:** Public notice; potential national natural landmarks.

The areas listed below have been identified as potential national natural landmarks by the Service's Division of Natural Landmarks in accordance with the provisions of 36 CFR 1212.4. Pursuant to Section 1212.5(b)(1) of 36 CFR Part 1212, written comments concerning the potential designation of these areas as national natural landmarks may be forwarded to the Acting Associate Director for Natural Programs, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments or a request for additional time or information should be received no later than November 10, 1980.

Dated: September 30, 1980.

Robert A. Ritsch,

*Acting Associate Director for Natural Programs.*

**MISSOURI**

*Taney County*

Pilot Glades; a 1,200-acre site in southwestern Missouri, 42 miles southeast of Springfield.

**UTAH**

*Daggett County*

Sheep Creek Canyon; a 3,360-acre tract in northwestern Utah, nine miles southwest of Manila.

**WYOMING**

*Hot Springs and Fremont Counties*

Wind River Canyon; an 11,872-acre area in northcentral Wyoming, ten miles south of Thermopolis.

[FR Doc. 80-31511 Filed 10-8-80; 8:45 am]

BILLING CODE 4310-03-M

## Bureau of Land Management

### Draft of Grand Gulch Management Plan, Utah; Meetings

October 1, 1980.

**AGENCY:** Bureau of Land Management—Utah.

**ACTION:** Public meetings.

**SUMMARY:** Public meetings will be held to receive comments on the Draft Grand Gulch Management Plan which, when finalized, will serve as a guide for the recreation and culture resource management of the Grand Gulch Plateau, and area of approximately 400,000 acres in San Juan County, Utah, which is administered by the Bureau of Land Management, Moab District, San Juan Resource Area.

Recreation visitation has been increasing in the Grand Gulch Plateau area at an average rate of 30 percent per year, as have other uses of the Plateau. The resulting impacts have made it necessary to revise the existing management plan in order to protect the unique, non-renewable resource values. This Plan will define the resource management objectives and will detail the actions needed to meet these objectives in the short-term and long-term perspectives.

To facilitate the planning efforts, the area is divided into five management units: Grand Gulch, Cedar Mesa, Arch and Mule Canyons, Valley of the Gods, and Comb Ridge-Butler Wash. Some management actions apply to the entire Plateau, while others are identified for only one management unit. Copies of the Plan will be sent by mail to interested individuals, organizations, and government offices upon request.

**DATES:** Meetings will be held on the dates and at the locations listed below: November 18, 1980 at 7:00 p.m. in the Wasatch/Oak Room on the 23rd floor of the University Club Building in Salt Lake City, Utah; November 19, 1980 at 7:00 p.m. in Rooms 5 and 6 of the Grand County High School in Moab, Utah; November 20, 1980 at 7:00 p.m. in the Library at Monticello, Utah.

Speakers will be limited as necessary to allow time for all who wish to be heard. Presentation of remarks will be in the order of registration. Prepared papers are encouraged and will be accepted at the meetings and made a part of the record.

Written comments will continue to be received until the close of the comment period on November 30, 1980. Comments or requests for copies of the Draft Plan should be addressed to: Bureau of Land Management, Moab District Office, P.O. Box 970, Moab, Utah 84532 or Bureau of Land Management, San Juan Resource Area, P.O. Box 7, Monticello, Utah 84535.

**FOR FURTHER INFORMATION CONTACT:** Jerry Ballard, Outdoor Recreation Planner, Bureau of Land Management, San Juan Resource Area, P.O. Box 7, Monticello, Utah 84535 (801–587–2201).

V. M. Wright,

*Acting District Manager.*

[FR Doc. 80-31500 Filed 10-8-80; 8:45 am]

BILLING CODE 4310-84-M

### Vale District; Oregon Designation of Public Lands For Off-Road Vehicle Use

The following closed, limited and open designations of public lands for off-road vehicle use are the result of decisions made in the Northern Malheur Resource Area Management Framework Plan and received full public review during a formal comment period.

**ORV Use Designations**

Notice is hereby given that the use of motorized off-road vehicles (ORV's) on certain public lands in Malheur, Grant and Harney countries, Oregon is permanently prohibited, restricted or allowed as listed below. These designations are in accordance with 43 CFR Part 8340. These designations do not apply to nonamphibious motorboats, any military, fire, emergency or law enforcement vehicle while being used for emergency purposes; any vehicle whose use is expressly authorized by the authorized officer, or otherwise officially approved vehicle in official national defense emergencies.

The areas permanently *closed* to ORV use include:

**North Fork Malheur River**

*Willamette Meridian*

T. 17S., R. 36E.
Sec. 21, SE¼, Sec. 27, S½, Sec. 28 inclusive, Sec. 33 to 34 inclusive; and
T. 18S., R. 36E.
Sec. 2, SW¼NE¼, S½NW¼, SW¼, W½SE¼; Sec. 3, inclusive; Sec. 4, N½;

Sec. 10, inclusive; Sec. 11, NW¼, W½SW¼; Sec. 14, W½NW¼; Sec. 15, inclusive.
Total Acreage—3,200.

**Owygee River**

*Willamette Meridian*

T. 27S., R. 41E.
Sec. 35, inclusive; and
T. 28S., R. 41E.
Sec. 1, W½; Sec. 2, E½.
Total Acreage—700.

**Red Butte**

*Willamette Meridian*

T. 25S., R. 43E.
Sec. 25 to 27 inclusive; Sec. 34 to 36 inclusive; and
T. 25S., R. 44E.
Sec. 9, W½SW¼, SE¼SW¼, SW¼SE¼; Sec. 15, NW¼SW¼, S½SW¼; Sec. 16 to 17 inclusive; Sec. 20 to 21 inclusive; Sec. 22, NW¼, N½SW¼, SW¼SW¼; Sec. 27, W½NW¼, W½SW¼; Sec. 28 to 33 inclusive; Sec. 34, W½NW¼; and
T. 26S1, R. 43E.
Sec. 1 to 2 inclusive; Sec. 11 to 12 inclusive; and
T. 26S., R. 44E.
Sec. 4, N½, SW¼; Sec. 5 to 8 inclusive; Sec. 9, NW¼, NW¼SW¼.
Total Acreage—16,960.

Total acres of public lands closed to ORV use, through decisions made within the Northern Malheur Resource Area Management Framework Plan, are 20,860.

The areas *limited year-long* for ORV use to designated roads and trails include:

**Ironside Mountain**

*Willamette Meridian*

T. 15S., R. 37E.
Sec. 24, inclusive; Sec. 26 inclusive; and
T. 15S., R. 38E.
Sec. 6, SW¼SW¼; Sec. 7, inclusive; Sec. 8, S½, S½NW¼, NW¼NW¼; Sec. 17 to 19 inclusive; Sec. 20, N½SW¼.
Total Acreage—4,800.

**Malheur River**

*Willamette Meridian*

T. 17S., R. 36E.
Sec. 25 inclusive; and
T. 17S., R. 37E.
Sec. 20 to 23 inclusive; Sec. 26 to 35 inclusive; and
T. 18S., R. 37E.
Sec. 2 to 11 inclusive; Sec. 14 to 18 inclusive; Sec. 20 to 23 inclusive; Sec. 26 to 28 inclusive; Sec. 33 to 35 inclusive; and
T. 18S., R. 38E.
Sec. 7 inclusive; Sec. 17 to 20 inclusive; Sec. 29 to 34 inclusive; and
T. 19S., R. 37E.
Sec. 1 to 4 inclusive; Sec. 9 to 16 inclusive; Sec. 23 to 26 inclusive; Sec. 35 to 36 inclusive; and
T. 19S., R. 38E.
Sec. 3 to 10 inclusive; Sec. 15 inclusive; Sec. 17 to 20 inclusive; and
T. 19S., R. 39E.
Sec. 28 to 33 inclusive; and
T. 19S., R. 41E.
Sec. 7 to 11 inclusive; Sec. 13 to 24 inclusive; Sec. 27 to 34 inclusive; and
T. 19S., R. 42E.
Sec. 17 to 20 inclusive; and
T. 20S., R. 37E.
Sec. 1 to 2 inclusive; Sec. 11 to 14 inclusive; Sec. 23 to 28 inclusive; Sec. 33 to 36 inclusive; and
T. 20S., R. 38E.
Sec. 17 to 21 inclusive; Sec. 26 to 36 inclusive; and
T. 20S., R. 39E.
Sec. 4 to 11 inclusive; Sec. 13 to 36 inclusive; and
T. 20S., R. 40E.
Sec. 13 to 36 inclusive; and
T. 20S., R. 41E.
Sec. 2 to 11 inclusive; Sec. 14 to 36 inclusive; and
T. 20S., R. 42E.
Sec. 8 to 9 inclusive; Sec. 16 to 17 inclusive; Sec. 19 to 21 inclusive; Sec. 28 to 33 inclusive; and
T. 21S., R. 37E.
Sec. 2 inclusive; and
T. 21S., R. 38E.
Sec. 1 to 4 inclusive; Sec. 9 to 15 inclusive; Sec. 21 to 29 inclusive; Sec. 32 to 36 inclusive; and
T. 21S., R. 39E.
Sec. 1 to 12 inclusive; and
T. 21S., R. 40E.
Sec. 1 to 18 inclusive; Sec. 20 to 27 inclusive; Sec. 34 to 36 inclusive; and
T. 21S., R. 41E.
Sec. 2 to 11 inclusive; Sec. 15 to 22 inclusive; Sec. 27 to 34 inclusive; and
T. 22S., R. 38E.
Sec. 2 to 5 inclusive; Sec. 8 to 10 inclusive; Sec. 15 to 16 inclusive; Sec. 20 to 22 inclusive; Sec. 27 to 34 inclusive; and
T. 22S., R. 40E.
Sec. 1 to 3 inclusive; Sec. 10 to 17 inclusive; Sec. 20 to 23 inclusive; Sec. 26 to 29 inclusive; Sec. 32 to 35 inclusive; and
T. 22S., R. 41E.
Sec. 4 to 6 inclusive; and
T. 23S., R. 38E.
Sec. 4 to 9 inclusive; Sec. 17 to 20 inclusive; and
T. 23S., R. 39E.
Sec. 13 to 14 inclusive; Sec. 23 to 25 inclusive; and
T. 23., R. 40E.
Sec. 2 to 5 inclusive; Sec. 7 to 11 inclusive; Sec. 13 to 30 inclusive; Sec. 36 inclusive.
Total Acreage—236,160.

**Black Hills**

*Willamette Meridian*

T. 22S., R. 37E.
Sec. 6 to 8 inclusive; Sec. 16 to 17 inclusive; Sec. 21 inclusive; Sec. 28 inclusive; Sec. 33 inclusive.
Total Acreage—5,120.

**Skull Springs**

*Willamette Meridian*

T. 24S., R. 40E.
Sec. 2 to 3 inclusive; Sec. 10 to 16 inclusive; Sec. 21 to 28 inclusive; Sec. 33 to 36 inclusive; and
T. 25S., R. 39E.
Sec. 11 to 13 inclusive; and
T. 25S., R. 40E.
Sec. 1 to 11 inclusive; Sec. 14 to 18 inclusive; Sec. 21 to 23 inclusive; Sec. 26 to 28 inclusive.
Total Acreage—27,520.

**Cedar Mountain**

*Willamette Meridian*

T.25S., R.41E.
Sec. 14 to 17 inclusive; Sec. 20 to 29 inclusive;
Sec. 32 to 36 inclusive; and
T. 26S., R.40E.
Sec. 1 inclusive; Sec. 12 to 13 inclusive; Sec. 24 to 25 inclusive; Sec. 36 inclusive; and
T.26S., R.41E.
Sec. 2 to 11 inclusive; Sec. 14 to 23 inclusive; Sec. 25 to 36 inclusive; and
T.26S., R.42E.
Sec. 31 inclusive; and T.27S., R.40E.
Sec. 1 inclusive; Sec. 12 inclusive; and
T.27S., R.41E.
Sec. 1 to 11 inclusive; Sec. 14 to 16 inclusive.
Total Acreage—45,440.

**Owyhee**

*Williamette Meridian*

T.21S., R.45E.
Sec. 21 to 28 inclusive; Sec. 33 to 35 inclusive; and
T.22S., R.44E.
Sec. 1 inclusive; Sec. 12 to 13 inclusive; Sec. 24 to 26 inclusive; Sec. 29 to 36 inclusive; and
T.22S., R.45E.
Sec. 2 to 11 inclusive; Sec. 14 to 21 inclusive, Sec. 28 to 33 inclusive; and
T.23S., R.43E.
Sec. 1 inclusive; Sec. 12 to 14 inclusive; Sec. 23 to 27 inclusive; Sec. 34 to 36 inclusive; and
T.23S., R.44E.
Sec. 1 to 36 inclusive; and
T.23S., R.45E.
Sec. 4 to 9 inclusive; and
T.24S., R.43E.
Sec. 1 to 4 inclusive; Sec. 9 to 16 inclusive; Sec. 21 to 28 inclusive; Sec. 33 to 36 inclusive; and
T.24S., R.44E.
Sec. 1 to 8 inclusive; Sec. 10 to 21 inclusive; Sec. 22 S½NW¼, SW¼; Sec. 27 N½NW¼, SW¼NW¼; Sec. 28 N½, SW¼; Sec. 29 to 32 inclusive; Sec. 33 S½, NW¼; and
T.24S., R.45E.
Sec. 13 to 18 inclusive; Sec. 20 to 29 inclusive; Sec. 30 E½NE¼, E½SE¼; Sec. 32 to 36 inclusive; and
T.24S., R.46E.
Sec. 6 to 7 inclusive; Sec. 18 to 19 inclusive; Sec. 30 to 31 inclusive; and
T.25S., R.43E.
Sec. 1 to 4 inclusive; Sec. 9 to 15 inclusive; Sec. 22 to 24 inclusive; Sec. 31 to 33 inclusive; and
T.25S., R.44E.
Sec. 3 NW¼NW¼, S½NW¼, SW¼; Sec. 4 to 8 inclusive; Sec. 18 to 19 inclusive; Sec. 23 to 26 inclusive; Sec. 35 to 36 inclusive; and
T.25S., R.45E.

Sec. 1 to 5 inclusive; Sec. 6 E½NE¼, E½SE¼; Sec. 8 to 22 inclusive; Sec. 27 to 34 inclusive; and
T.25S., R.46E.
Sec. 6 inclusive; Sec. 19 to 21 inclusive; Sec. 28 to 36 inclusive; and
T.25S., R.47E.
Sec. 3 inclusive; and
T.26S., R.43E.
Sec. 3 to 5 inclusive; Sec. 8 to 10 inclusive; Sec. 13 to 17 inclusive; Sec. 20 to 32 inclusive; Sec. 35 to 36 inclusive; and
T.26S., R.44E.
Sec. 1 to 3 inclusive; Sec. 9 SE¼SE¼; Sec. 10 to 12 inclusive; Sec. 14 to 18 inclusive; Sec. 20 to 29 inclusive; Sec. 33 to 36 inclusive; and
T.26S., R.45E.
Sec. 1 to 24 inclusive; Sec. 28 to 30 inclusive; Sec. 32 NE¼NE¼; and
T.26S., R.46E.
Sec. 1 to 24 inclusive; Sec. 28 to 30 inclusive; Sec. 32 NE¼NE¼; and
T.26S., R.46E.
Sec. 1 to 12 inclusive; Sec. 15 to 22 inclusive; Sec. 27 to 28 inclusive; Sec. 33 to 34 inclusive; and
T.26S., R.47E.
Sec. 6 to 7 inclusive; and
T.27S., R.41E.
Sec. 23 to 26 inclusive; and
T.27S., R.42E.
Sec. 3 to 5 inclusive; Sec. 8 to 10 inclusive; Sec. 13 to 30 inclusive; Sec. 32 to 36 inclusive; and
T.27S., R.43E.
Sec. 5 to 8 inclusive; Sec. 18 to 19 inclusive; and T.27S., R.44E.
Sec. 3 to 4 inclusive; Sec. 9 to 10 inclusvie; and
T.27S., R.46E.
Sec. 3 to 4 inclusive
Total Acreage—208,000.

**Hon Gulch**

*Willamette Meridian*

T.27S., R.44E.
Sec. 1 SW¼SW¼, S½SE¼.
Total Acreage—120.

**Badger Spring**

*Willamette Meridian*

T.27S., R.46E.
Sec. 35 to 36 inclusive; and
T.27S., R.47E.
Sec. 31 inclusive; and
T.28S., R.46E.
Sec. 1 to 3 inclusive; Sec. 11 inclusive; Sec. 14 inclusive; and
T.28S., R.47E.
Sec. 6 inclusive.
Total Acreage—3,840.

**Coyote Gulch**

*Willamette Meridian*

T.22S., R.45E.
Sec. 36 inclusive; and
T.22S., R.46E.
Sec. 19 to 20 inclusive; Sec. 27 to 35 inclusive.
Total Acreage—6,720.

**Oregon Trail—Lytle Blvd**

*Willamette Meridian*

T.18S., R.45E.
Sec. 32 SE¼; Sec. 33 S½; and
T.19S., R.45E.
Sec. 3 S½; Sec. 4 inclusive; Sec. 5 NE¼; Sec. 9 NE¼; Sec. 10 inclusive; Sec. 11 W½; Sec. 14 NW¼, S½; Sec. 15 NE¼; Sec. 23 inclusive; Sec. 24 SW¼; Sec. 25 inclusive; Sec. 26 NE¼; and
T.19S., R.46E.
Sec. 30 SW¼; Sec. 31 inclusive; Sec. 32 SW¼; and
T.20S., R.46E.
Sec. 5 N½; Sec. 6 NE¼.
Total Acreage—6,400.

**Oregon Trail—Alkali**

*Willamette Meridian*

T.15S., R.45E.
Sec. 9 inclusive; Sec. 16 inclusive; Sec. 17 S½; Sec. 18 S½; Sec. 19 to 21 inclusive; Sec. 29 to 31 inclusive; and
T.16S., R.44E.
Sec. 1 E½; Sec. 12 E½; and
T.16S., R.45E.
Sec. 6 to 7 inclusive; Sec. 18 to 19 inclusive; Sec. 29 W½; Sec. 30 to 32 inclusive.
Total Acreage—8,960.

Total acres of public lands where ORV use is limited year-long to designated roads and trails, through decisions made within the Northern Malheur Resource Area Management Framework Plan, are 553,080.

The areas *limited seasonally* for ORV use to designated roads and trails include:

**Willow Creek**

*Willamette Meridian*

T.14S., R.41E.
Sec. 24 Inclusive; and
T.14S., R.42E.
Sec. 19 to 22 inclusive; Sec. 27 to 28 inclusive; Sec. 33 to 34 inclusive; and
T.15S., R.42E.
Sec. 2 to 3 inclusive; Sec. 10 to 11 inclusive.
Total Acreage—4,480.

**McCarthy Ridge**

*Willamette Meridian*

T.15S., R.44E.
Sec. 20 to 23 inclusive; Sec. 26 to 29 inclusive; Sec. 32 to 35 inclusive.
Total Acreage—7,360.

**Pine Tree Ridge**

*Willamette Meridian*

T.16S., R.45E.
Sec. 4 to 5 inclusive.
Total Acreage—1,280.

**Arian Spring**

*Willamette Meridian*

T.17S., R.40E.
Sec. 26 inclusive; Sec. 35 to 36 inclusive; and
T.18S., R.40E.
Sec. 1 inclusive.
Total Acreage—1,900.

**Grouse Spring**

*Willamette Meridian*

T.17S., R.42E.
Sec. 25 to 27 inclusive; Sec. 34 to 36 inclusive; and
T.18S., R.42E.
Sec. 2 to 3 inclusive.
Total Acreage—5,120.

**Wild Horse Spring**

*Willamette Meridian*

T.18S., R.42E.
Sec. 25 to 27 inclusive; Sec. 33 to 36 inclusive; and
T.18S., R.43E.
Sec. 14 inclusive; Sec. 20 to 23 inclusive; Sec. 28 to 32 inclusive; Sec. 33 N½NE¼, N½NW¼; and
T.19S., R.42E.
Sec. 1 to 3 inclusive; Sec. 10 inclusive; Sec. 12 inclusive; and T.19S., R.43E.
Sec. 6 to 7 inclusive.
Total Acreage—12,160.

**North Harper**

*Willamette Meridian*

T.19S., R.44E. Sec. 24 inclusive; and T19S., R.45E.
Sec. 5 NW¼, S½; Sec. 8 inclusive; Sec. 9 NW¼, S½; Sec. 15 NW¼, S½;
Sec. 16 to 17 inclusive; Sec. 19 to 22 inclusive; Sec. 29 to 30 inclusive;
Sec. 32 inclusive.
Total Acreage—7,680.

**Sand Hollow**

*Willamette Meridian*

T.20S., R.43E.
Sec. 1 inclusive; Sec. 11 to 12 inclusive; and
T.20S., R.44E.
Sec. 6 to 7 inclusive.
Total Acreage—3,200.

**Hickey Spring**

*Willamette Meridian*

T.19S., R.44E.
Sec. 32 inclusive; and
T.20S., R.44E.
Sec. 4 to 5 inclusive; Sec. 7 to 10 inclusive; Sec. 15 to 18 inclusive; Sec. 20 inclusive.
Total Acreage—7,040.

**Table Reservoir**

*Willamette Meridian*

T.21S., R.43E.
Sec. 17 inclusive.
Total Acreage—640.

**Mesa Reservoir**

*Willamette Meridian*

T.22S., R.41E.
Sec. 21 to 22 inclusive; Sec. 27 to 28 inclusive; Sec. 33 to 34 inclusive.
Total Acreage—3,840.

**Antelope Flat**

*Willamette Meridian*

T.24S., R.41E.
Sec. 35 inclusive; and
T.25S., R.41E.
Sec. 1 to 2 inclusive; Sec. 10 to 11 inclusive.
Total Acreage—3,200.

**Whiskey Creek**

*Willamette Meridian*

T.27S., R.46E.

Sec. 8 to 11 inclusive; Sec. 14 to 17 inclusive; Sec. 22 to 23 inclusive; Sec. 27 inclusive.
Total Acreage—5,120.

**Lincoln Bench**

*Willamette Meridian*

T.19S., R.45E.
Sec. 13 inclusive; Sec. 14 NE¼; Sec. 24 N½, SE¼; and
T.19S., R.46E.
Sec. 19 S½; Sec. 20 SW¼,W½SE¼; Sec. 28 NW¼SW¼; Sec. 29 SE¼Ne¼,W½NE¼, NW¼; Sec. 30 E½, NW¼; Sec. 32 N½; Sec. 33 NW¼.
Total Acreage—3,520.

Total acres of public lands where ORV use is limited seasonally to designated roads and trails, through decisions made within the Northern Malheur Resource Area Management Framework Plan, are 66,540.

The above described public lands designated as closed or limited to ORV use contain one of, or a combination of, the following: critical watersheds; extensive range improvements; critical wildlife habitats; wild horse herds; unique botanical, geological, zoological and scenic sightseeing values; wilderness values, historical and archaeological scientific/interpretive values; endemic, rare or endangered fauna and/or flora; and critical fisheries habitats and/or riparian zones. Through the Bureau land-use planning system and after consultation with a multitude of interest groups and individuals, off-road vehicle closures or limitations were determined necessary to protect the aforementioned values from disturbance and/or distruction.

The remaining Public Lands within Northern Malheur Resource Area, not legally described above, are designated as open to off-road vehicle use. This classification designates 1,248,048 acres of Public Land as open to year-long ORV use.

All designations are effective immediately and will remain in effect until revised, revoked, or amended by the authorized officer pursuant to 43 CFR Part 8342.

The land-use plan and maps specifically describing the designated areas are available at the Bureau of Land Management, Vale District Office, 365 "A" Street West (P.O. Box 700) Vale, Oregon 97918.

Dated September 26, 1980.

**Fearl M. Parker,**

*Vale District Manager.*

[FR Doc. 80-31464 Filed 10-8-80; 8:45 am]

BILLING CODE 4310-84-M

## Arizona; Safford District Advisory Council Meeting

Notice is hereby given, in accordance with Public Law 94-579, and 43 CFR Part 1780, that a meeting of the Safford District Advisory Council will be held on November 18, 1980, at Kearny, Arizona at 7:00 p.m. at the General Kearny Inn.

Agenda for the meeting will include: 1. Safford District Grazing Advisory Board Meeting Report

2. 1981 Annual Work Plan and its connotations

3. Program schedules

4. Discussion of Winkelman Management Framework Plan

5. Arrangements for next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Council between 8:30 p.m. and 9:30 p.m. or may file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address by Nov. 12, 1980. Depending upon the number of persons wishing to make an oral statement, a per person time limit may be considered.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction (within regular business hours) within 30 days following the meeting.

**Fritz U. Rennebaum,**

*District Manager.*

October 3, 1980.

[FR Doc. 80-31462 Filed 10-8-80; 8:45 am]

BILLING CODE 4310-84-M

---

**[CA Group 669]**

## California; Notice of Filing of Plat of Survey

October 1, 1980.

1. Plats of survey of the following described lands, accepted July 22, 1980, will be officially filed in the California State Office, Sacramento, California, effective at 10:00 a.m. on November 25, 1980:

**Mount Diablo Meridian, California**

T. 1 N., R. 6 W. (4 sheets)
T. 1 N., R. 7 W. (9 sheets)
T. 1 N., R. 8 W. (5 sheets)
T. 2 N., R. 8 W. (12 sheets)
T. 1 S., R. 6 W. (6 sheets)
T. 1 S., R. 7 W. (1 sheets)

2. The plats represent the survey of the boundary of the Golden Gate National Recreation Area.

3. These surveys were executed at the request of the National Park Service.

**Herman J. Lyttge,**

*Chief, Branch of Records and Data Management.*

[FR Doc. 80-31455 Filed 10-8-80; 8:45 am]

BILLING CODE 4310-84-M

---

**[Colorado 3900 WR]**

## Multiple Use Classification: Continuation

September 26, 1980.

Effective July 24, 1968, the following public lands were classified for multiple use management in accordance with the Act of September 19, 1964, (43 U.S.C. 1411-18) under serial number Colorado 3900.

**Sixth Principal Meridian**

T. 15 S., R. 103 W.
Sec. 21, NE¼NE¼SE¼, SE¼SE¼NE¼

**New Mexico Principal Meridian**

T. 49 N., R. 18 W.
Sec. 28, SE¼NE¼NW¼, SW¼NW¼NE¼
Sec. 33, S½NW¼NE¼SE¼
containing 45 acres.

This classification segregated the lands from appropriation under certain public land laws, and from location and entry under the general mining laws and the Materials Act, as amended, but not from leasing under the mineral leasing laws.

The classification has been reviewed under Section 204(1), Federal Land Policy and Management Act of 1976 (90 Stat. 2754). The lands are occupied by three public recreation sites maintained by the Colorado State Department of Highways. All three sites are strategically located adjacent to proposed wilderness areas. They require continued protection from activities under the general mining laws.

The classification is serving a useful purpose, and is hereby continued for 20 years from the date of this notice, unless earlier terminated, at which time it will again be reviewed to determine whether it should be continued further.

**Charles W. Luscher,**

*Acting State Director.*

[FR Doc. 80-31458 Filed 10-8-80; 8:45 am]

BILLING CODE 4310-84-M

---

**[Colorado 10992 WR]**

## Multiple Use Classification: Continuation

September 26, 1980.

Effective August 10, 1970, the following public lands were classified for multiple use management in accordance with the Act of September

19, 1964, (43 U.S.C. 1411–18) under serial number Colorado 10992.

**Sixth Principal Meridian**

T. 5 S., R. 102 W.,
Sec. 34, NE¼NE¼.
T. 10 S., R. 104 W.,
Sec. 18, lot 5.
Containing approximately 84 acres.

This classification segregated the lands from appropriation under certain public land laws, and from location and entry under the general mining laws and the Materials Act, as amended, but not from leasing under the mineral leasing laws.

The classification has been reviewed under Sec. 204(1), Federal Land Policy and Management Act of 1976 (90 Stat. 2754). The tract in T. 5 S., R. 102 W., contains an undeveloped recreation site used heavily by the public, particularly during hunting seasons, for camping and as access to other public lands via an unpaved road. The tract in T. 10 S., R. 104 W., contains an improved public recreation site maintained by the Colorado Highway Department on Interstate Highway 70. Both of these sites require continued protection from mineral activities under the general mining laws.

The classification is serving a useful purpose and is hereby continued for 20 years from the date of publication of this notice, unless earlier terminated, at which time it will again be reviewed to determine whether further continuation is justified.

**Charles W. Luscher,**

*Acting State Director.*

[FR Doc. 80-31459 Filed 10-8-80; 8:45 am]

BILLING CODE 4310-84-M

---

**[Designation Order NM-010-8001]**

## New Mexico Off-Road Vehicle Designations

September 25, 1980.

**AGENCY:** Bureau of Land Management.

**ACTION:** Notice of designations for off-road vehicle use on San Antonio Mountain.

**DECISION.** Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR Part 8340. The subject lands, under administration of the Bureau of Land Management, are designated as closed, limited or open to off-road motorized vehicle use.

The area affected by these designations is known as the San Antonio Off-Road Vehicle Study Unit 03. It is located within the Taos Resource Area of the Bureau of Land Management, Albuquerque District Office. The area consists of 36,650 acres or approximately 57.32 square miles within Rio Arriba County, New Mexico. These designations are a result of land use decisions developed with public involvement and input in the 1979 Taos Resource Area Management Framework Plan and the 1980 Off-Road Vehicle Designation Plan.

The San Antonio Mountain Unit 03 is adjacent to the Carson National Forest. These public lands provide a unique big game habitat for elk, mule deer and antelope. The subject area includes BLM Wilderness Study Area NM–010–35 presently under examination for wildernes designation. The adjacent USFS land has been designated as "closed" for ORV use for the protection of big game habitat.

Rio San Antonio and Rio de los Pinos enter the study area from the northwest providing water sources for big game and wildlife in general. The big game herds are affected by off-road vehicle use and damage to quality habitat. Hunter success ratios have decreased in the past due to diminishing herds. The New Mexico Department of Game and Fish supports restrictive ORV designations to effectively improve existing wildlife habitat and potentially increase herd size and hunter success.

Access has been maintained for all livestock permittees to permitted areas during the season of use. Hunter and recreation use access has also been maintained to the San Antonio Mountain. Designated routes and areas and use limitations will be indicated with appropriate signs and recorded on informational maps free to the public.

The designations are summarized as follows:

| Total acres | Designation | Purpose |
|---|---|---|
| 32,210 | Limited | Protection of Wildlife. |
| 4,440 | Open | User access. |
| 36,650 | | |

These designations become effective upon publication in the **Federal Regster** and will remain in effect in effect until rescinded or modified by the State Director. In the event a violation or trespass occurs in a "limited use" or "closure" area, the violator will be subject to penalties under 43 CFR 8372.0–7.

A cooperative enforcement agreement will be in effect which allows the New Mexico Department of Game and Fish to issue citations under authority of the Habitat Protection Act of 1978, 17–6–1 through 17–6–11.

A map and legal description of the subject area for the ORV use designations and review of the environmental assessment which describes the impacts of these designations is available at the following Bureau of Land Management Offices:

U.S. Department of the Interior, Bureau of Land Management, Taos Resource Area, P.O. Box 1045, Taos, New Mexico 87571.

U.S. Department of the Interior, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

**Larry L. Woodard,**

*Acting State Director.*

[FR Doc. 80-31457 Filed 10-8-80; 8:45 am]

BILLING CODE 4310-84-M

---

**[Designation Order NM-030-8002]**

## New Mexico Off-Road Vehicle Designations

September 23, 1980.

Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 1189, and regulation contained in 43 CFR 8340. The following described lands under the administration of the Bureau of Land Management are designated as limited or open to motorized vehicle use.

The areas affected by the designation are located in the Las Cruces-Lordsburg Resource Area, in southwestern New Mexico. These designations are a result of land use decisions made in the Management Framework Plans for the Organ, Las Uvas, and Gila Planning Units. Verbal and written comments from the public influenced these designation decisions. These designations are published as final today.

### A. Limited Designation

1. The Organ Mountain Recreation Lands are located just north of El Paso, Texas and east of Las Cruces, New Mexico. The 27,276 acres are designated limited to existing roads and trails, with the exception of the Baylor Pass and Pine Tree National Recreation Trails which the closed to all vehicle use.

2. Guadalupe Canyon Outstanding Natural Area is located 35 miles east of Douglas, Arizona. The 4,146 acres of public land are designated limited to designated roads and trails. The only two existing roads which enter from Arizona are designated open roads.

3. Also limited to designated roads and trails are 4,013 acres in the Aden

Lava Flow Research Natural Area located 25 air miles northwest of El Paso, Texas and 15 air miles southwest of Las Cruces, New Mexico. The existing access road leading into the Aden Crater and the existing trail emerging from the north are designated open.

**B. Open Areas**

Alameda Arroyo Intensive Use Off-Road Vehicle Area (6,950 acres) and Mossman Arroyo Intensive Use Off-Road Vehicle Area (3,200 acres) are designated open to all off-road vehicle use. Both open areas are located just outside the eastern city limits of Las Cruces, New Mexico.

These designations become effective upon publication in the **Federal Register**. A map of all the above designations is available at the Las Cruces District Office. An environmental assessment describing the impact of these designations is available for inspection at the office listed below:

**ADDRESS:** For further information about these designations, contact the following Bureau of Land Management Office:

District Manager, Las Cruces District Office, 1705 North Valley Drive, P.O. Box 1420, Las Cruces, New Mexico 88001.

**Larry L. Woodard,**

*Acting State Director.*

[FR Doc. 80-31456 Filed 10-18-80; 8:45 am]

BILLING CODE 4310-84-M

## Southern Appalachian Federal Coal Production Region, Ala.; Draft Environmental Impact Statement, Availability and Request for Surface Owner Consent Agreements

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management (BLM), Department of the Interior, has prepared a draft environmental impact statement (EIS) for the proposed development of Federal coal resources in the Southern Appalachian Federal Coal Production Region, Alabama Subregion, has made copies of the draft EIS available for public review, and is seeking public comment on the document.

In addition, the BLM is issuing a call for submission to the BLM of surface owner consents given by qualified surface owners that would permit surface mining of Federal coal on the identified tracts where the Federal coal is overlain by privately owned surface.

**DATES:** Written comments on the draft EIS will be accepted on or before December 8, 1980. Public hearings to accept written comments and to receive testimony will be held at 1:00 p.m. and 6:00 p.m. on November 13, 1980. Information concerning filing surface owner consent agreements, or evidence thereof, is contained in the Supplementary Information section of this notice.

**ADDRESSES:** Written comments on the draft EIS should be sent to the EIS Team Leader, Tuscaloosa Project Office, Bureau of Land Management, 1315 McFarland Boulevard East, Tuscaloosa, Alabama 35405. Single copies of the draft EIS may be obtained from the EIS Team Leader at the address listed above and from the Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304 and the Office of Public Affairs, Bureau of Land Management, 18th and C Streets, NW, Washington, D.C. 20240. Information related to surface owner consent agreements is contained in the Supplementary Information section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Bob Todd, EIS Team Leader, Tuscaloosa Office, Bureau of Land Management, 1315 McFarland Boulevard East, Tuscaloosa, Alabama 35405, Telephone (205) 759-5441.

**SUPPLEMENTARY INFORMATION:** The draft EIS, which is part of the leasing process under the Federal coal management program (43 CFR 3400), analyzes the environmental impacts that would result from the development of 26 Federal coal tracts proposed for leasing in a 3-county area of Alabama. In addition, the EIS analyzes the cumulative regional environmental impacts of five leasing level alternatives, including the no action alternative, as well as other related regional developments in the Southern Appalachian Federal Coal Production Region, Alabama Subregion.

Public comments on the draft EIS are being sought before preparing the final EIS and should be sent to the EIS Team Leader at the address listed above. All comments on the draft EIS, whether written or oral, which are received by December 8, 1980, will receive equal consideration in the preparation of the final EIS.

A public hearing has been scheduled to accept written and/or oral comments on the draft statement. The hearing will consist of an afternoon session beginning at 1:00 p.m. and an evening session beginning at 6:00 p.m. Both sessions will be held in the Black Warrior Room, Sheraton University Inn, 4810 Skyland Boulevard East, Tuscaloosa, Alabama, on November 13, 1980.

Those individuals wishing to testify at the public hearing should notify, in writing, the EIS Team Leader at the address listed above by November 7, 1980. This notification should identify the organization that is being represented (if speaking for an organization), should be signed by the individual who will be testifying, and should state which session (afternoon or evening) at which he/she wishes to testify. The cutoff date is necessary so that a speakers list can be reviewed in the BLM Eastern States and Tuscaloosa Offices on the day before the public hearing.

Only one person will be allowed to represent the views of a single organization. However, if a member of an organization wishes to speak as a private citizen, the testimony will be permitted. Speakers will be heard in the order set forth on the list. After the last listed speaker has been heard, the presiding officer will consider the request of any person present who wishes to testify.

At the public hearing on the draft EIS, oral testimony of ten minutes duration will be accepted from each person in lieu of, or in addition to, any written comments. The 10-minute limitation will be strictly enforced by the presiding officer. The complete text of prepared remarks should be filed at the hearing and will be included as part of the hearing record regardless of whether or not the speaker completes those remarks in the allotted 10 minutes.

Copies of the draft EIS are available for inspection at the following locations:

Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304

Tuscaloosa Office, Bureau of Land Management, 1315 McFarland Boulevard East, Tuscaloosa, Alabama 35405

Office of Public Affairs, Bureau of Land Management, Room 5623, 18th and C Streets, NW, Washington, D.C. 20240

In addition to comments on the draft EIS, the BLM is advising the public that surface owner consent agreements, or evidence thereof, given by qualified surface owners in the Southern Appalachian Region, Alabama Subregion, will be accepted by the BLM Eastern States Office at the address listed above. The consent agreements, or evidence thereof, will be used by the regional coal team to aid in considering the competitive nature of the potential coal lease tracts.

Section 714(c) of the Surface Mining Control and Reclamation Act (SMCRA) states that, "The Secretary shall not enter into any lease of Federal coal

deposits until the surface owner has given written consent to enter and commence surface mining operations and the Secretary has obtained evidence of such consent." Valid written consents given by qualified surface owners prior to August 4, 1977, are considered to be acceptable for leasing and surface mining of Federal coal overlain by privately owned surface (split-estate lands).

As defined in the regulations (43 CFR 3400.0–5 (pp)), qualified surface owner "means the natural person or persons (or corporation, the majority stock of which is held by a person or persons) who:

(1) Hold legal or equitable title to the surface of split estate lands;

(2) Have their principal place of residence on that land, or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface mining operations; or receive directly a significant portion of their income, if any, from such farming and ranching operations and;

(3) Have met the conditions of paragraphs (1) and (2) of this subsection for a period of at least 3 years, except for persons who have written consent less than 3 years after they met the requirements of both paragraphs (1) and (2) of this section. In computing the three year period the authorized officer shall include periods during which title was owned by a relative of such person by blood or marriage if, during such periods, the relative would have met the requirements of this subsection."

Valid written consent is defined in the regulations (43 CFR 3400.0–5(zz)) as "the document or documents that a qualified surface owner has signed that: (1) Permit a coal operator to enter and commence surface mining of coal; (2) describe any financial or other consideration given or promised in return for permission, including in-kind considerations; (3) describe any consideration given in terms of type or methods of operation or reclamation for the area; (4) contain any supplemental or related contracts between the surface owner and any other person who is a party to the permission; and (5) contain a full and accurate description of the area covered by the permission."

As required by 43 CFR 3427.2(e), it is the Bureau's responsibility to review all consents received. The Bureau will verify that the named surface owner is a qualified surface owner as defined in the regulations and that the title for all split estate lands described in the filing is held by the named qualified surface owner(s). In addition, to be considered valid, the consent given after August 4, 1977, the date of enactment of the Surface Mining Control and Reclamation Act, must be transferable to whoever makes the successful bid in a lease sale for the tract that includes the land to which the consent applies. A written consent agreement shall be considered transferable only if, at a minimum, it allows that after the lease sale for the tract to which the consent applies (i) the payment for the consent may be made by the successful bidder or (ii) the successful bidder may reimburse, at the purchase price of the consent, the party that first obtained the consent. If a filing is from anyone other than the named qualified surface owner, the Bureau shall contact the named qualified surface owner and request confirmation, in writing, that the filed, transferable, written consent, or evidence thereof, to enter and commence surface mining has been granted and that the filing fully discloses all of the terms of the written consent.

A qualified surface owner(s) who has not been contacted by or requested to enter into an agreement with a private party, and who may wish to give consent to allow permission to enter and commence surface coal mining, may prepare, sign, and submit a consent document to the Eastern States Office. The consent document should include the information and requirements specified earlier in this notice in order to constitute a valid written consent as defined in the coal regulations (43 CFR 3400.0–5(zz)), and must indicate any specific terms the surface owner may request to allow permission to enter and commence surface coal mining. This unilateral consent document must be signed by a private party at least 30 working days prior to the publication of the lease sale notice for the area affected, or the area affected will not be offered for lease sale.

Surface owner consents given by a qualified surface owner prior to August 4, 1977, do not need to be transferable. However, current Departmental policy allows that tracts be offered only through intertract bidding if the consent is not transferable.

Valid written consents are to be filed with the Director, Eastern States, at the address provided above. Valid written consents, or evidence thereof, must be filed 30 working days prior to the notice of sale for the tracts. It is anticipated that such a notice will be published May 20, 1981, if a decision to lease tracts is made. If no valid consent for surface mining has been granted for a particular tract and there is interest in bidding on it at a competitive lease sale, it is incumbent upon the individual or corporation to obtain valid written consent and file it with the Eastern States Office by April 8, 1981, or 30 working days before publication of the notice of sale for the tract under the Secretary's schedule, whichever is later. If no valid written consent to surface mine a particular tract is received by April 8, 1981, it will not be possible for the Secretary to offer the tract for competitive sale in June of 1981.

It is encouraged that copies of all consent agreements, or evidence thereof, that have already been given by qualified surface owners be transmitted as early as possible to the address above. Submission of existing documents now will allow early review and consideration of affected Federal coal tracts by the regional coal team prior to their final review and recommendations for a lease sale schedule.

Dated: October 6, 1980.

**Ed Hastey,**

*Associate Director, Bureau of Land Management.*

Approved: October 6, 1980.

**James W. Curlin,**

*Deputy Assistant Secretary of the Interior.*

[FR Doc. 80–31366 Filed 10–8–80; 8:45 am]

BILLING CODE 4310–84–M

## INTERSTATE COMMERCE COMMISSION

**[Permanent Authority Decisions Vol. No. OP2–063]**

### Decision-Notice

Decided: October 2, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

### Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual

operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service propoosed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

**Agatha L. Mergenovich,**

*Secretary.*

**Note.**—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

**Volume No. OP2–063**

Decided: October 2, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 111812 (Sub-740F), filed September 29, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: Lamoyne Brandsma (same address as applicant). Transporting *fabricated metal products*, in foreign commerce only from the ports of entry on the international boundary line between the U.S., and Canada at or near Blaine, WA, to points in IL, IN, KS, MN, MO, and PA.

MC 115162 (Sub-543F), filed September 26, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of paint and caulking compounds, between points in IL, TN, IN, and NC, on the one hand, and, on the other, points in the U.S.

MC 115793 (Sub-33F), filed September 29, 1980. Applicant: CALDWELL FREIGHT LINES, INC., P.O. Box 620 Hwy 321 S, Lenoir, NC 28645. Representative: C. Douglas Woods (same address as applicant). Transporting *new furniture*, from points in Lee and Beaufort Counties, NC, to points in KY, MO, and TN.

MC 118202 (Sub-160F), filed September 29, 1980. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge St., Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting (1) *toilet preparations and soap products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Carver County, MN, Kankakee County, IL, and Passaic County, NJ, on the one hand, and, on the other, points in the U.S.

MC 124692 (Sub-341F), filed September 29, 1980. Applicant: SAMMONS TRUCKING, a Corporation, P.O. Box 4347, Missoula, MT 59801. Representative: James B. Hovland, Suite M–20, 400 Marquette Ave., Minneapolis, MN 55401. Transporting (1) *scales*, knocked down, and *parts* for scales, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above, (a) from points in Stanislaus County, CA, to points in AZ, CO, ID, MT, ND, NM, NV, OR, SD, TX, UT, WA, and WY, and (b) between points in Stanislaus County, CA and Lauderdale County, MS.

MC 133542 (Sub-15F), filed September 26, 1980. Applicant: FLOYD WILD, INC., P.O. Box 91, Marshall, MN 56258. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *malt beverages*, between points in the U.S. (except AK and HI), under continuing contract(s) with Lake Beverage Company, of Marshall, MN. Condition: Coincidental cancellation of permit MC 133542 (Sub-13F), issued December 18, 1978, upon issuance of a permit in this proceeding.

MC 134493 (Sub-5F), filed September 26, 1980. Applicant: CHICAGO–ST. LOUIS TRANSPORT, INC., 808 S. Joliet St., Joliet, IL 60436. Representative: James C. Hardman, 33 N. La Salle St., Chicago, IL 60602. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Teutopolis, Elk Grove Village, and points in McHenry County, IL, on the one hand, and, on the other, points in MO.

MC 139482 (Sub-180F), filed September 26, 1980. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 86073. Representative: Barry M. Bloedel (same address as applicant). Transporting *foodstuffs* (except in bulk), between Memphis, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145203 (Sub-11F), filed September 29, 1980. Applicant: REITZEL TRUCKING CO., a Corporation, 7401 Freemont Pike, Perrysburg, OH 43551. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. Transporting (1) *auto parts*, and (2) *materials, equipment, and supplies* used in the manufacture of auto parts, (except commodities in bulk), between Geneva, OH, on the one hand, and, on the other, points in IL, IN, MI, PA, and WI.

MC 151162 (Sub-3F), filed September 26, 1980. Applicant: LOWELL E. CAWOOD d.b.a. CAWOOD PRODUCE, P.O. Box 83, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. Transporting *confectionery*, from the facilities of Bortz Chocolate Company, at or near Reading, PA, to points in CA, LA, MN, TN, and TX.

MC 151253 (Sub-1F), filed September 26, 1980. Applicant: TRI-STATE TRANSPORT, INC., 322 Grange Rd., Port Wentworth, GA 31407. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30236. Transporting *general commodities*, in containers, from Savannah, GA, and points in Chatham County, GA, to points in AL, FL, GA, NC, and SC, restricted to traffic having a prior or subsequent movement by water. Condition: To the extent any certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited to a period expiring 5 years from the date of issuance.

MC 151432 (Sub-1F), filed September 26, 1980. Applicant: VERNON MARTELL, 2434 Hillview Ave., Bismarck, ND 58501. Representative: Charles E. Johnson, P.O. Box 2578, Bismarck, ND 58502. Transporting *such commodities* as are dealt in or used by distributors of lumber and building materials, between points in the U.S., under continuing contract(s) with

Missoula Forest Products, Inc., of Missoula, MT.

MC 152012F, filed September 25, 1980. Applicant: NORTHEAST HEAVY HAULING, INC., 33 Brill St., Newark, NJ 07105. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting *iron and steel articles*, between points in the U.S., under continuing contract(s) with Baldwin Steel Co., of Jersey City, N.J.

**Volume No. OP3–034**

Decided: Oct. 2, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman. Member Liberman not participating.

MC 61825 (Sub-135F), filed September 16, 1980. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, VA 24078. Representative: John D. Stone (same address as applicant). Transporting (1) *paint and paint materials* (except in bulk), between Baltimore, MD, on the one hand, and, on the other, points in AL, FL, GA and KY, and (2) *chemicals* (except in bulk), between points in NY, on the one hand, and, on the other, points in NC and VA.

MC 73165 (Sub-525F), filed September 23, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, Birmingham, AL 35222. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting *machinery*, between points in Hamilton County, OH on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 94265 (Sub-365F), filed September 19, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between those points in the U.S. in and east of ND, SD, NE, CO, OK, and TX.

MC 108835 (Sub-56F), filed September 19, 1980. Applicant: HYMAN FREIGHTWAYS, INC., 2380 Wycliff, P.O. Box 43393, St. Paul, MN 55164. Representative: Stephen F. Grinnell, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *general commodities* (except those of unusual value, class A explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (A)(1) Between St. Paul, MN and Preston, MN, (a) from St. Paul over U.S. Hwy 61 to junction MN Hwy 20, then over MN Hwy 20 to junction U.S. Hwy 52, and then over U.S. Hwy 52 to Preston, and return over the same route; and (b) from St. Paul over MN Hwy 3 to Farmington, MN, then over MN Hwy 50 to Hampton, MN, and then over U.S. Hwy 52 to Preston, and return over the same route, serving all intermediate points (except Rosemount, Farmington, and Hampton, MN), and the off-route points of Scotchlite, Wykoff, Oronoco, and Douglas, MN. (2) Between Red Wing, MN and junction U.S. Hwy 61 and MN Hwy 20, over U.S. Hwy 61, serving the intermediate point of Miesville, MN. (3) Between Minneapolis, MN and Spring Valley, MN: from Minneapolis over MN Hwy 3 to Farmington, MN, then over MN Hwy 50 to Hampton, MN, then over U.S. Hwy 52 to Rochester, MN, and then over U.S. Hwy 63 to Spring Valley, and return over the same route, serving all intermediate points (except Farmington and Hampton, MN) and the off-route point of Scotchlite, MN. (4) Between Winona, MN and Owatonna, MN, over U.S. Hwy 14, serving all intermediate points and the off-route points of Mantorville, West Concord, Claremont, and Havanna, MN. (5) Between Rochester, MN and Winona, MN: from Rochester over U.S. Hwy 14 to junction MN Hwy 42, then over MN Hwy 42 to Plainview, MN, then over an unnumbered hwy to Beaver, MN, then over MN Hwy 74 to Weaver, MN, and then over U.S. Hwy 61 to Winona, and return over the same route, serving the intermediate points of Plainview and Elgin, MN. (6) Between Viola, MN, and Elgin, MN: from Viola over unnumbered hwy to junction MN Hwy 42, then over MN Hwy 42 to Elgin, and return over the same route. (7) Between Kenyon, MN and Spring Valley, MN: from Kenyon over MN Hwy 56 to junction U.S. Hwy 63, then over U.S. Hwy 63 to Spring Valley, and return over the same route, serving all intermediate points. (8) Between Austin, MN and Spring Valley, MN, over MN Hwy 16, serving all intermediate points, and the off-route points of Vlasaty, Sargeant, Elkton, Ostrander, and Etna, MN. (9) Between Preston, MN and Hokah, MN: from Preston over U.S. Hwy 52 to Prosper, MN, then over MN Hwy 44 to Hokah, and return over the same route. (10) Between Winona, MN and St. Charles, MN: from Winona over U.S. Hwy 61 to Minnesota City, MN, then over Winona County Road 13 to Elba, MN, then over MN Hwy 74 to St. Charles, and return over the same route, serving all intermediate points. (11) (a) Between Zumbrota, MN and Red Wing, MN, over MN Hwy 58. (b) Between Rochester, MN and Lake City, MN, over U.S. Hwy 63. (c) Between Weaver, MN and Red Wing, MN, over U.S. Hwy 61.

(d) from Winona, MN and Eau Claire, WI: Winona over Mississippi River Bridge to junction WI Hwy 35, then over WI Hwy 35 to Alma, WI, then over WI Hwy 37 to Eau Claire, and return over the same route. (12) Between Winona, MN and Prosper, MN: (a) from Winona over MN Hwy 43 to Rushford, MN, then over MN Hwy 16 to junction U.S. Hwy 52, and then over U.S. Hwy 52 to Prosper, and return over the same route, and (b) from Winona over MN Hwy 43 to Mabel, MN, then over MN Hwy 44 to Prosper, and return over the same route, serving all intermediate points. (13) Between Harmony, MN and LaCrosse, WI: from Harmony over U.S. Hwy 52 to Prosper, MN, then over MN Hwy 44 to Hokah, MN, and then over U.S. Hwy 16 to LaCrosse, and return over the same route, serving the intermediate points of Spring Grove, Caledonia, Hokah, LaCrescent, Mabel, and those between Mabel and Harmony, MN; and the off-route points of Granger, Henrytown, Highland, Newhouse and Newburg, MN. (14) Between Winona, MN and LaCrosse, WI, over U.S. Hwy 61. (15) Between Minneapolis, MN and Cannon Falls, MN: from Minneapolis over MN Hwy 55 to junction U.S. Hwy 52, then over U.S. Hwy 52 to Cannon Falls, and return over the same route, serving the intermediate points of Pine Bend and Coates, MN. (16) Between Spring Valley, MN and Madison, WI: (a) from Spring Valley over MN Hwy 16 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Madison, WI, and return over the same route, serving all intermediate points; (b) from Spring Valley over MN Hwy 16 to LaCrosse, WI, then over WI Hwy 16 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Madison, WI, and return over the same route, serving all intermediate points; (c) from Spring Valley over U.S. Hwy 63 to junction Interstate Hwy 90, then over Interstate Hwy 90, to junction Interstate Hwy 94, then over Interstate Hwy 94 to Madison, and return over the same route, serving all intermediate points; and (d) from Spring Valley over U.S. Hwy 63 to junction MN Hwy 60, then over MN Hwy 60 to the MN—WI State line, then over WI Hwy 25 to junction U.S. Hwy 10, then over U.S. Hwy 10 to junction Interstate Hwy 94, then over Interstate Hwy 94 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Madison, and return over the same route, serving all intermediate points (except South Troy, Zumbro Falls, West

Albany, Dumfries and Wabasha, MN). (17) Between Spring Valley, and Stevens Point, WI: from Spring Valley over U.S. Hwy 63 to Rochester, MN, then over U.S. Hwy 14 to the MN–WI State line, then over WI Hwy 54 to junction WI Hwy 35, then over WI Hwy 35 to junction U.S. Hwy 53, then over U.S. Hwy 53 to junction WI Hwy 29, then over WI Hwy 29 to Wausau, WI, then over U.S. Hwy 51 to Stevens Point, WI, and return over the same route, serving all intermediate points (except Cadott, Boyd, Stanley, Thorp, Withee, Owen, and Curtis, WI). (18) Between Spring Valley, MN and junction U.S. Hwy 51 and combined Interstate Hwys 90 and 94, near Portage, WI: from Spring Valley over U.S. Hwy 63 to junction MN Hwy 60, then over MN Hwy 60 to the MN–WI State line, then over WI Hwy 25 to junction U.S. Hwy 10, then over U.S. Hwy 10 to Stevens Point, WI, then over U.S. Hwy 51 to its junction combined Interstate Hwys 90 and 94, and return over the same route, serving all intermediate points (except South Troy, Zumbro Falls, West Albany, Dumfries, and Wabasha, MN), and serving as off-route points those points in WI on, west, and south of a line beginning at the WI–IL State line and extending along U.S. Hwy 51 to junction U.S. Hwy 51 and WI Hwy 29, then along WI Hwy 29 to junction U.S. Hwy 12, and then along U.S. Hwy 12 to the WI–MN State line. (19) Between Spring Valley, MN and Iowa City, IA: from Spring Valley over U.S. Hwy 63 to junction U.S. Hwy 218, then over U.S. Hwy 218 to Iowa City and return over the same route, serving all intermediate points in IA. (20) Between Spring Valley, MN and junction U.S. Hwys 30 and 65: from Spring Valley over MN Hwy 16 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction Interstate Hwy 35, then over Interstate Hwy 35 to junction U.S. Hwy 30, then over U.S. Hwy 30 to junction U.S. Hwy 65, and return over the same route, serving all intermediate points in IA. (21) Between Spring Valley, MN and junction U.S. Hwys 63 and 30: from Spring Valley over MN Hwy 16 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction Interstate Hwy 35, then over Interstate Hwy 35 to junction U.S. Hwy 65, then over U.S. Hwy 65 to junction U.S. Hwy 30, then over U.S. Hwy 30 to junction U.S. Hwy 63, and return over the same route, serving all intermediate points in IA. (22) Between Spring Valley, MN and Iowa City, IA: from Spring Valley over U.S. Hwy 63 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Iowa City, and return over the same route, serving all intermediate points in IA. (23) Between Spring Valley, MN and Prairie du Chien, WI: (a) from Spring Valley over MN Hwy 16 to junction U.S. Hwy 52, then over U.S. Hwy 52 to junction U.S. Hwy 18, then over U.S. Hwy 18 to Prairie du Chien, and return over the same route, serving all intermediate points in IA, and (b) from Spring Valley over U.S. Hwy 16 to junction U.S. Hwy 52, then over U.S. Hwy 52 to junction MN Hwy 44, then over MN Hwy 44 to MN Hwy 76, then over MN Hwy 76 to the MN–IA State line, then over IA Hwy 76 to junction U.S. Hwy 18, then over U.S. Hwy 18 to Prairie du Chien, and return over the same route, serving all intermediate points in IA. (24) Between Alma Center, WI and Winona, MN: from Alma Center over County Hwy A to Pigeon Falls, WI, then over U.S. Hwy 53 to Galesville, WI, then over WI Hwy 54 to Bluff, WI, and then across the Mississippi River to Winona, and return over the same route. (25) Between Minneapolis, MN and Albert Lea, MN, over Interstate Hwy 35, serving the intermediate points of Faribault and Owatonna, MN. (26) Between Chicago, IL and Madison, WI, over Interstate Hwy 90, and (B) Alternate Routes for Operating Convenience Only: (1) Between Minneapolis, MN and Winona, MN, over U.S. Hwy 61. (2) Between Des Moines, IA and Spring Valley, MN: from Des Moines over Interstate Hwy 35 to junction U.S. Hwy 18, then over U.S. Hwy 18 to junction U.S. Hwy 65, then over U.S. Hwy 65 to junction IA Hwy 9, then over IA Hwy 9 to junction U.S. Hwy 63, then over U.S. Hwy 63 to Spring Valley, MN, and return over the same route. (3) Between Waterloo, IA and St. Louis, MO: from Waterloo over U.S. Hwy 218 to junction U.S. Hwy 61, then over U.S. Hwy 61 to junction Interstate Hwy 70, then over Interstate 70 to St. Louis, and return over the same route. (4) Between Chicago, IL and Spring Valley, MN: from Chicago over Interstate 90 to junction U.S. Hwy 20, then over U.S. Hwy 20 to junction U.S. Hwy 52, then over U.S. Hwy 52 to junction MN Hwy 16, then over MN Hwy 16 to Spring Valley, MN, and return over the same route. (5) Between Iowa City, IA and Rock Island, IL, over Interstate Hwy 80. (6) Between Dubuque, IA and Cedar Rapids, IA, over U.S. Hwy 151. And (7) Between Dubuque, IA and Waterloo, IA, over U.S. Hwy 20.

Note.—To the extent the certificate granted in this proceeding authorizes the transportation of class B explosives it will expire 5 years from the date of issuance. Applicant intends to tack the requested authority with its existing regular-route authority.

MC 116004 (Sub-61F), filed September 15, 1980. Applicant: TEXAS OKLAHOMA EXPRESS, INC., P.O. Box 47112, Dallas, TX 75247. Representative: Doris Hughes (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), serving Ponca City, OK, as an off-route point in connection with the other authorized regular-route operations of applicant.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 116544 (Sub-217F), filed September 29, 1980. Applicant: ALTRUK FREIGHT SYSTEMS INC., 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. Transporting *camping equipment* and *materials and supplies* used in the manufacture of camping equipment, between points in MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 116544 (Sub-218F), filed September 26, 1980. Applicant: ALTRUK FREIGHT SYSTEMS INC., 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. Transporting *meats, meat products, meat byproducts,* and *articles distributed by meat packing houses,* as described in Sections A and C of Appendix I to the report in *Description in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, from points in Maricopa County, AZ to points in CA, CO, ID, KS, MT, NE, NM, NV, OK, OR, TX, WA, and WY.

MC 116915 (Sub-123F), filed September 22, 1980. Applicant: ECK MILLER TRANSPORTATION CORPORATION, Rt. #1, Box 248, Rockport, IN 47635. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Transporting (1) *titanium dioxide,* and (2) *materials, equipment, and supplies* used in the manufacture of titanium dioxide, between points in Ashtabula County, OH, and Camden County, NJ, on the one hand, and, on the other, points in the U.S.

MC 124774 (Sub-133F), filed September 19, 1980. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. Transporting *prepared food products* and *food supplements,* between points in Norfolk

County, MA, on the one hand, and, on the other, Kansas City, MO.

MC 125985 (Sub-34F), filed September 12, 1980. Applicant: AUTO DRIVEAWAY COMPANY, a corporation, 310 S. Michigan Avenue, Chicago, IL 60604. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. Transporting *automobiles, trucks, buses,* and *motor homes,* in secondary movement, in driveaway service (1) between points in HI, and (2) between points in HI, on the one hand, and, on the other, points in the U.S.

MC 128075 (Sub-39F), filed September 22, 1980. Applicant: JOHNSRUD TRANSPORT, INC., P.O. Box 447, Cresco, IA 52136. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *vegetable oil* and *blends* of vegetable oil, in bulk, from the facilities of A. E. Staley Manufacturing Company, at Des Moines, IA, to points in the U.S. (except AK and HI).

MC 142525 (Sub-6F), filed September 22, 1980. Applicant: BERNARD D. HARNER AND SON, INC., R.R. 2, Washington, IN 47501. Representative: Robert W. Loser, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with The Ralston Purina Company, Evansville, IN.

Note.—Issuance of a Permit is subject to prior or coincidental cancellation of Permit No. MC 142525 and MC 142525 Sub 3F, at applicant's written request.

MC 151675F, filed September 17, 1980. Applicant: NORTH JERSEY TRANSFER, INC., P.O. Box 292, Sparta, NJ 07871. Representative: M. Finkle, Jr. (same address as applicant). Transporting (1) *insulation, sound deadening, and fireproofing materials and equipment,* and (2) *materials and supplies* used in the manufacture and installation of the commodities in (1) above (except in bulk), between points in CT, DE, MA, MD, ME, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC, restricted to traffic originating at or destined to the facilities of United States Mineral Products Co., of Stanhope, NJ.

MC 151854F, filed September 15, 1980. Applicant: FOXTRAN, INC., 400 Penn Center Blvd., Pittsburgh, PA 15235. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *such commodities* as are dealt in or used by retail and wholesale grocery and food business houses, between points in Butler and Westmoreland Counties, PA, on the one hand, and, on the other, points in IN, MD, NJ, NY, OH, and WV.

**Agatha L. Mergenovich,**

*Secretary.*

[FR Doc. 80-31418 Filed 10-8-80; 8:45 am]

BILLING CODE 7035-01-M

---

**[Permanent Authority Decisions Vol. No. OP2-064]**

## Decision-Notice

Decided: October 2, 1980.

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

### Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those wity duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

**Agatha L. Mergenovich,**

*Secretary.*

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 25823 (Sub-11F), filed September 29, 1980. Applicant: WERCH TRUCKING COMPANY, INC., Rt. 2, Box 113, Berlin, WI 54923. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703. Transporting *general commodities* (Except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 131042F, filed September 25, 1980. Applicant: EASY WAREHOUSE & FORWARDING, INC., 451-A Larch St., Laredo, TX 78041. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. As a broker to arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 131043F, filed September 25, 1980. Applicant: UNITED FREIGHT DISPATCH, INC., 2220-1 Toledo Rd., Elkhart, IN 46516. Representative: Paul D. Borghesani, 300 Communicana Bldg., 421 South Second St., Elkhart, IN 46516. As a broker, to arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

[FR Doc. 80-31417 Filed 10-8-80; 8:45 am]

BILLING CODE 7035-01-M

---

## INTERNATIONAL CONVENTION ADVISORY COMMISSION

### Meeting

Notice is hereby given in accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C.

Appendix I, that a meeting of the International Convention Advisory Commission will be held on Wednesday, October 29, 1980, 9:00 a.m., Room 5104 at New Executive Office Building, Washington, D.C.

The Commission will consider domestic procedures for implementation of the Convention, applications for international trade in species protected by the Convention, and miscellaneous business pertaining to the third meeting of the Conference of the Parties in New Delhi.

For further information contact Dr. William Y. Brown, Executive Secretary, International Convention Advisory Commission, Washington, D.C. 20240, telephone 202/343–7407. Opportunity will be given for oral or written presentations provided that appointments are made with Dr. Brown by 5:00 p.m., October 27, 1980.

Dated: October 6, 1980.

**Jane H. Yarn,**

*Chairman, International Convention Advisory Commission.*

[FR Doc. 80–31274 Filed 10–8–80; 8:45 am]

BILLING CODE 4310–68–M

## DEPARTMENT OF JUSTICE

### U.S. Circuit Judge Nominating Commission, First Circuit Panel; Meeting

October 6, 1980.

The First Circuit Panel of the U.S. Circuit Judge Nominating Commission (Chairperson: Jerome P. Facher) will meet on October 15, 1980 in the Post Office and Federal Courthouse, Boston, Massachusetts at 9:30 a.m. The purpose of the meeting is to interview candidates and will be closed to the public pursuant to Pub. L. 92–463, Section 10(d) as amended. [CF 5 U.S.C. 552b(c)(6)]. Due to scheduling arrangements and the short time in which the Panel has to complete its work, the 15 day requirement for public notice could not be met.

**Phillip B. Cover,**

*Advisory Committee Liaison Officer.*

[FR Doc. 80–31338 Filed 10–8–80; 8:45 am]

BILLING CODE 4110–01–M

## NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

### Meeting

Pursuant to Sec. 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that the Marine Transportation Subgroup of the Independent Area Task Force (IATF) of the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet Thursday and Friday, November 6–7, 1980. The Subgroup will meet in the B–100 conference room of Page Building No. 1, 2001 Wisconsin Avenue, NW., Washington, D.C.

The session, which will be open to the public, will convene at 9:00 a.m. and adjourn at 4:00 each day. The Subgroup will work on the continued design and development of the work plan which they began at their September 12, 1980 meeting.

NACOA has initiated a study to formulate national goals and objectives for the oceans in the decade of the 1980's and beyond. To support the conduct of this study, the Secretary of Commerce has established the IATF for NACOA. The IATF will be responsible for the preparation of preliminary recommendations in the areas of energy, fisheries, marine transportation, ocean minerals, ocean operations and services, pollution, and waste management.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairperson of the Subgroup on Marine Transportation, Dr. Don Walsh, in advance of the meeting. The Chairperson retains the prerogative to impose limits on the duration of oral statements and discussion. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion, or CDR Tom Nunes, the Staff Member for the Marine Transportation Subgroup. The mailing address is: NACOA, 3300 Whitehaven Street, NW. (Suite 436, Page Building No. 1), Washington, DC 20235. The telephone number is (202) 653–7818.

Dated: October 3, 1980.

**Steven N. Anastasion,**

*Executive Director.*

[FR Doc. 80–31450 Filed 10–8–80; 8:45 am]

BILLING CODE 3510–12–M

### Meeting

October 3, 1980.

Pursant to Sec. 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a 2 day meeting on Thursday and Friday, October 23–24, 1980. The meetings will commence at 9:00 a.m. on Thursday and Friday mornings.

The Committee, consisting of 18 non-Federal members, appointed by the President from academia, business and industry, State and local government, and public interest groups, was established by Congress by Pub. L. 95–63, on July 5, 1977. Its duties are to: (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce on the carrying out the programs of the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or Congress.

The tentative meeting schedule follows:

*October 23, 1980*

**Plenary Session**

9:00 a.m.—10:00 a.m.
- Opening Remarks—Chairman
- Introduction and Swear in Ceremony of new NACOA members: Richard Frank, Administrator, National Oceanic and Atmospheric Administration

10:00 a.m.—Noon
- Law of the Sea

Speaker: Ambassador George Aldrich, Deputy Special Representative of the President for the Law of the Sea Conference

**Lunch**

Noon–1:00 p.m.
1:00 p.m.–5:00 p.m.
National Oceanic Satellite System (NOSS)
Session I: Overview Presentations
1:00 p.m.–1:30 p.m.
- Meteorological Satellites: Data and Services

Speaker: Clifford A. Spohn, Acting Director of Management, National Earth Satellite Service, Nation Oceanic and Atmospheric Administration (NOAA)

1:30 p.m.–2:00 p.m.
- Nimbus and SEASAT, Heritage for NOSS

Speaker: W. Stanley Wilson, Chief, Oceanic Processes Branch, National Aeronautics and Space Administration (NASA)

2:00 p.m.–3:00 p.m.
- NOSS: Objectives, Planning, and Status (Tri-agency presentation)

Speaker: L. R. Greenwood, Director, Environmental Observations Division, Office of Space and Terrestial Applications, NASA

Discussants:

Anthony J. Calio, Associate Administrator for Space and Terrestial Applications, NASA

David S. Johnson, Assistant Administrator (Designate) for Satellites, National Earth Satellite Service, NOAA
Captain Harry E. Nicholson, Head, Development Branch, Naval Oceanography Division, Department of the Navy
Session II: NOSS Data Products: Accessibility and Utilization for Research
3:15 p.m.–4:00 p.m.
• NOSS Choices, Constraints, and Timing
Speaker: Carl Wunsch, Chairman, Department of Earth and Planetary Sciences, Massachusetts Institute of Technology
4:00 p.m.–4:30 p.m.
÷ Maximizing the Usefulness of NOSS: Regional Systems
Speaker: Robert L. Edwards, Director, Northeast Fisheries Center, National Marine Fisheries Service, NOAA
4:30 p.m.–5:00 p.m.
• NOSS as a Research Tool
Speaker: Francis P. Bretherton, Senior Scientist, National Center for Atmospheric Research

*October 24, 1980*

8:30 a.m.–9:00 a.m.
• Steering Committee Meeting

**Panel Meetings**

9:00 a.m.–10:00 a.m.
National Climate Plan–Warren Washington
10:00 a.m.–11:00 a.m.
• Atmospheric Research Facilities–Louis J. Battan
11:00 a.m.–Noon
• Ocean Satellite Review
Progress and Future NACOA Activity

**Lunch**

Noon–1:00 p.m.

**Plenary Session**

1:00 p.m.–3:30 p.m.
• Panel Reports
3:30 p.m.
Adjourn

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the chairman in advance of the meeting. The Chairman retains the prerogative to impose limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., (Room 436, Page Building No. 1), Washington, DC 20235. The telephone number is (202) 653–7818.

James A. Almazan,
*Acting Executive Director.*

[FR Doc. 80-31270 Filed 10-8-80; 8:45 am]
BILLING CODE 3510-12-M

## NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 80-41]

### Reports, Recommendations, and Responses; Availability

Accident Reports

*Aviation*

*Transamerica Airlines, Inc., Lockheed L-188, N859U, Salt Lake City, Utah, November 18, 1979 (NTSB–AAR–80–11).*—The National Transportation Safety Board's formal investigation report, released September 30, indicates that at 0456 mountain standard time last November 18 Transamerica Airlines' Logair Flight 3N18, departed Hill Air Force Base, Odgen, Utah, with three crewmembers and 27,552 lbs of cargo, on an instrument flight rules flight to Nellis Air Force Base, Nevada. After departure from Hill AFB, and while climbing from 12,000 to 13,000 feet, the flight indicated to Salt Lake departure control that they had lost all electrical power; the flight requested no-gyro vectors to visual flight conditions and clearance for an immediate descent to a lower altitute. During the descent, the aircraft attained a high airspeed and high rate of descent and disintegrated in flight. The three crewmembers were killed, and the aircraft was destroyed. The wreckage was dispersed along a path about 1½ miles long on an abandoned airport about 4 nmi south of the Salt Lake City International Airport.

A majority of the Safety Board determined that the probable cause of this accident was a progressive failure in the aircraft's electrical system leading to the disabling or erratic performance of some critical flight instruments and flight instrument lighting while the flight was operating in night instrument meteorological conditions. As a result of these conditions, the flightcrew could not resolve the instrumentation anomalies to determine proper aircraft attitude reference, and became disoriented and lost control of the aircraft. The crew's efforts to regain control of the aircraft imposed aerodynamic loads which exceeded design limits of the aircraft and caused it to break up in flight.

Safety Board Chairman James B. King and Members Patricia A. Goldman and G. H. Patrick Bursley constituted the majority supporting this finding of probable cause. Vice Chairman Elwood T. Driver did not participate. Member Francis H. McAdams filed the following dissent:

In my opinion, in the interest of preventing similar accidents from occurring, the Board should have emphasized that in the event of a partial electrical failure or interruption, pilots should not assume, as this crew apparently did, that there is a total loss of power. In this case the captain's flight director, gyrosyn compass, and turn and bank indicator were inoperative, and with such instruments functional the aircraft could have been flown safely. The crew should have adequately analyzed the extent of the power failure and determined which instruments were operative.

As a result of investigation of this accident, the Safety Board last March 13 recommended that the Federal Aviation Administration amend 14 CFR 121.305(j) to extend its application to all large turboprop aircraft to require an additional attitude-indicating instrument which operates from a source of power independent of the normal electrical generating system. (Recommendation A–80–19; see 45 FR 20255, March 27, 1980.)

FAA failed to concur with this recommedation, and, in its initial response of June 11, expressed the belief that a third attitude-indicating instrument should not be required on all large turboprop aircraft due to lack of flight control or electrical problems associated with this type of aircraft. (See 45 FR 43289, June 26, 1980.) The Safety Board on August 27 forwarded comments on FAA's June 11 response. The Board does not agree with FAA's analysis and continues to support installation of an independently powered attitude indicating instrument. Pending further FAA response, recommendation A–80–19 is being maintained in an "Open—Unacceptable Action" status.

*Special Study—General Aviation Accidents: Postcrash Fires and How to Prevent or Control Them (NTSB–AAS–80–2).*—The study, released by the Safety Board on September 30, shows that postcrash fires occurred in approximately 8.0 percent of the 22,002 general aviation accidents during 1974–1978. About 59 percent of the accidents involving postcrash fire resulted in fatalities, while fatalities were involved in only 13.3 percent of those accidents without fire. As a result of this study, the Safety Board concluded that—

1. Postcrash fire is a serious problem in general aviation accidents, and escape time from small aircraft is extremely limited.
2. Control of ignition sources and fuel modification techniques would enhance the

fire safety of the aircraft, but they will not eliminate the potential for fire and are not feasible for use in general aviation aircraft based on the current state-of-the-art.

3. Research into the postcrash fire problem has illustrated that containment of fuel is the most promising avenue for prevention of fires and is both feasible and achievable now.

4. The regulations under which many aircraft were designed and certificated, and are still being manufactured, do not address fuel containment in crash conditions.

5. Existing regulations are not adequate to provide the minimum standards necessary to improve crash/fire survivablility of newly certificated aircraft.

6. Previously expressed reasons against using crash-resistant fuel system—cost, weight, and state-of-the-art—are not longer valid.

Addressing the problems indicated by the study, the Safety Board on September 9 issued to the Federal Aviation Administration six safety recommendations, Nos. A–80–90 through –95, calling for regulatory action and research and development. (See 45 FR 62233, September 18, 1980, for complete text of these recommendations.)

*Highway*

*Head-on Collision of Sedan and Pickup Truck, U.S. Route 64, near Perry, Oklahoma, February 23, 1980 (NTSB–HAR–80–4).*—The Board's investigation report on this accident indicates that about 12:45 a.m. a two-door sedan was westbound on two-lane U.S. Route 64 near Perry. Traveling in the eastbound lane at an excessive rate of speed, the sedan crested a hill and collided head-on with an eastbound pickup truck. The sedan rebounded into the westbound lane and began to burn. The pickup truck was then struck by a following eastbound four-door sedan. Neither the pickup nor the four-door sedan were involved in the fire. Three of the five pickup truck occupants were ejected from the vehicle; all five suffered fatal injuries. The driver, the sole occupant of the two-door sedan, was killed. The two persons in the four-door sedan received minor injuries.

The Board's report, released September 30, lists the following conclusions:

1. The preimpact speeds of the accident vehicles were estimated as follows: the two-door sedan, 85 mph; the pickup truck, 50 mph; and the four-door sedan, 50 mph.

2. The posted speed limit of 55 mph was excessive for the 38-mph highway design speed of the 3.7-mile portion of the highway near the accident scene.

3. In night visibility tests, conducted under lower humidity conditions and slower closing speeds than those involved in the accident, no headlight glow of approaching vehicles was visible to the investigators on the other side of the crest of the hill.

4. On the night of the accident, there was no haze or fog visible in the environment, and weather conditions did not contribute to this accident.

5. Examination of all three vehicles revealed no precrash mechanical discrepancy which could have contributed to the accident cause.

6. At impact the westbound two-door sedan was almost entirely in the eastbound lane and both the eastbound pickup truck and four-door sedan were eastbound in the eastbound lane.

7. When the vehicles were first visible to each driver, they were separated by about 340 feet. At a closing speed of 199 feet per second, neither driver had sufficient time in the 1.7 seconds available to perceive the hazard and take any evasive action.

8. The 1.7 seconds available was not sufficient to permit the driver of the pickup truck to perceive the hazard and take any evasive action.

9. Both the two-door sedan driver and the pickup truck driver were driving while under the influence of alcohol.

10. The alcohol-impaired condition of the pickup truck driver was neither causal nor contributory to this accident.

11. The Oklahoma Department of Transportation should seek the funds necessary to enable it to renew emphasis on the alcohol safety program, especially in the rural and less populated areas.

12. The National Highway Traffic Safety Administration should evaluate State Dram Shop laws to determine their beneficial effects on the drinking/driving problem.

The Safety Board determined that the probable cause of the accident was that the driver, whose judgment and driving ability were impaired by alcohol, operated the westbound two-door sedan in the eastbound land while negotiating a hill crest at an excessive rate of speed.

As a result of its investigation, the Safety Board has recently issued the following recommendations:

*H–80–47 to the National Highway Traffic Safety Administration, September 18, 1980—*

Evaluate the effectiveness of current Dram Shop type laws in reducing the number of highway accidents involving drivers under the influence of alcohol in States having such laws. If the above evaluations prove to be positive, then incorporate the concepts of these laws into the existing Highway Safety Program Standard No. 8, Alcohol in Relation to Highway Safety. (Class II, Priority Action) (H–80–47)

*H–80–48 and –49 to the Oklahoma Department of Transportation, September 24, 1980—*

Study the series of curves on a 3.7-mile section of U.S. Route 64 including the accident site and reduce the posted speed limit to a speed that is compatible with the highway design speeds. (Class I, Urgent Action) (H–80–48)

Seek the funds necessary to enable a renewed emphasis on alcohol safety especially in the rural areas and the less populated communities of the State. (Class II, Priority Action) (H–80–49)

*H–80–50 and –51 to the Federal Highway Administration, September 18, 1980—*

Evaluate the effectiveness of the "Limited Sight Distance" sign (W14–4–MUTCD) and report its findings to the Board. (Class II, Priority Action) (H–80–50)

If the Limited Sight Distance (W14–4–MUCTD) sign is found to be ineffective, then devise an effective method of warning motorists of the incompatibility of operating speeds, current vehicle design eyeheight, and limited sight distance situations that exist on roads designed to pre-1965 standards. (Class II, Priority Action) (H–80–51)

*Marine*

*Collision of U.S. Coast Guard Cutter BLACKTHORN and U.S. Tankship CAPRICORN, Tampa Bay, Florida, January 28, 1980 (NTSB–MAR–80–14).*—This accident was investigated concurrently by the Safety Board and the U.S. Coast Guard. Public hearings were held in Tampa, Florida, from January 31 to April 12, 1980. The formal report, released by the Safety Board on September 30, is based on the factual information developed by this investigation. The Safety Board has considered all facts pertinent to the Board's statutory responsiblity to determine the cause or probable cause of the accident and to make recommendations. The Board's analyses and recommendations are made independently of the Coast Guard.

As a result of the collision, the BLACKTHORN was capsized and sank, and 23 Coast Guardsmen were drowned. Although refloated, the BLACKTHORN was a total loss. The CAPRICORN experienced hull damage from the collision and subsequent grounding. The cost of repairs to the tankship was estimated at $600,000 and the cost of salvaging the BLACKTHORN was estimated at $1 million.

The Safety Board has determined that the probable cause of this accident was the failure of the BLACKTHORN to keep on the proper side of the channel when meeting another vessel in a bend because the commanding officer failed to adequately supervise the actions of an inexperienced officer-of-the-deck. Contributing to the accident was the failure of the commanding officer of the BLACKTHORN and the pilot of CAPRICORN to establish a passing agreement using bridge-to-bridge radiotelephone or whistle signals and the failure of the commanding officer to keep himself aware of all traffic in the channel. Contributing to the high loss of life was the sudden capsizing of

BLACKTHORN due to the CAPRICORN's anchor getting caught in the cutter's shell plating.

In its report on the accident, the Safety Board reiterated one (M-76-8) and issued 22 new (M-80-64 through -85) safety recommendations to the Coast Guard to help prevent recurrence of such an accident or to improve survivability. Among the objectives of the recommendations are:

- Additional training and examination of Coast Guard commanding officers and deck watch officers on large cutters, including underway training for officers assigned to command after extended service ashore.
- Required use of a pilot when a Coast Guard commanding officer of a large cutter is unfamiliar with pilotage waters.
- Improved emergency and water survival training of Coast Guardsmen.
- A prohibition on ships meeting in bends in Tampa Bay.
- Relocation of channels in Tampa Bay to eliminate the existing four-channel intersection where the collision occurred, and Coast Guard reevaluation of the navigation services it provides there.
- A Coast Guard study of cutter liferafts, their location, and their ease of use, and provision of buoyant containers for all rafts.
- A Coast Guard study of the reliability of its cutters' emergency lighting.

The complete text of these recommendations was reproduced at 45 FR 63583, September 25, 1980.

*Liberian Tank Vessel M/V SEATIGER Explosion and Fire, Sun Oil Terminal, Nederland, Texas, April 19, 1979 (NTSB-MAR-80-12).*—The Safety Board's formal report, also released September 30, indicates that the SEATIGER, which had suspended pumping seawater ballast into its cargo tanks because of electrical storms in the area, exploded, burned, and sank at a berth at the Sun Oil Terminal. The SEATIGER was severely damaged in the area of its cargo tanks. Two crewmembers were killed. The total losses resulting from the explosion were estimated to be $35 million. The terminal berth was out of service for 180 days. The accident was investigated jointly by the Safety Board and the Coast Guard. A U.S. Coast Guard formal investigation was convened at Port Arthur, Texas, on April 24, 1979. A representative of the Safety Board participated in all phases of the investigation.

The Safety Board has determined that the probable cause of the accident was the improper installation of the flame screen in the flame arrester aboard the SEATIGER which resulted in the propagation of fire through the cargo tank vent system after lightning ignited flammable gases at the top of the vent mast, and a partially open butterfly valve in the cargo tank vent pipe system which created a path for the flame to penetrate the cargo tanks. The master's failure to require use of the available inert gas system to maintain a nonexplosive atmosphere in the cargo tanks contributed to the accident.

As a result of its investigation of this accident, the Safety Board on September 10 issued six recommendations, Nos. M-80-56 through -61, to the U.S. Coast Guard; one recommendation, No. M-80-62, to the American Bureau of Shipping; and one recommendation, No. M-80-63, to the Sunoco Terminals, Inc., of Nederland, Texas. The complete text of these recommendations was published at 45 FR 63581, September 25, 1980.

*Railroad*

*Head-on Collision Between Amtrak Train No. 82 and Seaboard Coast Line Extra 2771 South Lakeview, North Carolina, April 2, 1980 (NTSB-RAR-80-8).*—The investigation report, made public September 30, shows that about 7:33 a.m., northbound train No. 82 collided head-on with Extra 2771 South on the single track of the Seaboard Coast Line Railroad at Lakeview after train No. 82 overran a stop signal at the north end of the double track. Twenty-nine crewmembers and 94 passengers were injured, and damage was estimated at $1,145,492.

The Safety Board has determined that the probable cause of this accident was the failure of the engineer of train No. 82 to perceive and comply with the "approach" aspect of a signal and his continued operation of the train at a speed too high to stop before it overran a stop signal. Contributing factors to the accident were the dense fog and the train's speed which reduced the engineer's perception time; the engineer's possible distraction by a schoolbus which crossed immediately in front of the train as it approached the signal; and the absence of means to alert the engineer that he had failed to comply with the approach signal indications.

As a result of its investigation of this accident and because accident investigations conducted in the past that involved similar circumstances have continually indicated the need for such action, the Safety Board reiterates the following recommendation, issued to the Federal Railroad Administration on February 7, 1972, in conjunction with the Board's special study, "Signals and Operating Rules as Causal Factors in Train Accidents," (NTSB-RSS-71-3):

Develop a comprehensive program for future requirements in signal systems . . . that will require as a minimum:

a. that all mainline trains be equipped with continuous cab signals in conjunction with automatic-block signals;

b. that all passenger trains be equipped with continuous automatic speed control (train control).

Safety Board records designate the above recommendation as No. R-71-45.

**Aviation Safety Recommendation Letter**

*A-80-106 and -107 to the Federal Aviation Administration, October 2, 1980.*—On May 14, 1980, an Aerospatiale 341G Gazelle helicopter was approaching a confined-area landing site when the flight-control hydraulic pressure was lost. The pilot maintained control and continued his approach. As the aircraft was flared for landing, the pilot's right rudder pedal rotated from beneath his foot, causing the pilot to lose directional control of the aircraft. After several rapid rotations of the fuselage, the pilot instructed the passenger, seated in the copilot's seat, to depress the copilot's right rudder pedal. The pilot regained directional control and landed the aircraft uneventfully.

Detailed examination of the pilot's right rudder pedal revealed that the lower of two rivets (PN L2125-24-12 DCJ) which attaches the leaf spring/locking pin assembly to the pedal shaft had sheared. However, review of the pedal installation indicates that the rivet sheared as a result of the pedal's rotating. If the pedal is fully engaged in its floor fitting, the locking pin will prevent rotation and a flat machined on the base of the pedal shaft which mates with a flat on the floor fitting will prevent rotation should the locking pin fail.

The Safety Board is concerned that other rudder pedal shafts may not have been properly installed and fully engaged and locked in their respective fittings which could result in loss of directional control. Accordingly, the Safety Board recommends that FAA:

Issue a Telert Maintenance Bulletin to require a one-time inspection of the rudder pedal shafts on the Aerospatiale 341G helicopter for proper installation. (Class I, Urgent Action) (A-80-106)

Review and evaluate the rudder pedal installation to determine if a stronger pedal retention design is necessary. (Class II, Priority Action) (A-80-107)

**Pipeline Safety Recommendation Letters**

*P-80-66 through -68 to the Texas Pipeline Company, September 24, 1980.*—On January 2, 1980, crude oil leaked from a fractured 22-inch pipeline at a levee crossing at Berwick, La.; the pipeline, owned by the Texas Pipeline Company, runs between Houma and Erath, La. At 9:54 a.m., the crude oil

ignited. One person was killed, one person was injured, and six homes were either destroyed or damaged.

Investigation showed that the 22-inch coated and wrapped steel pipeline was installed in 1952. The crude oil it carried was gathered in the Houma area and was being pumped to Erath; additional crude oil was being injected at the Gibson and Patterson pump stations. Berwick is located between these two stations.

Local residents had detected the leak about 9 a.m. After some delay, the local police were notified. Personnel were dispatched at 9:24 a.m. and arrived on scene at 9:26. The volunteer fire department was alerted at 9:26 a.m. and arrived on scene at 9:28. However, even though a marker containing the Texas Pipeline Company's telephone number was located near the leak site, the company was not notified of the leak until 9:53 a.m. By that time, the oil had flowed under houses along the levee. Although emergency personnel evacuated persons from the houses and shut off natural gas appliances, the oil ignited as the last house was being entered for appliance shutoff.

Immediately upon receiving notification of the leak, the company shut down the single unit which was pumping at Houma and the two remotely operated units at Gibson. At 10:20 a.m., Houma began to take suction on the pipeline in an attempt to pull as much crude oil as possible out of the pipeline at the leak site.

Gates valves were closed manually 1 mile upstream and 300 feet downstream of the fracture in order to isolate the leak further. However, about 1,888 barrels, or 79,300 gallons, of crude oil escaped under an initial pressure of 140 psig. This volume was estimated from the cumulative total of barrels pumped to Erath at 10 a.m. less the amount received at Erath. The flow rate at Houma and the overall system pressure did not alert company personnel to a leak because the leak began about the same time that Houma began pumping. Hourly totals for the 28-hour period before the shutdown varied erratically, from 526 barrels over to 249 barrels short; only a very large leak could be detected by monitoring receipts for any given hour. Since the pipeline monitoring system failed to detect a loss of over 1,800 barrels of oil, a more effective monitoring system should be developed and implemented.

Examination of the failed pipe revealed that a tie-in weld between horizontal sections of pipe had been made near the top of the levee. Two pairs or field bends were used to make the crossing to meet U.S. Army Corps of Engineers design requirements, which prohibit penetration of the levee. The weld was reinforced by a full encirclement, fillet-welded sleeve—the operator's normal practice at levee crossings. The initiating fracture had begun immediately adjacent to the fillet weld at one end of the sleeve. It was located at the 6 o'clock position on the pipe and had apparently existed for some time without completely penetrating the pipe wall. The ultimate failure was a circumferential fracture, about 29 inches long from the 3 to the 8 o'clock position.

Metallurgical tests (Report 396–80–3434 on Investigation of Crude Oil Pipeline Failure for the Texas Pipeline Company," Metallurgical Consultants, Inc., Houston, Texas 77004, May 15, 1980) revealed that the failure of the pipe was caused by underbead cracking that originated when the sleeve was welded to the pipe. Underbead cracks result from hydrogen absorbed during welding. The absorbed hydrogen may diffuse out of the steel during cooling; however, certain circumstances can cause the heat-affected zone to crack before the hydrogen is able to diffuse out of the steel. Low heat input, high carbon and manganese, and rapid cooling increase the hardness of the heat-affected zone and promote underbead cracking. The heat-affected zone that cracked in this case was extremely hard for line pipe steel, indicating that it had cooled rapidly. A large crack grew from the underbead cracks, the growth of which was likely promoted by periodic bending stresses at the edge of the sleeve due to soil movement, thermal expansion and contraction, or other forces. The fact that the fracture was brittle but arrested after propagating halfway around the circumference indicated a bending stress caused the fracture.

The Safety Board is concerned about the use of fillet-welded reinforcement sleeves for levee crossings because moment forces are transferred to the ends of the sleeve where the pipe may have been weakened by the fillet weld heat, and because the pipe is rigid where flexibility is needed. Therefore, the Board believes that the practice of using reinforcement sleeves should be reviewed. Accordingly, the Safety Board recommends that the Texas Pipeline Company:

Review the practice of using fillet-welded reinforcement sleeves for tie-in welds to determine if these sleeves have been the cause of any piepline failures in its system, and, based on the results of this review, revise company practices and procedures for the use of these sleeves. (P–80–66)

Notify the pipeline patrol of the location of existing fillet-welded sleeves and instruct it to examine, during periodic patrols, the areas around the sleeve installations for signs of leakage. (P–80–67)

Evaluate existing procedures for leak detection and take steps to make these procedures more effective. (P–80–68)

*P–80–69 to the Research and Special Programs Administration, U.S. Department of Transportation, September 24, 1980.*—An identical letter relating to the Berwick, La., pipeline accident made the following recommendation:

Determine, through an analysis of incident reports and other appropriate means, the significance of safety problems with fillet-welded reinforced sleeves, and take the appropriate corrective action(s). (P–80–69)

*P–80–70 to the American Petroleum Institute, September 24, 1980.*—Also relating to the Berwick, La., accident, this letter contained the following recommendation:

Notify member companies of the circumstances of this accident and urge them to evaluate their leak detection systems and procedures and to provide for periodic examination of the area around fillet-welded sleeves for signs of leakage. (P–80–70)

Each of the above pipeline safety recommendations, Nos. P–80–66 through –70, is designated "Class II, Priority Action."

**Responses to Safety Recommendations**

*Aviations*

*A–77–24 and –25, from the Federal Aviation Administration, September 30, 1980.*—Letter is in response to Safety Board inquiry of July 21 and supplements FAA's response dated September 11, 1979 (44 FR 54561, September 20, 1979). The recommendations, developed following investigation of the December 19, 1976, accident involving a Piper Cherokee Cruiser at Baltimore (Md). Memorial Stadium, asked FAA to amend 14 CFR 61.3 to include an implied consent clause as a condition for issuance of a pilot certificate (A–77–24) and to amend 14 CFR 91.11 to specify alcohol levels at which a pilot is considered to be under the influence of alcohol (A–77–25).

FAA reports that a notice of proposed rulemaking to amend Parts 61, 63, 65, and 91 of the Federal Aviation Regulations has been drafted and is currently in the coordination process. FAA had intended to issue this notice in late 1979, but a number of highly controversial aspects of this action have required further in-depth study and additional deliberation in formulating the final version of the proposed rule. FAA recognizes the potential for delay

in issuing the proposal due to its controversial nature but plans issuance prior to January 1, 1981.

*A–79–83 and –84, from the Federal Aviation Administration, May 21, 1980.*—Letter is in further response to recommendations stemming from investigation of a Gates Learjet 25B crash which occurred shortly after takeoff at Sanford, N.C., September 8, 1977. The recommendations pertained to the installation, ventilation, and maintenance of NiCad batteries. The Safety Board on February 25 commented on FAA's initial response of last January 28 (45 FR 8391, February 7, 1980), at which time the Board noted with reference to companion recommendation A–79–82 that FAA's letter AWS–130 of December 21, 1979, addressed to all FAA staff concerned, with a copy of the Board's recommendation enclosed, fulfilled the intent of the recommendation, which was placed in a "Closed—Acceptable Action" status.

With reference to recommendations A–79–83 and–84, FAA advised the Safety Board that Alert No. 22 (copy provided), issued during May 1980, contains the Maintenance Note pertaining to Battery Ventilation Systems. The Board on June 13 advised FAA that issuance of that general aviation airworthiness alert satisfied the intent of both recommendations. Recommendation A–79–83 is now classified as "Closed—Acceptable Alternate Action" and A–79–84 is now classified as "Closed—Acceptable Action."

*Marine*

*M–79–80, from the University-National Oceanographic Laboratory System (UNOLS), September 4, 1980.*—Letter is in response to a recent telephonic request by Safety Board staff concerning a recommendation developed as a result of investigation into the disappearance of the motor vessel HOLOHOLO after it set sail on December 9, 1978, from Honolulu, Hawaii. The recommendation, issued September 6, 1979, asked UNOLS to distribute a copy of the recommendation letter and the Safety Board's recommendation letter to the University of Hawaii (re recommendations M–79–81 through –87) to UNOLS members and urge them to review the guideline standards promulgated by UNOLS and to formally prescribe appropriate minimum requirements from among those standards to be applicable to all vessels used by the member institutions, and for each specific voyage made by such vessels. (See 44 FR 52062, September 6, 1979.)

UNOLS response letter indicates that copies of the documents were sent to its membership on September 25, 1979. UNOL's transmittal letter notes that some operators of research vessels already have such procedures, and others will want to improve upon current operations, particularly regarding occasional charters; reference is also made to an updating of UNOL's "Research Vessel Safety Standards (May 1976)" at the October 1979, RVOC meeting, and that this effort is underway and can be reviewed at this year's meeting, October 22–23.

**Note.**—Single copies of Safety Board reports are available without charge, as long as limited supplies last. Copies of Board recommendation letters, responses and related correspondence are also provided free of charge. All requests for copies must be in writing, identified by recommendation or report number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of Safety Board reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va 22161.

(49 U.S.C. 1903(a)(2), 1906)

**Margaret L. Fisher,**

*Federal Register Liaison Officer.*

October 6, 1980.

[FR Doc. 80–31510 Filed 10–8–80; 8:45 am]

BILLING CODE 4910–58–M

## NUCLEAR REGULATORY COMMISSION

**[Project M–25]**

### Availability of Final Generic Environmental Impact Statement on Uranium Milling

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulation in 10 CFR Part 51, notice is hereby given that a Final Generic Environmental Impact Statement (GEIS) on Uranium Milling prepared by the Commission's Office of Nuclear Material Safety and Safeguards is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW, Washington, DC 20555. Notice of the Commission's intent to prepare such a statement was published in the **Federal Register** on June 3, 1976 (41 FR 22430). A proposed scope and outline for the study was published on March 14, 1977 (42 FR 12874) and the draft environmental statement was published on April 27, 1979 (44 FR 24921). The Final GEIS is also being made available at the State Clearinghouses.

The Final Generic Environmental Impact Statement on Uranium Milling has been prepared in support of the 10 CFR Part 40 regulation changes published in the **Federal Register** on October 3, 1980 to be effective on November 17, 1980. The GEIS is being made available to the Environmental Protection Agency and other federal agencies and members of the public more than thirty days before the 10 CFR Part 40 regulations become effective as required in 10 CFR Part 51.51.

The Final Environmental Statement may be purchased through the NRC's sales program as published on August 6, 1979 (44 FR 46005) or from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. Rquests for copies of the GEIS (identified as NUREG–0706) should be addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control.

In preparing the GEIS, the staff has evaluated a wide range of issues. It has examined the problem of controlling emissions from mills during operations and the problem of mill decommissioning. The latter, of course, includes the special problem of dealing with the large volume wastes—mill tailings—produced by milling operations. These wastes will remain hazardous for very long periods of time owing to the long half-lives of radioactivity present. They emit a radioactive gas, Radon-222, which can be transported long distances exposing large populations, albeit to concentrations of radioactivity which are small increments above background. In addition to technical controls, supplementary institutional and financial arrangements for dealing with these problems have been addressed.

In formulating proposals for dealing with these problems to assure public health and safety and environmental protection, the staff has developed a full range of perspectives and facts. It has analyzed the problems from short and long term points of view. Potential health risks to individuals living in the immediate vicinity of mills, to individuals living in mining and milling regions, to mill workers, and to large populations which can be exposed to radon, have been addressed. Potential impacts on land use, air quality, water quality, water use, biota and soils, and potential socioeconomic effects of milling operations are assessed. Alternatives for tailings disposal which have been examined have ranged from the past practice of doing virtually

nothing to isolate tailings to utilizing potential advanced treatment methods such as incorporation of tailings in a solid matrix, such as cement or asphalt.

A set of specific conclusions concerning both technical and institutional aspects of uranium mill operation, decommissioning and tailings disposal are drawn in the GEIS. These conclusions have been incorporated into the regulation changes published in the October 3, 1980 **Federal Register.**

Comments were received from interested persons in writing and in public meetings held in October 1979. All comments by Federal, State, and local officials, and other persons received by the Commission are available in their entirety for public inspection at the Commission's Public Document Room in Washington, DC. The comments have been responded to fully in Appendix A to NUREG–0706. A discussion of major issues raised by public comments and dealt with in the GEIS was presented in the October 3, 1980 **Federal Register** publishing the final regulations on uranium milling.

Dated at Silver Spring, Maryland this 1st day of October, 1980.

For the Nuclear Regulatory Commission.

**Ross A. Scarano,**

*Chief, Uranium Recovery Licensing Branch, Division of Waste Management.*

[FR Doc. 80-31475 Filed 10-8-80; 8:45 am]

BILLING CODE 7590-01-M

---

**[Docket Nos. STN 50-483-OL and STN 50-486-OL]**

## Union Electric Co.; Establishment of Atomic Safety and Licensing Board To Preside in Proceeding

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register** (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

**Union Electric Co.**

(Callaway Plant, Units 1 and 2)

Construction Permits Nos. CPPR–139 and CPPR–140

This action is in reference to a notice published by the Commission on August 26, 1980, in the **Federal Register** (45 FR 56956–56957) entitled, "Union Electric Co.; Receipt of Application for Facility Operating Licenses; Consideration of Issuance of Facility Operating Licenses and Notice of Opportunity for Hearing".

The chairman of this Board and his address is as follows: James P. Gleason, Esq., 513 Gilmoure Drive, Silver Spring, Maryland 20901.

The other members of the Board and their addresses are as follows:

Mr. Glenn O. Bright, U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555

Dr. Jerry R. Kline, U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555

Dated at Bethesda, Maryland, this 2nd day of October, 1980.

**Robert M. Lazo,**

*Acting Chairman, Atomic Safety and Licensing Board Panel.*

[FR Doc. 80-31474 Filed 10-8-80; 8:45 am]

BILLING CODE 7590-01-M

---

## OFFICE OF MANAGEMENT AND BUDGET

### Agency Forms Under Review

**Background**

October 6, 1980.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

**List of Forms Under Review**

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Some forms listed as revisions may only have a change in the number of respondents or a reestimate of the time needed to fill them out rather than any change to the content of the form. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register** but occasionally the public interest requires more rapid action.

**Comments and Questions**

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447–6201

*Revisions*

• Agricultural Stabilization and Conservation Service
Application for Payment (National Wool Act)
CCC–1155
On Occasion
Wool producers, 125,000 responses; 31,250 hours
Charles A. Ellett, 395–7340

*Extensions*

• Agricultural Marketing Service
Quarterly Report of Manufacture and Sales of Snuff, Smoking and Chewing Tobacco
TB–39
Manufactures of Tobacco Products, 200 responses; 200 hours
Off. of Federal Statistical Policy and Standard, 673–7974

• Rural Electrification Administration
Statement of Construction—Telephone System—Outside Plant
REA–527
On occasion
REA Telephone Borrowers, 200 responses; 200 hours
Charles A. Ellett, 395–7340

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377–3627

*New Forms*

• Economic Development Administration
Energy Conservation Additional Requirement for ED–101A, Public Works Application
ED–101A
On occasion
Usually State and loc. gov't, ind, tribes and non-prof. organ., 400 responses; 8,000 hours
William T. Adams, 395–4814

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697–1195

*Reinstatements*

• Departmental and other
CHAMPUS/CHAMPVA Claim Form
CHAMPUS 500
On occasion
CHAMPUS beneficiaries, 726,000 responses; 181,000 hours
Kenneth B. Allen, 395–3785

DEPARTMENT OF ENERGY

Agency Clearance Officer—Dr. Irene Montie—633–9464

*Revisions*

• Annual Report of Forecasted Loads and Projected Changes in Generating Capacity and Transmission
EIA–403
On occasion
Firms which generate elect. from oil fired equip., 3,575 responses; 9,378 hours
Jefferson B. Hill, 395–7340

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755–5184

*New Forms*

• Housing Management
Certification and Recertification of Tenant Eligibility
HUD–50050 and 50059A
On occasion
Certification and recertification of tenant elig., 1,565,000 responses; 521,666 hours
Richard Sheppard, 395–6880

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—William L. Carpenter—343–6716

*Extensions*

• Bureau of Land Management
Prospecting Application and Permit (Potassium, Coal, Sulfur, and Phosphate—Public and Acquired Lands)
3510–1
On occasion
Indiv. appli. and permit propsect for minerals, 5,000 responses; 3,750 hours
Charles A. Ellett, 395–7340

• Bureau of Land Management
Grazing Preference Statement and Application
4115–25
Annually
Applicants changes of livestock opera. grazing sched., 23,000 responses; 11,500 hours
Charles A. Ellett, 395–734

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Mr. Mel Ollander—287–0747

*New Forms*

• Urban Environment Directory Questionnaire
Single time
Nonprofit orgnization—2,500 throughout the U.S., 850 responses; 425 hours
Edward H. Clarke, 395–7340

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—632–7737

*Revisions*

• Application for Guaranteed Minimum Annuity (for Surviving Annuitants and Dependent Children)
BRI 49–389A
On occasion
CS annuitants eligible under Pub. L. 93–27, 700 responses; 175 hours
Veeder, Robert N., 395–4814

• Financial Disclosure Report
SF–278
On occasion
Those becoming senior government executives, 350 responses; 350 hours
Veeder, Robert N., 395–4814

**C. Louis Kincannon,**

*Acting Deputy Assistant Director for Reports Management.*

[FR Doc. 80–31515 Filed 10–8–80; 8:45 am]

BILLING CODE 3110–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[File No. 500–1]**

### Glasrock Medical Services Corp.; Order of Suspension of Trading

October 3, 1980.

It appearing to the Securities and Exchange Commission that there are questions concerning unusual market activity in the securities of Glasrock Medical Services Corp. ("Glasrock") and questions concerning an undisclosed accumulation of a significant percentage of shares of the company's outstanding common stock by a registered representative and numerous customers of his at one brokerage firm and the resulting potential impact on the market for Glasrock shares, the Commission is of the opinion that the public interest and the protection of investors require the summary suspension of trading in the securities of Glasrock.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that the suspension of trading of such securities will be effective at 11:15 a.m. on October 3, 1980 through October 12, 1980.

By the Commission.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 80–31415 Filed 10–8–80; 8:45 am]

BILLING CODE 8010–01–M

**Midwest Stock Exchange, Inc., Applications for Unlisted Trading Privileges and of Opportunity for Hearing**

October 2, 1980.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Geico Corp., Common Stock, $1 Par Value (File No. 7-5741).

Gerber Scientific Inc., Common Stock, $1 Par Value (File No. 7-5742).

Golden Nugget Inc., Common Stock, $.833 Par Value (File No. 7-5743).

National Education Corp., Common Stock, No Par Value (File No. 7-5744).

These securities are listed and registered on one or more other national securities exchanges and are reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 24, 1980 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 80-31412 Filed 10-8-80; 8:45 am]

BILLING CODE 8010-01-M

---

**[Release No. 34-17187; File No. SR-PSE-80-18]**

**Pacific Stock Exchange Inc.**

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. 94-24, 16 (June 4, 1975), notice is hereby given that on September 29, 1980, 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 Pacific Stock Exchange Incorporated ("PSE") proposes to amend the schedule of minimum recommended fines for violations of PSE Rules and Floor Procedures relating to the conduct of business on the Options Floor of the PSE.

*PSE's Statement of the Basis and Purpose of the Foregoing Rule Change*

The purposes of the proposed amendments to the fine schedule are twofold: first to reflect changes made to the Floor Citation form with respect to remuneration, and secondly, to change two of the fines to reflect the degree of importance of the violations involved.

The proposed changes are consistent with Section 6(b)(6) of the Act inasmuch as it provides for appropriate discipline of members for violations of Exchange Rules and Floor Procedures.

Comments have neither been solicited nor received from members, participants, or others on the proposed rule change.

PSE believes that the proposed rule change imposes no 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 (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 six 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 in the Public Reference Room, 1100 L Street, NW., 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 October 30, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

**George A. Fitzsimmons,**

*Secretary.*

October 2, 1980

[FR Doc. 80-31413 Filed 10-8-80; 8:45 am]

BILLING CODE 8010-01-M

---

**[Release No. 34-17188; File No. SR-PHLX 80-22]**

**Philadelphia Stock Exchange, Inc.**

Pursuant to Section 19(b)(1), as amended by Pub. L. No. 94-24, 16 (June 4, 1975), notice is hereby given that on September 16, 1980, the above mentioned self-regulatory organization ("SRO") filed with the Securities and Exchange Commission a proposed rule change as follows:

*SRO's Statement of the Terms of Substance of the Proposed Rule Change*

The Philadelphia Stock Exchange, Inc. ("Phlx") pursuant to Rule 19b-4 of the Securities Exchange Act of 1934 ("Act") proposes to amend Rule 1059. The text of the proposed amendment is as follows:

(Italics indicates new language)

**Accommodation Transactions**

Rule 1059(a). No change.

*(b) Notwithstanding the provisions of Rule 132, any (i) member, (ii) member organization, or (iii) other person who is a non-member broker or dealer and who directly or indirectly controls, is controlled by, or is under common control with, a member or member organization (any such other person being referred to as an affiliated person) may effect any transaction as principal in the over-the-counter market in any class of option contracts listed on the Exchange for a premium not in excess of $1.00 per contract.*

*. . . Commentary*

*.01 For each transaction executed by a member, member organization or affiliated person pursuant to paragraph (b), a record of such transaction shall be maintained by the member or member organization and shall be available for inspection by the Exchange for a period of three years. Such record shall include the circumstances under which the transaction was executed in conformity with this rule.*

*SRO's Statement of Basis and Purpose of the Proposed Rule Change*

The purpose of the proposed rule change is to permit Exchange members to execute transactions in PHLX options as principals in the over-the-counter

market for a premium not in excess of $1.00 per contract. This change would enable member firms to accomplish such transactions in order to accommodate their customers for tax or trading reasons (i.e., where no auction or cabinet trading is available or for options which are of little or no value to customers). Such transactions are currently prohibited by Exchange rules which do not provide for transactions in the over-the-counter market in options listed on the Exchange.

The basis under the Act for the proposed rule change is found in Section 6(b)(5) of the Act which provides in pertinent part that the rules of the Exchange be designed to facilitate transactions in securities and to protect investors and the public interest.

The Exchange does not believe that the proposed rule change will 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 six 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 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 within twenty-one days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

**George A. Fitzsimmons,**

*Secretary.*

October 2, 1980

[FR Doc. 80-31414 Filed 10-8-80; 8:45 am]

BILLING CODE 8010-01-M

**[Release No. 11386; File No. 812-4703]**

## Hartford Variable Annuity Life Insurance Co., et al.; Applications

In the matter of Hartford Variable Annuity Life Insurance Co.; Shearson/Hartford Variable Account "A", Hartford Plaza, Hartford, Connecticut 06115; and Shearson Loeb Rhoades, Inc., 14 Wall Street, New York, New York 10005.

Notice of application for an order pursuant to section 6(c) of the Investment Company Act of 1940 granting exemptions from the provisions of sections 2(a)(32), 2(a)(35), 22(c), 26(a)(1), 26(a)(2)(C), 26(a)(2)(D), 27(c)(1), 27(c)(2), 27(d), of the Act and rule 22c-1 thereunder and pursuant to section 11 of the Act approving certain offers of exchange.

Notice is hereby given that Hartford Variable Annuity Life Insurance Company ("HVA"), a stock life insurance company organized under the laws of the state of Connecticut; Shearson/Hartford Variable Account "A" ("Variable Account 'A'"), a unit investment trust registered under the Investment Company Act of 1940 ("Act") and Shearson Loeb Rhoades Inc. ("Shearson Loeb Rhoades"), a broker-dealer registered under the Securities Exchange Act of 1934 filed an application on July 11, 1980 and an amendment thereto on October 1, 1980 pursuant to section 6(c) of the Act for an Order exempting Applicants from the provisions of sections 2(a)(32), 2(a)(35), 22(c), 26(a)(1), 26(a)(2)(C), 26(a)(2)(D), 27(c)(1), 27(c)(2), 27(d) of the Act to the extent requested and for an Order pursuant to section 11(a) of the Act with respect to offers of exchange. All interested persons are referred to the Application on file with the Commission for a statement of representations contained therein which are summarized below.

*Background*

On July 10, 1980 Variable Account "A" was registered as a unit investment trust with the Commission under the Act. Variable Account "A" will initially issue only single premium deferred variable annuity contracts which will provide for a Contingent Deferred Sales Charge.

The Contracts issued with respect to Variable Account "A" will provide that the Contract Owner will have the right to direct that the single premium payment made under the terms of the Contract is to be invested in shares of no more than three open-end, diversified investment companies (hereinafter collectively referred to as the "Shearson funds") at any one time.

The Contracts issued with respect to Variable Account "A" may be acquired either by the direct purchase of a Contract for cash or by exchanging shares of one or more of the Shearson funds that have been owned by an investor for at least 45 days prior to exchange for a Contract. Contract purchasers will not pay a sales charge at the time of purchase but will pay a sales charge (referred to as a Contingent Deferred Sales Charge) if a full or partial redemption of a Contract is made within a specified period of time after purchase, except for a partial surrender of up to 10% of the single premium payments as hereinafter described and except in the event of the Contract Owners death.

With respect to the indirect purchase method of acquiring a Contract, the Contingent Deferred Sales Charge shall be applied against the proceeds of redemption starting at six percent (6%) during the first full Contract year, declining one percent (1%) per year thereafter until the sixth year. During the seventh and subsequent full Contract year(s) there is no charge in the event of a redemption.

With respect to the direct purchase method, the Contingent Deferred Sales Charge shall be applied against the proceeds of redemption at one percent (1%) per year during the first three full Contract years and there shall be no charge during the fourth and subsequent years.

After a Contract has been in force for a full Contract year (12 months) a Contract Owner may surrender up to ten percent (10%) of the single premium purchase payment each Contract year without the proceeds of redemption being subject to the Contingent Deferred Sales Charge which would otherwise be applicable. This right of surrender is noncumulative.

With respect to the indirect purchase method, only those shares of the Shearson funds which have been subject to a sales charge at the time of purchase from the particular Shearson fund involved are eligible to be exchanged for a Contract through the indirect purchase method. Thus, shareholders of a Shearson "no-load" fund can only purchase a Contract through the indirect purchase method by first liquidating their "no-load" fund shares and then utilizing the surrender proceeds to purchase a Contract by the direct method.

The Variable Account "A" Contracts shall be subject to an Annual Maintenance Fee which shall be $25.00 for all Contract years other than the first and $35.00 for the first Contract year.

**Contingent Deferred Sales Charge**

*Sections 26(a)(2)(C) and 27(c)(2)*

Section 27(c)(2) of the Act provides, in substance, that a periodic payment plan certificate company or a depositor or underwriter for such a company are prohibited from selling any such certificates unless, among other things, the proceeds of all payments, other than the sales load, on such certificates are deposited with a trustee or custodian having the qualifications prescribed in Section 26(a)(1) and are held by such trustee or custodian under an agreement containing, in substance, the trust indenture provisions required by Sections 26(a)(2) and 26(a)(3) of the Act.

Section 26(a)(2)(C) of the Act provides that no payment to the depositor of, or principal underwriter for, a registered unit investment trust (or to any affiliated person or agent of such depositor or principal underwriter) shall be allowed the trustee or custodian as an expense except for payment of a fee, not exceeding such reasonable amount as the Commission may prescribe as compensation for performing bookkeeping and other administrative services of a character normally performed by the trustee or custodian.

Applicants allege that the Deferred Sales Charge to be imposed (if any) upon the surrender of the Contracts issued with respect to Variable Account "A" is designed to recover distribution costs relating to the sales of the Contracts. The Contracts merely defer the time when the sales charge may be imposed.

Applicants further allege that since there is nothing in the Act to suggest that if Deferred Sales Charges were being used at the time the Act was promulgated, that deductions for such sales charges would not have been permitted, and, since it is in the Contract Owners' best interests that the entire amount of their purchase payments be invested at the time when made, Applicants have requested an exemption from the provisions of Section 26(a)(2)(C) and 27(c)(2) of the Act, to the extent necessary, in order to permit the offer and sale of the single premium Contracts subject to the schedule of Contingent Deferred Sales Charges, as shown.

*Section 2(a)(35)*

Section 2(a)(35) of the Act defines "sales load" as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested, less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or "administrative expenses or fees which are not properly chargeable to sales or promotional activities."

Applicants state that the definition of sales load contained in Section 2(a)(35) contemplates that any deduction therefor will be made from the security purchaser's investment at the time when the Contract is purchased. However, the Deferred Sales Charge (if any) that would be made upon the surrender of a Contract for redemption would be applied to pay sales expenses including the administrative expenses and fees which are properly chargeable to sales or promotional activities theretofore incurred in connection with the offer and sale of the Contracts. Applicants contend that the fact that the sales charge is deducted from the Contract proceeds of redemption rather than from the purchase payment initially made to acquire the Contract, does not change the essential character of the charge; it is a sales charge.

Accordingly, Applicants request an exemption from the provisions of Section 2(a)(35) of the Act to the extent one is deemed necessary in order to permit the offer and sale of the single premium contracts, with a Contingent Deferred Sales Charge.

*Section 2(a)(32) and Section 27(d)*

Section 2(a)(32) of the Act, in substance, defines a redeemable security as any security under the terms of which the holder is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Section 27(d) of the Act, in substance, requires that the holder of a periodic payment plan certificate be able to surrender his certificate within a specified time and receive the value of his account and the return of sales charges in excess of a certain percentage. Sections 2(a)(32) and 27(d) therefore, contemplate the deduction of sales charges from purchase payments at the time they are made.

Applicants state that the fact that the sales charges are not deducted from the amount initially invested does not change the essential nature of the deduction being made and does not alter the fact that the investor in fact receives his proportionate share of the issuer's current net assests and the value of his account upon redemption.

Therefore, Applicants requests, to the extent necessary, an exemption from the provisions of Section 2(a)(32) and 27(d) of the Act to permit the offer and sale of the Contracts with a Contingent Deferred Sales Charge.

*Section 27(c)(1)*

Section 27(c)(1) of the Act, in pertinent part, makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor or underwriter of such company, to sell any such certificate unless it is a redeemable security.

Applicants contend that the imposition of a Deferred Sales Charge upon the proceeds of redemption is not a restriction of redemption within the meaning of Section 27(c)(1). The Contract Owner is not prohibited in any way from tendering his Contract for redemption. Applicants request an exemption from the provisions of Section 27(c)(1) to the extent that one is deemed necessary, in order to permit the offer and sale of the Contracts with a Deferred Sales Charge.

*Section 22(c) and Rule 22c–1 thereunder*

Section 22(c) of the Act and Rule 22c–1 Thereunder prohibit a registered investment company issuing redeemable securities such as the Contracts from selling, redeeming, or repurchasing any such security except at a price based upon the current net asset value of such security. Because the Deferred Sales Charge is deducted from the amount that the Contract Owner receives upon redemption, it may be said that the Contract Owner does not receive an amount equal to the current net asset value of his contract. Applicant submit, however, that the deduction of a Deferred Sales Charge at the time the Contract is submitted for redemption, as opposed to the deduction of such charge at the time that the investment is initially made, does not prevent the Contract Owner from receiving the current net asset value of his Contract upon redemption. Applicants request an exemption from the provisions of Section 22(c) and Rule 22c–1 thereunder to the extent that one is deemed necessary in order to permit the offer and sale of the Contracts with a Deferred Sales Charge.

In further support of the request for redemption with respect to the Deferred Sales Charge, Applicants allege that, as noted, the entire amount of the Conract purchase payment will be invested until the Contract is annuitized or until redemption. Further by virtue of the fact that no sales charge will be made if the Contract is annuitized under an annuity option involving life contingencies or if redemption, in whole or part, is effected after six full Contract years on direct purchases and three years on indirect purchases, the proposed arrangement is more beneficial to the Contract Owner. Finally, the maximum amount to which

such charge may apply is the single premium payment paid for the Contract.

In summary, Applicants request exemption from the provisions of Sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2)(C), 27(c)(1), 27(c)(2), 27(d) and Rule 22c–1 in order that they may offer and sell the single premium Contracts subject to a Contingent Deferred Sales Charge, as aforesaid.

**Annual Maintenance Fee**

As previously noted, the Contracts are subject to an Annual Maintenance Fee. If the value of a Contract is redeemed in full at any time before the last business day of the year or the last day of the Contract year, the Annual Maintenance Fee will be deducted from the Contract Owner's redemption proceeds. Because the foregoing provisions of the Act may be said to be equally applicable in this situation, Applicants request an exemption from the provisions of Sections 2(a)(32), 2(a)(35), 22(c), 27(c)(1), 27(c)(2), 26(a)(2)(c), 27(d) and Rule 22c–1, to the extent deemed necessary, in order to permit the deduction of the Annual Maintenance Fee under the circumstances described.

**Performance of Custodial Functions**

*Sections 26(a)(1) and 27(c)(2)*

As noted, Section 27(c)(2) of the Act prohibits a registered investment company and any depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments other than the sales load are deposited with a trustee or custodian having the qualifications prescribed in Section 26(a)(1) and held under an agreement containing, in substance, the provisions required by Section 26(a) (2) and (3) of the Act.

Section 26(a)(1) requires the trustee or custodian to be a bank which meets certain financial standards. Applicant HVA proposes to hold in custody for safekeeping the property and assets of the newly created but as yet inoperative Variable Account "A".

HVA requests an exemption from the provisions of Section 26(a)(1) of the Act in order that HVA may hold the property and assets of Variable Account "A" in custody for safekeeping. HVA will keep such assets in its vault facilities which HVA contends are comparable to the vaults of large commercial banks and adequate protection will thereby be afforded to owners of Contracts issued with respect to Variable Account "A". Also, HVA will limit access to the vault.

Section 26(a)(2)(D) of the Act requires, in part, that the custodian shall have possession of all the securities and other property in which the funds of the unit investment trust are invested. This has been interpreted to mean that the securities owned by the trust must be actually represented by share certificates maintained in custody.

Applicant HVA asserts that the primary purpose of Section 26(a)(2)(D) relating to the possession of trust assets is to provide for their safekeeping. Applicant HVA contends that to require that shares certificates be physically issued by each of the Shearson funds to HVA under the circumstances would not significantly add to the safety of the unit investment trust assets and would result in unnecessary administrative expenses for the trust. As noted, the assets of Variable Account "A" will be invested exclusively in shares of the several Shearson funds. Furthermore, the custodian of the several Shearson funds will have physical possession of each of the fund's portfolio securities and other assets.

Applicant HVA requests that the Commission enter an order of exemption from the pertinent provisions of Section 26(a)(2)(D) in order that Applicant HVA may accept "book shares" evidencing the investment of purchase payments that are made, from time to time, by Variable Account "A" Contract Owners in shares of the several Shearson funds in order to purchase variable annuity benefits.

Section 26(a)(2)(D) of the Act also requires that the securities and other property in which the funds of the unit investment trust are invested shall be segregated and held in trust until distribution.

Applicant HVA asserts that while the assets of the unit trust will be segregated, HVA, as a life insurance company, may not properly place the assets of Variable Account "A" in trust because the insurance laws of the State of Connecticut require HVA to retain ownership and control of the disposition of its property. If HVA is permitted to hold in custody for safekeeping the assets of Variable Account "A", an exemption from Section 26(a)(2)(D) will be necessary in order that HVA shall not be required to hold such assets in trust.

In support of the requested exemptions from the foregoing provisions of the Act, Applicant HVA states that it is subject to extensive supervision and control by the Connecticut Insurance Commissioner and the comparable official of each state in which it does business. Such supervision requires HVA to file complete and detailed periodic reports. Applicant HVA also states that the activities of HVA are subject to review by the Connecticut Insurance Department and its representatives at all times and are subject to comprehensive examinations periodically. Further HVA, under the arrangement for recordkeeping will maintain either itself or through an agent a record of all purchases and redemptions of Shearson fund shares with respect to Variable Account "A".

In summary, Applicant HVA requests exemption from the provisions of Sections 26(a)(1), 26(a)(2)(D) and 27(c)(2) of the Act in order that HVA may perform the safekeeping and other functions normally performed by a custodian with respect to Variable Account "A"; that the property and assets of Variable Account "A" do not have to be held in trust although segregated; and that the investments of the trust in shares of the several Shearson funds may be held in "book share" form.

**Payment of Contract Fees and Charges**

*Sections 26(a)(2)(D) and 27(c)(2)*

Section 26(a)(2)(D) further provides that the Custodian have possession of all securities and other property in which the funds of the trust are invested subject only to the charges and collections allowed under clauses (A), (B) and (C) of Section 26(a)(2) until distribution thereof to the security holders of the trust.

The Contracts issued with respect to Variable Account "A" provide that there shall be deducted an Annual Maintenance Fee of $35.00 for the first Contract year and $25.00 for all subsequent years. There shall also be deducted a 1% asset charge which will be paid to HVA for providing mortality and expense guarantees with respect to the Contracts. HVA or its agent will provide bookkeeping and other administrative services of the type normally performed by custodians of unit investment trusts. Finally, deduction and payment of premium taxes will be made.

Applicant HVA requests that the Commission enter an Order exempting it from the provisions of Sections 26(a)(2)(D) and 27(c)(2) to the extent necessary to permit the deduction by HVA and the payment to HVA of (1) the Annual Maintenance Fee charges, (2) the fee for providing the mortality and expense undertakings (to be deducted on a daily basis), (3) depending on the requirements of the particular state, either (a) to permit the deduction from purchase payments where made and payment of applicable annuity premium taxes to such state by HVA or (b) to

permit the deduction of such taxes by HVA from the value of the Contract account and the payment of such taxes to such state at the time when an annuity is effected.

Applicant HVA has consented that the foregoing requested exemptions from Sections 26(a)(1), 26(a)(2) and 27(c)(2) may be made subject to the following conditions:

(a) the charges to Contract Owners for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe, jurisdiction being reserved for such purpose; and

(b) the payment of sums and charges out of Variable Account "A" shall not be deemed to be exempted from regulation by the Commission by reason of the requested Order; provided, that Applicant HVA's consent to the condition shall not be deemed to be a concession to the Commission or authority to regulate the payment of sums and charges out of such assets other than charges for administrative services, and Applicant HVA reserves the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums or charges.

**Exchanges**

*Sections 11(a) and 11(c)*

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make or cause to be made, an offer to the holder of a security of such company, or of any other open-end investment company, to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exhange, the provisions of Section 11(a) shall be applicable to any type of offer of exchange of the securities of a registered unit investment trust for the securities of any other investment company.

The purchaser of a Contract has the right, from time to time and at any time, to exchange that part of the value of his account represented by shares of one of the Shearson funds for the shares of any of the other Shearson funds at net asset value. Therefore, because the shares of one Shearson fund may be freely exchanged for the shares of another Shearson fund at net asset value, Applicants believe that the provisions of Section 11(a) are inapplicable to any such exchange.

Further, the Contract Owner physically retains the same variable annuity contract after any such exchange that he had before the exchange was made; thus, there is no exchange of the variable annuity contract itself and, therefore, Applicants are of the view that the provisions of Section 11(c) of the Act are inapplicable to the right of exchange described above.

However, it may be said that a different Contract is involved after an exchange of the Contract's underlying investment medium and, therefore, an exchange of variable annuity contracts has technically taken place.

Applicants disagree and do not believe that the facts surrounding an exchange of the underlying invesment medium causes any such exchange of Contracts to occur. However, in order to avoid any question, Applicants request that the Commission issue a Section 11 Order—to the extent that one is deemed necessary—in order that a Contract owner may switch the underlying investment medium of his Contract from the shares of one or more of the Shearson funds to the shares of one or more other Shearson funds (subject to the limitation of investments in not more than three at any one time) without any deductions being made.

Further, owners of Shearson fund shares also have the right to exchange their shares for a single premium Contract under the indirect purchase method. This will involve an offer of exchange of the securities of a registered unit investment trust (Variable Account "A") for the securities of one or more other investment companies (the shares of one or more of the Shearson funds). Nevertheless, the evil toward which Section 11 was directed—the churning of an investor's account to generate sales commissions—is not present. No sales charge is incurred upon the exchange. Since the sales charges are exacted at redemption—if at all—there is no incentive for anyone to churn the investors account with a view to generating sales commissions and the practices which Section 11 was designed to prevent are not present.

Accordingly, Applicants request that the Commission issue a Section 11 Order in order that owners of shares of one or more of the Shearson funds may exchange their shares (if the redemption and investment of the redemption proceeds in the case of a "no-load" indirect purchase is deemed a *de facto* exchange) for single premium Contracts.

*Section 6(c)*

Section 6(c) of the Act provides that the Commission, by order upon Application, may conditionally or unconditionally exempt any person, security, or transaction or any class or classes of persons, securities or transactions from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The Act specifically allows the imposition of a sales charge and there is no provision of the Act which specifically or by implication prohibits the imposition of a Contingent Deferred Sales Charge. As noted above, it is beneficial for the contract Owner to have the entire amount of his purchase payment invested for his benefit and working over the term of years of the contract. In addition, if the Contract is maintained for a sufficient length of time, the investor may then redeem the value of his Contract, in whole or in part, at any time without the imposition of any sales charge. As to the deduction of the Annual Maintenance Fee from the proceeds of redemption, if the Contract Owner redeems prior to year end, the Contract Owner will be but paying for services theretofore provided.

Also, as previously noted, Applicant HVA states that it is subject to extensive supervision and control by the Connecticut Insurance Commissioner as well as the comparable official of each state in which it does business. Applicant HVA therefore believes that the regulatory supervision by the Connecticut and other state insurance commissioners of the activities of HVA provide sufficient protection with respect to maintenance of the assets of Variable Account "A".

Applicants submit that for the foregoing reasons the exemptions above requested in order to enable Applicants to apply a Contingent Deferred Sales Charge in the case of the Contracts issued with respect to Variable Account "A" and with respect to the deduction of the Annual Maintenance Fee, as aforesaid, and to permit Applicant HVA to perform the stated custodial services on behalf of Variable Annuity Account "A" and to allow the shares of the several Shearson funds to be represented in the form of "book shares," will be totally appropriate in the public interest and consistent with

the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is given that any interested person may, not later than October 28, 1980 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, in any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should 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 the 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 October 28, 1980, 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. 80-31505 Filed 10-8-80; 8:45 am]

BILLING CODE 8010-01-M

## SELECTIVE SERVICE SYSTEM

### Delegation of Authority

Notice is hereby given that, effective October 1, 1980, the Armed Services Board of Contract Appeals (ASBCA) shall act as the authorized representative of the head of the Selective Service System for hearing and deciding disputes relating to contracts awarded by the Selective Service System

**Bernard Rostker,**

*Director of Selective Service.*

October 3, 1980.

[FR Doc. 80-31416 Filed 10-8-80; 8:45 am]

BILLING CODE 8015-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Environmental Impact Statement, Monroe County, N.Y.

**AGENCY:** Federal Highway Administration (FHWA) DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Monroe County, New York.

**FOR FURTHER INFORMATION CONTACT:** Victor E. Taylor, Division Administrator, Federal Highway Administration, Leo W. O'Brien Federal Building, Ninth Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, Telephone (518) 472–3616.

**SUPPLEMENTARY INFORMATION:** The Federal Highway Administration, in cooperation with the New York State Department of Transportation, will be preparing an environmental impact statement on a proposal to construct a new expressway from the Western Expressway, I–490, in the vicinity of the Elmgrove Road Connection in the Town of Gates and extending westerly to terminate with a direct connection to the existing highway system in the vicinity of Washington Street in the Town of Ogden, Monroe County. The proposed improvement will complete one of the remaining links in the Genesee Transportation Council's Expressway Corridor Plan.

All feasible and prudent design alternatives within the established location band for the proposed project will be considered, along with the no-build alternative. The design studies will consider the location of, and variations in, horizontal alignment within the location band; variations in vertical alignment and typical sections; the need for grade separation of various crossroads, with and without access. The design studies will include appropriate consideration for a future westerly extension of the expressway, on new location, within the established location band.

The scoping process for the proposed project has been ongoing since 1976 when the location planning phase of the project development process began. During this phase of the project development process, there was coordination with interested public and private agencies, organizations and individuals, and significant issues related to the proposed project have been identified. A community participation program was established and will continue through design. Therefore, a formal scoping meeting is not planned.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: September 30, 1980.

**Victor E. Taylor,**

*Division Administrator, Albany, N.Y.*

[FR Doc. 80-31383 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-22-M

### Federal Railroad Administration

### Minority Business Resource Center Advisory Committee

Pursuant to Section 19(a) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463); 5 U.S.C. App. I), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held October 16, 1980, at 10:00 a.m. until 12:00 p.m. at the Hilton Hotel of Philadelphia 34th and Civic Center Boulevard in Philadelphia, 19104. The room number will be posted on the hotel bulletin board. The agenda for the meeting is as follows:

—Review and Discuss MESBIC Program
—Status of MBRC Budget
—General Discussion

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 the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty Chandler, Advisory Committee Staff Assistant, Minority Business Resource Center, Federal Railroad Administration, 400 7th Street SW., Washington, D.C. 20590, telephone: (202) 426–2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on October 1, 1980.

**Earl D. Proctor,**

*Executive Director, Minority Business Resource Center.*

[FR Doc. 80-31305 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-06-M

## National Highway Traffic Safety Administration

### National Highway Safety Advisory Committee; Public 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 meetings of the National Highway Safety Advisory Committee to be held on October 27, 28, 29, and 30, 1980.

The agenda for the meetings are as follows:

October 27 will be devoted to an all-day orientation session for new members. This will include briefings by NHTSA and the Federal Highway Administration.

October 28–29–30 will consist of briefings in the four main areas of Committee review for 1980–81: 1) Public Information and Education, 2) State Highway Safety Programs, 3) Police and Traffic Courts—Services and Programs, 4) Alcohol, Drugs and Highway Safety. In addition, individual Task Forces will meet to discuss their future plans and old and new business.

All meetings will be held in the DOT Headquarters Building, 400 Seventh Street, SW., Washington, D.C., starting at 8:30 a.m. Room numbers will be posted when available. Attendance is open to the interested public, but limited to the space available. Members of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretariat, Room 5221, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202–426–2872.

Issued in Washington, D.C., on October 2, 1980.

**Wm. H. Marsh,**

*Executive Secretary.*

[FR Doc. 80-31369 Filed 10-8-80; 8:45 am]

**BILLING CODE 1505-02-M**

## Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Denial of petition for rulemaking.

**SUMMARY:** This notice denies a petition filed by Goodyear Tire and Rubber Company (Goodyear), requesting an amendment of Standard 117, *Retreaded Pneumatic Tires*. The petition is denied because it requests the same changes previously requested by Goodyear and denied by this agency. This petition contains the same data and arguments previously submitted, and does not urge that there are changed circumstances which should yield a different result based on the same evidence and data. Accordingly, the petition is denied for the same reasons the preceding petition was denied.

**FOR FURTHER INFORMATION CONTACT:** Arthur Neill, Jr., Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–2800).

**SUPPLEMENTARY INFORMATION:** Goodyear filed a petition on May 15, 1979, requesting an amendment of Standard No. 117, *Retreaded Pneumatic Tires* (49 CFR § 571.117). That petition was denied on the grounds that making the requested changes to permit exposed cords could cause safety problems for the retreaded tires (45 FR 2134, January 10, 1980).

Goodyear submitted another petition requesting an amendment of Standard 117 on June 27, 1980. Goodyear again requested that the standard be amended to permit exposure of the cords, but limited the areas in which the cord could be exposed. Goodyear submitted the same data it had submitted in support of the previously denied petition. Goodyear did not explain why this limitation of the areas in which the cord could be exposed would ensure that the previously explained safety problems would not occur in these tires. Finally, Goodyear did not make any argument that there are changed circumstances which should yield a different result based on the previously considered data and arguments. Accordingly, this petition is substantively identical to the previously denied petition.

Therefore, this petition is denied for the same reasons set forth at 45 FR 2134. The agency remains willing to consider a petition requesting these changes based on new data or arguments, or changed circumstances.

The program official and attorney principally responsible for the development of this agency position are Arthur Neill, Jr. and Stephen Kratzke, respectively.

(Secs. 103 and 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392 and 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on October 3, 1980.

**Michael M. Finkelstein,**

*Associate Administrator for Rulemaking.*

[FR Doc. 80-31506 Filed 10-8-80; 8:45 am]

**BILLING CODE 4910-59-M**

## Mercedes-Benz Owners Club of America, Inc.; Pantera Owners Club of America; Denial of Petitions for Rulemaking

This notice sets forth reasons for denial of petitions for rulemaking to amend 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*. It is published in accordance with section 124 of the National Traffic and Motor Vehicle Safety Act which provides that the National Highway Traffic Safety Administration (NHTSA) must grant or deny such petitions within 120 days, and that if a petition is denied the reasons for it shall be published in the **Federal Register** (sec. 124(d)).

By petitions dated June 16, 1980, and July 14, 1980, respectively, Mercedes-Benz Owners Club of America, Inc., of Sierra Madre, California, and Pantera Owners Club of America, of Los Angeles, California, petitioned for an amendment of Federal Motor Vehicle Safety Standard No. 108 that use of European headlamp conversions be permitted for replacement purposes. Both petitions were denied on August 27, 1980. Because of the public interest in European headlighting systems as reflected in comments to Docket No. 78–5 (on increasing headlamp candlepower output), NHTSA believes that the response to the petition should not merely be summarized in this notice but set forth in detail. Portions of its letters of August 27, 1980, follow:

"This also is to advise you that the Agency has decided to deny your petition. The reason for this is that the Agency has previously considered this issue in petitions submitted by the Washington State Commission on Equipment and the Northwest Headlamp Conference. . . . and your petition adds no new information. We would like to assure you, however, that there is activity by the Agency to improve headlighting which includes cooperation with manufacturers of European-type headlamps. We would like to explain to you our reasons for our position on European-type headlamps and our activities to improve headlighting.

"You and other proponents of European-type headlamps have suggested that Federal regulations be changed to permit European headlamps to be used as replacement items of equipment on passenger cars by adopting the applicable Economic Commission for Europe (ECE) or Canadian (CSA) standards. These standards would do more than legalize the use of the better European-type headlamps. The ECE lighting standard is

so lax that it still allows the use of ordinary tungsten bulbs in headlamps whose light output when new is not required to be more than one-half the light output of headlamps using halogen bulbs. Further, these bulbs suffer from bulb blackening, thus reducing light output. The ECE Standard is so broadly written that it allows even halogen lamps to be much inferior to many units that have been available in the U.S.

"The ECE standard is designed for use in 'type approval' government regulatory systems in which designs are approved but units mansufactured do not have to be certified as meeting the requirements of the regulation as is required for U.S. safety standards. In fact, we have tested new ECE-type headlamps that fail the ECE standard. As presently written, the ECE and CSA standards could not be integrated into Standard No. 108 as they do not provide the objective criteria required of our standards by Congress.

"You have suggested that the Agency look at 'truly objective test data' when evaluating European-type headlamps. We have done precisely that by analyzing many European and American technical reports. For example, eight comprehensive studies, five of which are European, compared the seeing distance performance provided by Standard No. 108 sealed beam headlamps and typical European-type headlamps. These were studies in which various subjects and targets were used to evaluate the seeing distances provided by the different type headlamps. Some of the studies included the effects on seeing distance of headlamp aim and glare from vehicle approaching each other on the roadway. The studies were conducted by such organizations as the Southwest Research Institute in San Antonio, Texas, and the University of Uppsala in Sweden.

"The consensus of the studies was:

"The European headlamps give greater seeing distances on high beams in driving situations where there is no car approaching with its headlights on.

"The sealed beam headlamps give greater seeing distance on high beams in driving situations where there is a car approaching with its headlights on.

"The sealed beam headlamps give generally greater seeing distance on low beams in all driving situations.

"A conclusion reached in several studies that we believe is particularly telling is exemplified by the following quote from a Swedish study, 'An interesting spontaneous reaction from the subjects has been that they have thought they performed worse with [sealed beam] low beams then with [European halogen] low beams. The reasons for this false feeling are probably that the [sealed beam] gives less light near the car, less light to the sides (especially the left side) and has not such sharp cutoff. All this seems to give a false impression of less effective illumination from [sealed beams] as compared to [European halogen].'

"The findings of one of these studies resulted in our action to increase the maximum allowable candlepower of sealed beams to 150,000. According to the supporting research, this allows almost the same seeing distance on high beams as the typical European halogen headlamps (993 feet versus 1,023 feet) when no car is approaching but preserves the greater seeing distance of sealed beams when a car is approaching, which admittedly is an infrequent mode since dimming to low beams normally would occur. A further conclusion of the study supporting this action is that maximum candlepower above 150,000 produces marginal increases in seeing distance but large increases in glare for approaching cars.

"We believe the most serious deficiency of the European-type headlamps is their susceptibility to reflector corrosion because there is no corrosion test in the ECE standard. You may not have experienced this problem on the west coast but it is definitely a problem here in the East and in the North and Southeast. We recently tested a pair of 7 inch, H4 European headlamps that had been in use in Canada for about 4 years and 46,000 miles, 10,800 miles of which were during the winter months when the roads were frequently wet, salty, and snowy. The tests were for photometric performance of the ECE regulations. Both headlamps failed several requirements by large margins.

"Also, a member of thee Porsche Club of America furnished the Agency with two European-type headlamps which had been in service for approximately 35,000 miles. Corrosion attacks were very evident on the reflectors. In fact, the aluminum layer of each headlamp reflector was completely destroyed.

"We have also examined the results of motor vehicle inspections in West Germany and Sweden and find that even relatively new vehicles are rejected for 'dull or corroded' headlamp reflectors. In West Germany the rejections build up from about 1.8 percent in vehicles up to 2 years old to 8 percent in vehicles more than 6 years old. Since Germani motorists are penalized for inspection failures before inspection, the in-use population of vehicles must have an even greater percentage of degraded reflectors. Finally, a Swedish study reports a 10 to 25 percent reduction in light output for a sample of European-type headlamps tested for atmospheric corrosion resistance after 18 months in use.

"We are sure that some European headlamps offer better corrosion protection than others, but we cannot be assured that the U.S. public would be getting the better performers if we allowed these type headlamps without a corrosion test. Some work has been done in Europe to develop such a test, but there is not common agreement and application. In any event, none offer the complete corrosion resistance provided by sealed beams.

"Having described all the reasons why we do not allow sales of European-type headlamps in this country, it is appropriate to tell you of our plans on the subject of headlamps as they relate to European-type headlamps. First, we are in favor of eliminating barriers to the free flow of goods between countries. In fact we are directed by the Trade Agreement Act of 1979 to remove trade barriers that are not based on different needs of this country compared to other countries. In the headlamp area we feel we are justified in setting different requirements. However, we feel that the differences in photometric performance are not too great to preclude compromises between our standards and the ECE requirements that would result in full harmonization and the best of both standards, provided that reflector resistance to corrosion could be assured.

"Because the difference in photometric design is greatest for low beams, we feel this would be the most difficult area in which to agree to a harmonized requirement. However, we believe that Federal requirements for low beam performance should be improved since about 95 percent of night driving is done on low beams and seeing distances are short compared to high beams. We know that the Europeans also believe that the low beam performance of their lamps must be improved. We have been supporting research on this subject and have invited European participation through our regular European government and industry contacts. The completion of this research will form the basis for a harmonization effort to which a corrosion test could be added.

* * * * *

"There you have some of the facts and the Agency's latest position on the subject of European headlamps. We regret we cannot accommodate your desire for European-type headlamps at this time but we feel justified in our position for the reasons discussed above. Success in our planned effort to improve headlighting and to remove

trade barriers should provide you with the better headlighting you support."

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); sec. 106, Pub. L. 93–492, 88 Stat. 1482 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on October 1, 1980.

**Michael M. Finkelstein,**

*Associate Administrator for Rulemaking.*

[FR Doc. 80-31507 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-59-M

## Office of the Secretary

**[OST Docket 22; Notice No. 80-11]**

### Standard Time Zone Boundaries; Operating Exception for the Burlington Northern Railroad

Effective October 1, 1980, the Burlington Northern Railroad is granted an exception from the standard time of the zones created by Congress in the Act of March 18, 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260–67). The exception permits operation under Central time from the west line of Thomas County, Kansas, to Seibert, Colorado, despite the fact that the area affected is in the Mountain time zone. (This operating exception replaces an earlier one (34 FR 15755; October 11, 1969) permitting operation on Central time from the east line of Thomas County to Goodland, Kansas, which is hereby superseded.) This exception does not, however, permit the railroad in its public schedule and notices to show the area concerned as being in other than the Mountain time zone.

(Act of March 18, 1918 as amended by the Uniform Time Act of 1966. (15 U.S.C. 260–67); section 6(e)(5) Department of Transportation Act (49 U.S.C. 1655(e)(5); section 1.59(a) of the Regulations of the Office of the Secretary of Transportation 49 CFR 1.59(a)))

Issued in Washington, D.C. on September 30, 1980.

**Thomas G. Allison,**

*General Counsel.*

[FR Doc. 80-31095 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-62-M

## Urban Mass Transportation Administration

### Intent To Prepare an Environmental Impact Statement

In accordance with the provisions of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and the Council on Environmental Quality's implementing regulations (40 CFR Part 1500), the Urban Mass Transportation Administration gives notice that an Environmental Impact Statement (EIS) is being prepared for the Bay Area Rapid Transit District's proposed Turnback Facility at Daly City, California. The EIS will incorporate all requirements for an Environmental Impact Report in accordance with the California Environmental Quality Act (Calif. Pub. Res. Code 21000 et seq.) and applicable guidelines.

The Bay Area Rapid Transit District (BART) proposes to undertake, with Federal capital grant assistance, terminal improvements at the Daly City terminus to achieve more efficient operation of the BART rapid transit system. Terminal improvements will permit closer headways for train dispatches out of the Daly City Station by eliminating conflicts between inbound and outbound traffic and will provide train storage capability for more efficient utilization of trains. The alternatives proposed for consideration and analysis in the EIS include: (1) the do nothing alternative or the continuation of existing transit service levels; (2) a turnback facility south of the Daly City Station which utilizes the Southern Pacific Railroad right-of-way between John Daly Boulevard and Washington Street; (3) a turnback facility south of the Daly City Station which utilizes a portion of the Caltrans right-of-way between Freeway I–280 and Junipero Serra Boulevard from John Daly Boulevard to School Street, as well as the abandoned Southern Pacific Railroad right-of-way from School Street in Daly City to F Street in Colma; and (4) a turnback facility which be constructed primarily on BART property north of the Daly City Station and south of the Balboa Park Station.

The Urban Mass Transportation Administration invites interested agencies, organizations, and individuals to comment on the scope of this Environmental Impact Statement. A scoping meeting will be held October 23, 1980, at 3:30 p.m., in the City Council Chambers, 90th Street and Sullivan Avenue, Daly City, California 94015. A review of the Daly City Turnback Facility alternatives will be repeated at 5:30 p.m. for individuals unable to attend at the 3:30 p.m. starting time. Comments not presented at the scoping meeting should be submitted in writing by November 5, 1980.

Comments and questions regarding the proposed action and the Environmental Impact Statement should be referred to either Mr. Kiyoshi Mano, Supervisory Environmental Protection Specialist, Office of Transit Assistance, Urban Mass Transportation Administration, Washington, D.C. 20590, telephone: (202) 472–7100, or the local agency project manager, Ms. Barbara Neustadter, Bay Area Rapid Transit District, 800 Madison Street, Oakland, California 94607, telephone: (415) 465–4100 extensions 421 or 587.

Dated: October 2, 1980.

**Peter Benjamin,**

*Acting Associate Administrator for Transit Assistance.*

[FR Doc. 80-31508 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-57-M

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Generalized System of Preferences (GSP) Subcommittee; Announcement of Information, Center for the Generalized System of Preferences (GSP)

**SUMMARY:** The purpose of this notice is to announce the establishment of an Information Center for the U.S. Generalized System of Preferences (GSP). The Information Center is provided for pursuant to the recommendation set forth in the President's Report to Congress on the First Five Years' Operation of the U.S. Generalized System of Preferences transmitted to Congress on April 17, 1980. Copies of the report are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. (Stock No. 052–070–05299–6; $4.50 per copy).

**I. Function of Information Center**

The Information Center's function is to assist domestic agricultural, industrial, labor and consumer interests, as well as interested foreign parties by:

A. Directing interested parties to or providing sources of data necessary for filing product petitions and related briefs as provided for in the regulations codified at 15 CFR Part 2007. For example, assistance will be designed to enable the parties to better:

1. identify products by description and by item number of the Tariff Schedules of the United States;

2. describe the requested action;

3. document the history of previous requests on an item;

4. provide data on the U.S. industry producing like or competitive products;

5. describe U.S. employment in particular industries;

6. gather information on relevant GSP related agricultural issues.

B. Assisting them to secure other relevant publicly available GSP import information and/or documentation, such as:

1. GSP import statistics;

2. classification by TSUS of a particular item;

3. OECD and UNCTAD documentation on GSP;

4. information on other donor country GSP programs;

5. other information pertaining to the general operation of the GSP;

6. "rules of origin" requirements;

7. value-added criteria.

The Information Center is headquartered in the Office of the U.S. Trade Representative (USTR), which is responsible for administration of the GSP, under the direction of the Executive Director of the GSP Subcommittee. This Office will maintain all case files from previous product reviews, transcripts from public hearings, all published **Federal Register** notices, and any other documents pertaining to the history of product reviews. This information will be made available for public inspection at the Office of the Executive Director of the GSP Subcommittee by appointment only.

**II. Additional Information Responsibilities Will Be Divided Among Several of the GSP Subcommittee Member Agencies**

The following is the list of associate information centers at other agencies and their GSP Coordinators.

A. Department of Agriculture, Office of International Trade Policy, Room 6526, Fourteenth Street and Independence Avenues, S.W., Washington, D.C. 20250—Dewey Pritchard (202) 447–7225. Responds to all GSP related agricultural questions.

B. Department of Commerce, Office of Trade Policy, Room 3027, Fourteenth Street Between Constitution and E Street, N.W., Washington, D.C. 20230—Stephen Kaminski (202) 377–3643. Responds to inquiries pertaining to the economic situation of the relevant domestic industries (i.e., levels and trends of production, capacity, sales and shipments), and statistics on GSP imports for six-, ten-, and twelve-month periods of each year.

C. Department of Labor, Office of Foreign Economic Policy, Room S–5323, 200 Constitution Avenue, N.W., Washingon, D.C. 20210—Ron Dobson (202) 523–9548. Addresses questions on U.S. employment and unions.

D. Department of State, Office of General Commercial Policy, Room 3829, 2201 C. Street, N.W., Washington, D.C. 20520—David Wilson (202) 632–3491. Maintains information on GSP programs of other countries and UNCTAD and OECD documentation and studies on GSP.

E. United States Customs Service, Special Operations Branch, Room 4211, 1301 Constitution Avenue, N.W., Washington, D.C. 20229—David Ransay (202) 566–2957. Assists in the identification of products by item number of the Tariff Schedules of the United States and responds to questions on rules of origin and value-added criteria.

**III. Communications**

Petitioners or other interested parties are invited to contact Mr. Tim Bennett, Executive Director of the GSP Subcommittee at (202) 395–6971, Room 711, Office of the United States Trade Representative, Washington, D.C. 20506, for information pertaining to the general operation of the GSP program, assistance in preparation of product requests, or copies of publicly available GSP documents.

**Ann H. Hughes,**

*Chairman, Trade Policy Staff Committee.*

[FR Doc. 80–31441 Filed 10–8–80; 8:45 am]

BILLING CODE 3190–01–M

## VETERANS ADMINISTRATION

### Station Committee on Educational Allowances; Notice of Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on November 13, 1980, at 9:30 AM, the San Juan Regional Office Station Committee on Educational Allowances shall at the Federico Degetau Federal Office Building, Room No. 415A, Carlos Chardón Street, Hato Rey, Puerto Rico, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in World University, Ponce Campus, Ponce, Puerto Rico, should be discontinued, as provided in 38 C.F.R. 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

**James G. Martin,**

*Center Director, VA Medical and Regional Office Center, San Juan, P.R.*

[FR Doc. 80–31453 Filed 10–8–80; 8:45 am]

BILLING CODE 8320–01–M

# Sunshine Act Meetings

Federal Register
Vol. 45, No. 198
Thursday, October 9, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## CONTENTS

| | Items |
|---|---|
| Federal Communications Commission | 1, 2, 3 |
| Federal Deposit Insurance Corporation | 4 |
| Federal Election Commission | 5 |
| Federl Maritime Commission | 6 |
| Federal Reserve System | 7 |
| International Trade Commission | 8, 9 |

1

**FEDERAL COMMUNICATIONS COMMISSION.**

The following items have been deleted at the request of the Cable Television Bureau from the list of agenda items scheduled for consideration at the October 3, 1980 Open Meeting, and previously listed in the Commission's Public Notice of September 26, 1980 (36561).

*Agenda, Item Number, and Subject*

Cable Television—4—"Petition for Continued Network Non-Duplication Protection Against Significantly Viewed Signal" (CSR-1742), filed April 23, 1980 by KDUB-TV, Inc. KDUB-TV, Inc. is the licensee of Station KDUB-TV (ABC, Channel 40) Dubuque, Iowa. KDUB-TV requests that the Commission waive Section 76.92(g) of the Commission's Rules as it affects the network programming of Stations KCRG-TV (Channel 9) Cedar Rapids, Iowa, WKOW-TV (Channel 27), Madison Wisconsin, WQAD-TV, (Channel 8), Moline, Illinois, and WREX-TV (Channel 13) Rockford Illinois, on cable television systems serving Dubuque, Joe Daviess County, Illinois, Grant County, Wisconsin, and Galena and Hanover, Illinois that carry one or more of these signals. Cedar Rapids Television Company, licensee of KCRG-TV, has filed an opposition to KDUB-TV's petition.

Cable Television—5—"Consolidated Petition for Special Relief" (CSR-1338) filed August 21, 1978, by Thomas Television, Inc. Thomas Television, Inc. is the licensee of Station WATR-TV (NBC, Channel 20), Waterbury, Connecticut. Thomas requests that the Commission waive Section 76.92(g) of the Commission's Rules as it affects the network programming of Station WNBC-TV (NBC, Channel 4), New York, New York, carried on the cable television systems serving New Milford and Danbury, Connecticut, operated by New Milford Cablevision Company and by Teleprompter Connecticut CATV Corp., respectively. Thomas' motion is opposed by New Milford Cablevision and by Teleprompter.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: October 3, 1980.

Federal Communications Commission.

**William J. Tricarico,**

*Secretary.*

[S-1860-80 Filed 10-7-80; 9:23 am]

BILLING CODE 6712-01-M

2

**FEDERAL COMMUNICATIONS COMMISSION.**

The Federal Communications Commission previously announced on September 26, 1980 (Public Notice No. 36561), its intention to hold an Open Meeting, October 3, 1980, on the subject listed below. This item was rescheduled as part of the closed meeting, following the Regular Open Meeting which commenced at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

*Agenda, Item No., and Subject*

General—1—*Title:* Memorandum Opinion and Order regarding a petition for issuance of a cease and desist order to show cause why the license issued to General Communications Company, Inc. (GCC), in the Business Radio Service, should not be revoked. *Summary:* The Commission will consider whether to initiate an inquiry, pursuant to Section 403 of the Communications Act, to determine whether there is sufficient factual information to warrant the institution of cease and desist and revocation proceedings against GCC.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: October 3, 1980.

Federal Communications Commission.

**William J. Tricarico,**

*Secretary*

[S-6712-01 Filed 10-7-80; 9:24 am]

BILLING CODE 6712-01-M

3

**FEDERAL COMMUNICATIONS COMMISSION.**

The Commission will hold a Closed Meeting on the subject listed below on Thursday, October 9, 1980, following the open meeting, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

*Agenda, Item Number, and Subject*

Hearing—1—(1) Appeal of an order dismissing the television license renewal application of Faith Center, Inc. for KHOF-TV, San Bernardino, California, a petition for special relief proposing a distress sale of that station, and related matters (BC Docket No. 78-326). (2) Supplemental discussion of distress sale proposal involving stations KVOF-TV, San Francisco, California and WHCT-TV, Hartford, Connecticut.

The prompt and orderly conduct of Commission business requires that less than 7 days notice be given consideration of this item.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: October 3, 1980.

Federal Communications Commission.

**William J. Tricarico,**

*Secretary.*

[S-1862-80 Filed 10-7-80; 9:25 am]

BILLING CODE 6712-01-M

4

**FEDERAL DEPOSIT INSURANCE CORPORATION.**

Notice of changes in subject matter of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, October 6, 1980, the Corporation's Board of Directors determined, on motion of Director William M. Isaac (Appointive), seconded by Director John G. Heimann (Comptroller of the Currency), concurred in by Chairman Irvine H. Sprague, that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of an audit report dated June 24, 1980 regarding the liquidation of Bank of Lake Helen, Lake Helen, Florida.

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of Israel Discount Bank of New York, New York, New York, T/A Israel Discount Trust Company, for consent to

acquire and hold stock in Discount Bank (Latin America), a foreign bank based in Montevideo, Uruguay.
Application of Metropolitan Savings Bank, New York (Brooklyn), New York, an insured mutual savings bank, for consent to merge under its charter and title with Spring Valley Savings and Loan Association, Spring Valley, New York, a Federally-insured mutual savings and loan association, and for consent to establish the three offices of Spring Valley Savings and Loan Association as branches of the resultant bank.
Recommendation regarding First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania.
Recommendation regarding the liquidation of assets acquired by the Corporation from Donahue Savings Bank, Donahue, Iowa (Legal Division memorandum dated September 26, 1980).

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; and that the matters added to the agenda could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: October 6, 1980.

Federal Deposit Insurance Corporation.

**Hoyle L. Robinson,**

*Executive Secretary.*

[S-1863-80 Filed 10-7-80; 11:05 am]

BILLING CODE 6714-01-M

---

5

**FEDERAL ELECTION COMMISSION.**

**DATE AND TIME:** Wednesday, October 15, 1980 at 10 a.m.

**PLACE:** 1325 K Street, N.W., Washington, D.C.

**STATUS:** This meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:** Personnel, Litigation, Audits, Audit and Compliance Thresholds.

* * * * *

**DATE AND TIME:** Thursday, October 16, 1980 at 10 a.m.

**PLACE:** 1325 K Street N.W., Washington, D.C. (Fifth floor).

**STATUS:** This meeting will be open to the public.

**MATTERS TO BE CONSIDERED:**

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory opinions:
Draft AO 1980–111—Stephen A. Herman/ John S. Logan, The Portland Cement Association.
1980 Election and related matters.
Appropriations and budget.
Budget execution report.
Pending legislation.
Classification actions.
Routine administrative matters.

**PERSON TO CONTACT FOR INFORMATION:** Mr. Fred Eiland, Public Information Officer, Telephone: 202–523–4065.

**Marjorie W. Emmons,**

*Secretary to the Commission.*

[S-1865-80 Filed 10-7-80; 3:44 pm]

BILLING CODE 6715-01-M

---

6

**FEDERAL MARITIME COMMISSION.**

**TIME AND DATE:** 9 a.m., October 14, 1980.

**PLACE:** Hearing room one, 1100 L Street NW., Washington, D.C. 20573.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

1. Report of Managing Director of Actions Taken Pursuant to Delegated Authority During Month of August, 1980.
2. North Atlantic Westbound Freight Association Wines and Spirits Dual Rate Contract: Proposed Issuance of Order To Show Cause.
3. Special Docket No. 701—Application of Trans Freight Lines, Inc. for the Benefit of Southern Pacific Marine Transport—Review of the Record.
4. Informal Docket No. 720(I)—3M v. Hapag Lloyd—Review of the Record.
5. Section 21 Order on Pricing Policy of North Atlantic Carriers—Request for Additional Time To Respond
6. Docket No. 80–48—Appeals of Denials of Requests for Information—Consideration of Comments.

**CONTACT PERSON FOR MORE INFORMATION:** Francis C. Hurney, Secretary (202) 523–5725.

[S-1864-80 Filed 10-7-80; 1:53 pm]

BILLING CODE 6730-01-M

---

7

**FEDERAL RESERVE SYSTEM.**

Board of Governors.

**TIME AND DATE:** 10:00 a.m., Tuesday, October 14, 1980.

**PLACE:** 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any agenda items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: October 6, 1980.

**Theodore E. Allison,**

*Secretary of the Board.*

[S-1858-80 Filed 10-6-80; 4:27 pm]

BILLING CODE 6210-01-M

---

8

**[USITC SE-80-47]**

**INTERNATIONAL TRADE COMMISSION.**

**TIME AND DATE:** 10:00 a.m., Thursday, October 16, 1980.

**PLACE:** Room 117, 701 E Street NW., Washington, D.C. 20436.

**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 CONSIDERED:** Portions open to the public:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Investigation 731–TA–30 (Preliminary) (Montan Wax from East Germany)—vote.
6. Investigation 337–TA–72 (Certain Turning Machines and Components Thereof)—briefing and vote.
7. Any items left over from previous agenda.

Portions closed to the public:

5. Investigation 731–TA–30 (Preliminary) (Montan Wax from East Germany)—briefing.

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth R. Mason, Secretary (202) 523–0161.

[S-1857-80 Filed 10-6-80; 4:08 pm]

BILLING CODE 7020-02-M

---

9

**[USITC SE-80-45A]**

**INTERNATIONAL TRADE COMMISSION.**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** 45 FR 64779, September 30, 1980.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** 10 a.m., Tuesday, October 7, 1980.

**CHANGES IN THE MEETING:** By action jacket SE–80–16, Commissioners Alberger, Calhoun, Bedell, and Stern voted, in conformity with 19 CFR 201.37, that Commission business requires that the meeting previously scheduled to be held Tuesday, October 7, 1980, be cancelled, and affirmed that no earlier announcement of this decision was possible and directed the issuance of this notice at the earliest practicable time. Commissioner Moore was not present for the vote.

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth R. Mason, Secretary, (202) 523–0161.

[S-1859-80 Filed 10-6-80; 4:37 pm]

BILLING CODE 7020-02-M

federal register

Thursday
October 9, 1980

Part II

# Department of Transportation

## Federal Aviation Administration

## Certification and Operation Rules for Certain Large Airplanes

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Parts 43, 91, 121, 123, 125, 135, and 145**

**[Docket No. 19779; Amendments Nos. 43-21, 91-169, 121-164, 123-9, New Parts 125, 135-7, and 145-17]**

# Certification and Operation Rules for Certain Large Airplanes; Establishment of Part and Miscellaneous Amendments to Existing Regulations

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** These amendments establish a uniform set of certification and operation rules for large airplanes having a seating capacity of 20 or more passagers or a maximum payload capacity of 6,000 pounds or more when used for any purpose other than common carriage. These rules substantially upgrade the level of safety applicable to large airplanes formerly operated under Part 91, which provides basic general operating and flight rules for all operations. The number and types of accidents involving large airplanes operating under Part 91 demonstrate the need for this upgrading. Morever, because the applicability of these rules does not depend upon a compensation or hire test, they enhance the FAA's capability to ensure that many more members of the public are afforded a higher level of safety. This rule is the final step in a regulatory upgrade and modernization program that has become essential with the continued deregulation of air transportation.

**DATES:**

Effective Date: February 1, 1981, except that the revocation of Part 123 is effective January 1, 1983.

Compliance with §§ 125.21, 125.35, 125.53, 125.71, 125.249, 125.295, 125.319, 125.323, 125.383, 125.401, 125.403, 125.407, 125.409, and 125.411 is not required until 30 days after a notice of approval of the requirements of those sections by the Office of Management and Budget is published in the Federal Register.

**FOR FURTHER INFORMATION CONTACT:** Harold E. Smith, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 755-8716.

**SUPPLEMENTARY INFORMATION:**

## Notice of Proposed Rulemaking

These amendments are based on Notice of Proposed Rulemaking 79-19 (44 FR 66324; November 19, 1979). All interested persons have been given an opportunity to participate in the making of these amendments and due consideration has been given to all matters presented. Except for the changes discussed below, these amendments and the reasons for their adoption are the same as those stated in Notice 79-19.

## Background of This Rulemaking Proceeding

This rule culminates an extended effort by the FAA to upgrade and standardize the regulations applicable to certain large airplanes used in noncommon (private) carrier commercial operations (carriage other than common carriage is private carriage). In 1970, the Secretary of Transportation directed the Assistant Secretary for Safety and Consumer Affairs, Office of the Secretary of Transportation, to conduct an indepth study of charter operations utilizing large airplanes. Notice 79-19 summarizes the recommendations made as a result of that study. In short, the study recommended that new regulations be developed for large airplanes, pressurized airplanes, and turbine-powered airplanes engaged in noncommon carriage. Emphasis was placed on achieving a standard appropriate to the operation of transport category airplanes, including requirements for crew proficiency, operations, and airworthiness, that would provide a level of safety which compares favorably with Part 121. The study also recommended the establishment of a new part in the Federal Aviation Regulations (FAR) which would apply a single set of regulations to large airplanes used for various purposes, including those used for compensation or hire but excluding common carriage which would continue to be regulated under Part 121. One important feature of those recommendations was that "FAA field inspectors would no longer be required to make an economic determination of what constitutes operation 'for compensation or hire.' " The antique nature of the "compensation or hire" test is illustrated by the fact that it originated with the regulation of ground transportation under the Interstate Commerce Act which was enacted in the late 1800's. The test is presently contained in the definition of a "commercial operator" in the FAR and is essentially the same as the definition adopted in 1949 by the Civil Aeronautics Board. Section 1.1 defines "commercial operator" as "a person who, for compensation or hire, engages in the carriage by aircraft in air commerce of persons or property, other than as an air carrier. . . ." Where it is doubtful whether the operations are "for compensation or hire," the test has been "whether the carriage by air is merely incidental to the person's other business or is, of itself, a major enterprise for profit."

The FAA partially implemented the recommendations of the 1970 Department of Transportation Task Force in 1972 with the adoption of new Subpart D of Part 91, which was the initial step in upgrading the level of safety applicable to large airplanes.

Since 1972 the FAA has carefully monitored the operating experience of large airplanes engaged in noncommon carriage operations. There are a number of significant aspects to this operating experience. First, and perhaps the key aspect, is the fact that the economic test of "compensation or hire" has proved to be a nebulous guide to both the FAA and the aviation community in attempting to determine whether the operations fall within Subpart D of Part 91 or under the commercial operator regulations of Part 121. The agency found that many sham arrangements have been developed by some operators to mask de facto commercial operations so that they can be conducted under Part 91. Despite the FAA's efforts to detect these illegal operations, frequently it is only after an accident or incident that sufficient facts are available to unmask the illegal operator. Once the unfortunate event occurs, the violator is subject to enforcement action. It would be far better, however, for the accident or incident to have been prevented. The difficulties in application of the "compensation or hire" test are not limited to the unscrupulous operator. There have been instances in which a lessee of a large airplane has assumed responsibility unwittingly for its operation without recognizing the obligations. Many operators who desire to comply with the applicable regulations have, in good faith, experienced confusion over whether they are entitled to operate under Part 91 or whether they are required to obtain a commercial operator certificate. Many interpretations have been sought and issued, which require substantial time and effort on the part of the public and FAA personnel.

Another aspect of the operating experience involving U.S.-registered large airplanes, ostensibly operating under Subpart D, is the significant number of accidents which have occurred. Post-accident investigations

indicate a wide range of deficiencies, including defective engines, failure of the crew to hold proper certificates, improper flight planning, improper operating technique, and failure to ascertain weight and balance limitations. This rule should preclude the occurrence of many of these types of accidents. The following table lists some of the accidents involving large airplanes operating under Part 91 which occurred in the period 1972–1979. This table was developed from National Transportation Safety Board data.

**Representative Large Airplane Accidents in Part 91 Operations, 1972–79 (Source—NTSB Data)**

| Date | Type of airplane | Description of accident | Deficiencies noted in accident investigation |
|---|---|---|---|
| Dec. 31, 1972 | Douglas DC–7 | Crashed after takeoff—fatalities | Engine failure—maintenance. |
| Feb. 21, 1973 | Curtiss C–46 | Forced landing en route—fatalities. | Maintenance. |
| Apr. 3, 1973 | Lockheed 1049 | Right gear retracted | Downlock failed—maintenance. |
| June 21, 1973 | Douglas DC–7 | Lost control—initial climb—fatalities. | Turbulence and inflight fire—maintenance. |
| Aug. 5, 1973 | Lockheed 1049 | Forced landing—en route | Improper fuel transfer—circuit breaker corroded—maintenance. |
| Sept. 10, 1973 | Convair 880 | Landing—stall | Large storm over approach path. |
| Sept. 24, 1973 | Lockheed 1049 | Landing gear failure | Maintenance. |
| Oct. 23, 1973 | Curtiss C–46 | Forced landing—approach | Fuel contamination—maintenance. |
| Dec. 15, 1973 | Lockheed 1049 | Overrotated at liftoff—fatalities | Unqualified crew—loaded out of center of gravity. |
| Dec. 27, 1973 | Douglas DC–3 | Collided with trees | Fuel mismanagement—landed on road. |
| Dec. 30, 1973 | Douglas DC–3 | Collided with trees | Engine failure—icing conditions—no deice fluid—maintenance. |
| Apr. 18, 1974 | Douglas DC–3 | Forced landing—en route | Fuel contamination—gear not locked down—maintenance. |
| Jan. 1, 1975 | Douglas DC–3 | Forced landing—en route | Propeller erratic—other engine overheat—maintenance. |
| Jan. 2, 1975 | Douglas DC–4 | Collided with fence on takeoff | Unsuitable terrain—unqualified crew. |
| Jan. 2, 1975 | Douglas DC–3 | Collided with wires on approach—fatalities. | Below minimum conditions. |
| Feb. 9, 1975 | BAC–111 | Directional control—takeoff | Hit snow bank—low visibility takeoff. |
| May 11, 1975 | Lockheed 1049 | Hit trees—fatalities | Engine malfunction—maintenance. |
| June 16, 1975 | Martin 404 | Forced landing on takeoff | Engine malfunction—maintenance. |
| Aug. 23, 1975 | Douglas DC–3 | Lost directional control—takeoff. | Gusting to 45k—hit fence—ditch. |
| Sept. 11, 1975 | Douglas DC–3 | Collided with trees—fatalities | Oxygen masks used—no oxygen in system. |
| Jan. 4, 1976 | Douglas DC–3 | Forced landing—en route | Engine failure—unauthorized repair. |
| Feb. 19, 1976 | Lockheed 1049 | Forced landing—en route | Malfunction—maintenance. |
| Apr. 14, 1977 | Douglas DC–3 | Forced landing after takeoff | Engine failure—maintenance—inadequate flight planning. |
| Apr. 22, 1976 | Boeing 720 | Lost control on approach | Failure to maintain proper airspeed. |
| Oct. 13, 1976 | Boeing 707 | Crashed on takeoff—fatalities | Improper pilot technique—loading. |
| Mar. 3, 1977 | Douglas DC–4 | Landing roll gear collapse | PIC selected unsuitable terrain. |
| Mar. 17, 1977 | Douglas DC–3 | Airplane nosed over on landing. | PIC selected unsuitable terrain. |
| Mar. 18, 1977 | Douglas DC–3 | Airplane swerved on landing, resulting in collision with fence posts. | PIC lost directional control on landing. |
| Apr. 9, 1977 | Convair 240 | Forced landing—en route | Fuel contamination—inadequate maintenance. |
| Apr. 14, 1977 | Douglas DC–3 | Overshot landing | Touchdown on last ⅓ of 7,000-foot runway. |
| May 6, 1977 | Curtiss C–46 | Forced landing—en route | Engine failure—maintenance. |
| June 13, 1977 | Douglas DC–3 | Airplane landed long, resulting in gear collapse. | PIC selected unsuitable landing area lighted by flashlights. |
| Sept. 12, 1977 | Douglas DC–7B | Forced landing—takeoff—fatalities. | Over gross—improper fuel—maintenance. |
| Oct. 13, 1977 | Curtiss C–46F | Wheels-up landing | Hydraulic system failure—PIC lacked familiarity with airplane and failed to follow approved procedures. |
| Oct. 20, 1977 | Convair 240 | Forced landing—en route—fatalities. | Fuel exhaustion—maintenance. |
| Mar. 21, 1978 | Convair 340 | Off airport forced landing | Oil supply exhaustion caused engine fire and subsequent engine separation from airplane. |
| May 12, 1978 | Convair 440 | Forced landing in water | Power loss due to internal failure of engine—PIC failed to make proper decision. |
| May 25, 1978 | Convair 880 | Gear collapse during aborted takeoff. | Takeoff aborted when PIC unable to rotate due to forward center of gravity—improper loading—supervisory error—PIC failed to plan flight properly. |
| July 22, 1978 | Curtiss C–46 | Forced landing on approach | Maintenance. |
| Sept. 4, 1978 | Convair 240 | Crash on takeoff—fatalities | Engine failure due to water in fuel—PIC lacked familiarity with airplane and exercised poor judgment—PIC did not have type rating in CV–240. |
| Sept. 6, 1978 | Douglas DC–7C | Airplane was flown into ground—fatalities. | PIC misjudged distance from ground—PIC failed to plan flight properly. |
| Oct. 1, 1978 | Douglas DC–3 | Forced landing in water—fatalities. | Electrical system failure—pilot became lost and fuel supply became low. |

**Representative Large Airplane Accidents in Part 91 Operations, 1972-79 (Source—NTSB Data)—Continued**

| Date | Type of airplane | Description of accident | Deficiencies noted in accident investigation |
|---|---|---|---|
| Oct. 30, 1978 | Douglas DC-3 | Nose-over on landing | PIC did not have multi-engine rating or type rating—PIC attempted operation which exceeded capability. |
| Nov. 29, 1978 | Convair 240 | Lost directional control—fatalities. | Improper procedures. |
| Dec. 2, 1978 | Douglas DC-3 | Undershot runway | Aircraft landed 300 feet short of runway. |
| Dec. 5, 1978 | Douglas DC-3 | Crash on takeoff—fatalities | PIC did not have multi-engine rating or type rating—takeoff attempted with elevator gust lock installed—PIC attempted operation which exceeded capability. |
| Dec. 11, 1978 | Douglas DC-3 | Collision with trees during forced landing—fatalities. | PIC mismanaged fuel, resulting in fuel starvation and failure of both engines—PIC not qualified to operate airplane. |
| Dec. 14, 1978 | Douglas DC-3 | Crash on landing | PIC selected unsuitable landing area and misjudged distance and speed. |
| Jan. 10, 1979 | Douglas DC-3 | Crash on landing | Unsuitable terrain—unlighted field. |
| Jan. 21, 1979 | Douglas DC-3 | Airplane swerved on landing | PIC did not compensate properly for unfavorable wind conditions. |
| Apr. 16, 1979 | Convair 340 | Airplane went off end of runway. | Engine failure on takeoff—maintenance. |
| May 15, 1979 | Douglas DC-4 | Airplane collided with dirt bank on takeoff. | PIC attempted takeoff with gust locks engaged—PIC failed to use checklists and failed to plan flight properly. |
| June 6, 1979 | Douglas DC-6 | Overshot runway | Landed long—crashed down embankment. |
| June 12, 1979 | Douglas DC-3 | Airplane crashed on takeoff—fatalities. | PIC lifted airplane off ground prematurely, causing stall—PIC failed to follow procedures. |
| June 22, 1979 | Douglas DC-7C | Airplane crash landed after power loss on 2 engines—fatalities. | Improper grade of fuel used—airplane loaded improperly as to weight and center of gravity—PIC did not plan flight properly. |
| June 27, 1979 | Douglas DC-3 | Overshot runway | Landed long in fog—ground looped to stop. |
| June 29, 1979 | Martin 404 | Struck terraced ground | Pilot blinded—dirty, coated windshield. |
| July 13, 1979 | Douglas DC-3 | Forced landing—en route | Fuel exhaustion. |
| Aug. 25, 1979 | Convair 440 | Gear-up landing | Gear and stabilizer parts missing—maintenance. |
| Sept. 14, 1979 | Douglas DC-7B | Collided with trees—fatalities | Night departure—hit trees 24 miles from airport. |
| Sept. 28, 1979 | Curtiss C-46 | Forced landing—en route | Engine failure—maintenance. |
| Nov. 19, 1979 | Douglas DC-4 | Collided with trees—fatalities | Final approach—fog—inadequate ground lights. |

Further, the Task Force's recommendation to establish a single set of regulations applicable to large airplanes in noncommon carriage operations is validated by changes in operational concepts which occurred subsequent to the Airline Deregulation Act of 1978. That Act substantially relaxes the statutory economic restrictions on air carrier certification and route authority which existed for many years. It encourages competition in the marketplace. One result is that there is now incentive for persons such as commercial operators to enter common carriage operations as air carriers. FAA records show that four commercial operators of large airplanes have become air carriers since the October 1978 effective date of that Act.

Air travel clubs operate large, airline-type airplanes and, as a group, they have experienced significant changes in the short period of time between the issuance of Notice 79-19 and the issuance of this final rule. There were 11 air travel clubs in November 1979 and on May 20, 1980, there were only 7. This reduction implies that the need for air travel clubs, as traditionally constituted, is diminishing in today's environment. The FAA's regulatory program, as revised by Part 125, provides meaningful alternatives for travel clubs. They may seek common carrier certification under Part 121 or, if they do not wish to become common carriers, they may operate under Part 125 which does not restrict the charges which may be made. Current Part 123 defines an "air travel club" as "a person who engages in the carriage by airplanes of persons who are required to qualify for that carriage by payment of an assessment, dues, membership fee, or other similar type of remittance." This limitation on compensation, of course, does not apply under Part 125. This is a substantial benefit to travel clubs. One travel club requests a short-term exemption to permit it to operate in the manner contemplated by Part 125 until the Part becomes effective. That club also states that if Part 125 is not adopted, it intends to seek CAB authority to operate as a supplemental carrier.

Similar revenue opportunities exist under Part 125 for corporate transport and aircraft lease and aviation service operators.

### Role of Part 125 in FAA Enforcement Program

Part 125 is an integral part of the FAA's stepped-up enforcement program designed to reduce accidents and enhance compliance with the FAR. Part 125 is aimed primarily at operators who use subterfuges to avoid compliance with appropriate regulations. Part 125 will make it easier to detect these operators and take appropriate enforcement action. It also should serve to deter persons from attempting to evade the regulations because the risk of detection is increased. Other parts of this enforcement program include:

- Numerous large civil penalities collected from large air carriers, commuter/air taxi operators, and manufacturers in 1979.
- Proposed legislation to raise the maximum civil penalty for each FAR violation from $1,000 to $25,000 and to authorize the FAA to seek criminal penalties in flagrant cases.
- Issuance of a new enforcement handbook which consolidates all enforcement materials into one source and contains many new provisions for guidance of FAA personnel.
- Agreement with the Department of Justice on a method to speed up processing of enforcement actions in the courts.
- Development of a computer-based system which will give agency personnel prompt access to an airman's or an operator's compliance record.

### Highlights of New Part 125

In this discussion of Part 125 some references are made to comments received, but detailed discussion of the comments are covered under the substantive provisions which appear under the discussion of comments.

### Effective Date and Application Procedure

Part 125 is effective January 7, 1981. After that date, the owner/operator of an airplane subject to the rule is allowed 120 days to submit an application for certification. To provide for transition to the new rule, persons who file an application for a certificate and operations specifications to operate under Part 125 before expiration of the 120 days must continue to operate under the rules applicable to their operations on the day preceding the effective date of Part 125. These operations may

continue until a certificate and operations specifications are issued or the application is denied. The application must consist of a letter containing the information required by § 125.21, a copy of the manuals required by Subparts C and G, and a copy of all contracts or agreements, if any, they have been entered into for required services provided by other entities. The application should also include a copy of any grant of deviation issued to the applicant. The filing of an application means that the applicant has taken all steps necessary to comply with Part 125 and is ready for FAA inspection to determine compliance with Part 125 for issuance of a certificate and operations specifications. No person may engage in operations governed by this Part subsequent to 120 days after the effective date unless he/she holds a certificate and operations specifications issued by the FAA, has made application as described above, or holds deviation authority from all provisions of Part 125. Requirements for requesting deviation authority are contained in § 125.3. If an owner/operator desires a deviation from all or part of the rule, such request must be made in a timely manner so as to allow time for action on the request and thereafter to allow time to submit an application for certification during the 120-day period if all or part of the deviation request is denied. A person seeking deviation authority from one or several sections of Part 125 must submit all information that the applicant believes will justify the granting of a deviation.

Any person requesting a deviation authority from the entire Part 125 after the 120-day period must file the request at least 60 days prior to the date of intended operations and may not operate unless and until the deviation authority is granted or a certificate is issued.

### Subpart A—General

New Part 125 provides a single set of certification and operation rules for U.S.-registered airplanes which have a seating capacity of 20 or more passengers or a maximum payload capacity of 6,000 pounds or more when used in any noncommon carriage operation. Ascertainment of the size of airplane to be covered under the new Part presented a difficult regulatory problem. As noted in the discussion under the heading "Background of this Rulemaking Proceeding," the DOT study included a recommendation that standards be developed that are appropriate to the operation of transport category airplanes engaged in noncommon carriage operations for inclusion in a single set of regulations. The range of airplanes varied from the relatively small DC–3 to the very large B–747. The FAA's best judgment in developing Notice 79–19 was that airplanes certificated to carry 20 or more passengers or a maximum payload of more than 5,000 pounds should be covered by Part 125. The payload capacity is raised from 5,000 pounds to 6,000 pounds so that most airplanes used by business corporation flight departments are not subject to the new rules unnecessarily since these operations have an excellent safety record.

An operating certificate and operations specifications are required. These are among the most important features of Part 125 because each person operating airplanes subject to the Part must undergo a certification process similar to that applied to air carriers. This process includes the issuance of operations specifications tailored to each operator's circumstances. The requirement is significant because it provides the FAA the opportunity to review and become familiar with a specific operation before flight begins. Thus, the upgrading of safety from Part 91 levels accomplished by this rule will be verified through the certification process which includes in indepth examination of every facet, including operations, airworthiness, and personnel competency, rather than an "after the fact" determination accomplished through routine surveillance. There is no comparable provision in Part 91. To facilitate FAA surveillance and inspection, a copy of the certificate and operations specification and/or any deviation authority must be carried in each airplane subject to Part 125.

Because Part 125 does not allow common carriage operations, a new § 125.11 is added to implement this basic concept. The holder of an Air Carrier Operating Certificate is ineligible for a Part 125 certificate. A Part 125 certificate holder is prohibited from conducting any operation which results directly or indirectly from any person's holding out to the public to furnish transportation. This will help to ensure that no subterfuges are utilized by contract or other means to feed common-carriage-generated transportation to Part 125 certificate holders.

U.S.-registered airplanes of the specified size operated by foreign citizens are subject to Part 125. The entire Part applies if the airplane is operated anywhere within the United States. This includes operations where the airplane is flown only to a territory, possession, or a coastal city such as Key West or San Juan for a brief stop and is then flown out of the United States. This implements a basic premise of Part 125 that a uniform standard of safety should apply to all U.S.-registered airplanes of the specified size. When a foreign citizen operates a U.S.-registered airplane outside the United States, only § 125.247 applies. This establishes a basic level of airworthiness and should make it unattractive for foreign citizens to use U.S. registration as an "aviation flag of convenience," a situation the FAA has encountered, especially in operations conducted between the southern part of the United States and Central and South America. Foreign citizens operating U.S.-registered airplanes of the covered size may apply to any FAA Flight Standards district office for a special flight permit to allow operation to the United States for the purpose of obtaining Part 125 certification.

Deviation authority is included in response to comments which indicate the need for flexibility to permit adjustments based upon the circumstances of a particular operation. Notice, 79–19 invited consideration of the need for that authority. Accordingly, Part 125 provides that the Associate Administrator for Aviation Standards may grant deviation authority from one or more sections depending upon the circumstances and justification presented. Although it is difficult to foresee more than a few situations in which a deviation from the entire Part could be justified, it is possible. Some examples are an airplane museum operation, a parachute jumping operation, or a corporate flight department operating an airline-type airplane solely for carriage of company executives.

Commercial operators and air travel clubs presently conduct operations under Part 121 or 123, respectively, and may require time for transition to Part 125. They are permitted to continue their operation under Part 121 or 123, respectively, and are not required to comply with Part 125 until January 1, 1983, if they hold a certificate on the effective date of this Part. They may, however, make application for certification under Part 125 at any time. No new applications for certification under Part 123 will be accepted after the effective date of Part 125. No new applications for certification under the commercial operator rules of Part 121 will be accepted after the effective date of Part 125 except for persons who want

to engage solely in intrastate common carriage under Part 121. These intrastate common carriage operators are not subject to the rules of Part 125. The deferred compliance date for air travel clubs is especially important in view of the significant changes which are occurring in those operations. Since the issuance of Notice 79-19, 4 of 11 clubs surrendered their operating certificates. Apparently these actions are a result of the dramatic changes occurring in the aviation industry.

### Subpart B—Certification Rules and Miscellaneous Requirements

This subpart contains the certificate and operations specifications concepts used to regulate air carriers in Parts 121 and 135. The applicant must demonstrate that it is properly and adequately equipped to conduct a safe operation in accordance with the requirements of Part 125 and the operations specifications. Specific grounds for denial of a certificate are established.

Other highlights of this subpart include:

- Each exit (other than an over-the-wing exit) that is more than 6 feet from the ground must have an approved means for assisting occupants in descending to the ground.
- At least 8 consecutive hours of rest in any 24 hours is required for each flight crewmember. The Administrator may specify other rest and duty time limitations in the operations specifications if required in the interest of safety. This is necessary to ensure against an unsafe level of fatigue. No comparable provisions are contained in Part 91.
- Each operator is required to have a system for locating flights for which an FAA flight plan is not filed. These requirements are similar to those for air carriers under Part 135 and are not contained in Part 91.
- There must be enough management personnel to ensure that operations comply with the requirements of Part 125. A director of operations is specifically required. These requirements are not contained in Part 91.

### Subpart C—Manual Requirements

This subpart requires the certificate holder to establish a manual containing procedures acceptable to the Adminstrator which must be used by the certificate holder's flight, ground, and maintenance personnel. Some of the important subjects which must be included in the manual are:

- Procedures for ensuring compliance with weight and balance limitations.
- Provisions for ensuring that the pilot in command knows that required airworthiness inspections have been made and that the airplane has been properly approved for return to service.
- Mechanical irregularity reporting and procedures to ensure that the pilot in command determines that mechanical irregularities or defects from previous flights have been corrected or that correction has been properly deferred.
- Refueling procedures, including supervision and protection of passengers during the refueling.

The manual requirements in this subpart have worked satisfactorily in operations under Part 135 and are similar in many respects to those required under Part 121. No comparable provisions exist in Part 91.

### Subpart D—Airplane Requirements

This subpart requires airplanes under Part 125 to have appropriate airworthiness certificates and meet applicable airworthiness requirements. In recognition of the importance of accurate empty weight and center of gravity to safety of flight, no airplane may be operated unless the empty weight and center of gravity are calculated from values established by actually weighing the airplane within 36 calendar months preceding any operation. The only exception to this requirement is an airplane on which an original airworthiness certificate has been issued in the 36 months proceeding operation. The original certification process ensures that airplane weight and center of gravity are accurately established.

### Subpart E—Special Airworthiness Rules

These rules establish minimum standards of airworthiness to ensure adequate protection against fires, suitable ventilation for passengers and crewmembers, and that all cargo is carried safely. They are the same as counterpart requirements which currently exist in Parts 121 and 123.

This subpart also requires satisfactory demonstration by the certificate holder of its ability to evacuate safely the full seating capacity of any airplane used in passenger-carrying operations with a seating capacity of more than 44 passengers. The requirement is similar to air carrier requirements.

Part 91 does not contain requirements similar to those contained in this subpart.

### Subpart F—Instrument and Equipment Requirements

This subpart establishes requirements to ensure that each airplane operated under Part 125 contains the instruments and equipment necessary for an adequate level of safety. Specific requirements include certain radio and navigation equipment, instrument flight equipment, emergency and overwater operations equipment, passenger seat, safety belt, and information requirements, rules for use of medical oxygen by passengers, and equipment for operations in icing conditions.

A very significant safety requirement is airborne weather radar similar to that prescribed for large air carriers under Part 121. This facilitates detection and avoidance of thunderstorms and related hazardous conditions such as turbulence.

A minimum equipment list provision is included which provides the operator a flexible procedure under which an airplane may be safely operated when certain instruments and equipment are not operable. The FAA is considering a proposal to amend Part 91 to include a minimum equipment list provision which will apply to all Parts of the FAR.

### Subpart G—Maintenance

This subpart contains requirements which ensure that airplanes, airframes, aircraft engines, propellers, appliances, each item of survival and emergency equipment, and components are safely maintained and inspected. Many of the requirements are similar to maintenance rules now prescribed for air travel clubs. The substance of the air travel club rules is upgraded by an aircraft engine overhaul program which includes specific time intervals for performing certain work on the aircraft engines, including replacement of parts and components and accomplishment of overhauls. This feature should reduce accidents caused by engine failure or decreased performance as experienced under Part 91. This subpart also—

- Makes the certificate holder primarily responsible for airworthiness;
- Requires the certificate holder to have a maintenance manual containing procedures to be followed in performing inspections, including safeguards which ensure that work interruptions do not adversely affect required inspections, and to ensure that those inspections are properly completed before the airplane is released to service; and
- Prohibits a person from performing a required inspection if that person performed the item of work required to be inspected.

### Subpart H—Airman and Crewmember Requirements

Rules in this subpart ensure that airmen are appropriately certificated and that the composition of the flightcrew complies with the minimum required by the type certificate and the Airplane Flight Manual. On any airplane requiring a flight engineer, one of the other flight crewmembers must be qualified to provide emergency performance of the flight engineer's duties in case of illness or other incapacitation.

In recognition of the necessity for precise navigational capability, a flight navigator or approved long-range navigation equipment is required on any operation outside the 48 conterminous United States and the District of Columbia when the airplane's position cannot be reliably fixed for a period of more than 1 hour.

Since many of the airplanes operated under Part 125 will be large airline-type airplanes, flight attendant requirements are imposed which require at least one attendant on any airplane having more than 19 passengers. The required number of attendants increases as more passengers are carried. During takeoff and landing, required flight attendants must be located as close as practicable to required floor-level exits and must be uniformly distributed throughout the airplane. These requirements are imposed because time is of the essence when an emergency evacuation is necessary. The rule also assigns emergency functions to flight crewmembers and flight attendants and requires the certificate holder to show to the satisfaction of the Administrator that the functions can be practicably accomplished.

### Subpart I—Flight Crewmember Requirements

This subpart is designed to ensure a properly qualified crew. Emphasis is placed on required tests and checks instead of the training program concept currently used in Parts 121 and 123. This regulatory philosophy permits a reduction from the requirements in Parts 121 and 123, but provides a satisfactory level of safety under Part 125 which covers a wide range of operations formerly covered under Parts 91, 121, and 123. Again, it should be noted that the DOT Task Force recommended elimination of commercial operator and air travel club rules through establishment of a single set of regulations covering non-air carrier operations.

Specific requirements in this subpart include—

- A pilot in command (PIC) must have at least a commercial pilot certificate, an appropriate category, class, and type rating and instrument rating, and at least 1,200 hours pilot time, including 500 hours cross-country time, 100 hours night time, at least 10 night takeoffs and landings, and at least 75 hours of actual or simulated instrument flight of which at least 50 hours were in actual flight;
- Three takeoffs and landings within the 90 days preceding serving as a pilot;
- Detailed initial and recurrent pilot testing requirements covering a wide range of subjects and procedures;
- Detailed initial and recurrent flight attendant testing requirements; and
- Prohibition on use by any pilot of any type of instrument approach procedure unless the pilot has satisfactorily demonstrated that type procedure within the preceding 6 months and has received a letter of competency.

Airplane simulators approved by the Administrator may be used in checks required by this subpart. This will result in fuel and other cost savings for the operator.

### Subpart J—Flight Operations

Various operational rules are included in this subpart to ensure safe operation. They include—

- Requirements for pilots to remain at their duty stations except in limited circumstances;
- Prohibition of unauthorized manipulation of the flight controls;
- Restrictions on admission of persons to the flight deck;
- Requirement for the pilot in command to enter all mechanical irregularities in the maintenance log at the next point of landing after the irregularity comes to the pilot's attention;
- Prohibition on making an instrument approach unless the type of instrument approach procedure to be used is listed in the certificate holder's operations specifications; and
- Minimum altitudes permitted for use of the autopilot.

### Subpart K—Flight Release Rules

This subpart prescribes detailed requirements for a flight release system. These are based upon Parts 121 and 123 and represent a significant upgrade from Part 91. They ensure that the necessary preflight steps are taken to ensure a safe flight.

The subpart includes—

- A prohibition on starting a flight unless authorized by the person having operational control authority;
- A requirement for the pilot in command to obtain all additional available information inflight about meteorological conditions and irregularities of facilities and services that may affect the safety of flight;
- A prohibition on release for flight unless required communication and navigation facilities are operating;
- A requirement that a flight cannot be released for IFR or over-the-top flight unless the weather at the time of arrival is forecast to be at or above authorized minimums;
- Alternate airport requirements;
- Safe fuel reserve requirements for piston engine and turbine-powered airplanes;
- Increased landing minimum requirements for a pilot in command who does not have at least 100 hours in operations in the type of airplane being operated; and
- A requirement for completion of a load manifest for each flight, containing detailed information on the load and the center of gravity.

### Subpart L—Records and Reports

These requirements are based on those in Parts 121, 123, and 135 and include crewmember qualification records, form of flight release, retention and disposition of flight releases, load manifests, flight plans, use of an airplane maintenance log, and reports of defects or unairworthy conditions. An airworthiness release or entry in the aircraft maintenance records is required before an airplane may be operated after maintenance, preventive maintenance, or alteration work is performed.

These rules represent a significant upgrade from Part 91 but do not include the extensive reporting requirements of Part 121. This is consistent with the DOT Task Force recommendation.

### Cost Impact Analysis of Part 125

*A. Availability of Impact Report*

In keeping with the agency's policy of making a comprehensive analysis of cost impacts of proposed regulations, the FAA contracted with the Aerospace Corporation to estimate the expected costs that would be incurred by the industry should proposed Part 125 be adopted.

The Aerospace Corporation prepared a report dated January 31, 1979, which sets forth an industry cost impact assessment of Part 125 as it was originally planned. After that report was prepared, certain additional regulatory proposals were developed for which separate industry cost impacts were assessed. An economic impact

assessment covering all regulatory changes in the final rule is available in the FAA Rules Docket for examination by interested persons.

*B. Summary of Report*

In conducting the initial industry cost assessment, a data base was developed that identified those specific airplanes and operators that could be affected, along with the nature of the cost impact. The total population was divided into a number of categories with similar cost impacts. Representative data and actual anticipated costs were gathered and extrapolated to the total population for these categories for each of the proposed rule changes incorporated in Part 125. For subsequent changes, estimates were developed of the number of specific airplanes that would be subject to a cost impact and representative cost factors were applied to the identified population to determine the likely industry cost impact.

As shown in Tables 1 and 2, the analyses resulted in an estimated initial cost to the industry of $67.83 million and a recurring annual net cost of $20.45 million, for a total first-year cost of $88.28 million. This cost represents an increase of $6.44 million over the total first-year cost estimated at the time Notice 79–19 was prepared. This is due to the increase in costs to overhaul jet engines on affected aircraft. The rules that would produce the largest industry cost impacts include "Certification Rules and Miscellaneous Requirements" (Subpart B), "Manual Requirements" (Subpart C), "Instrument and Equipment Requirements" (Subpart F), "Maintenance and Inspections" (Subpart G), and "Flight Crewmember Requirements" (Subpart I), with Subpart G producing the greatest cost impact. These rules would mandate obtaining an operating certificate, the preparation of operations specifications and manuals, weather radar equipment, scheduled engine overhauls, limited flightcrew duty time, and certain recurrent testing of flight crewmembers.

As indicated by reference to Table 2, the category of operator that would be most affected would be the 275 aircraft leasing companies and aviation service firms with $61.76 million of initial cost and $15.69 million in annual recurring costs. The 258 corporate transport operators would be the next most impacted, with $4.49 million of initial cost and $4.27 million in annual recurring costs. The cost estimates in Tables 1 and 2 are conservative, and will be overstated to the extent that deviation authority is granted. Air travel clubs will have increased annual revenues as a result of the new rules lifting the prohibition of operation for compensation or hire when common carriage is not involved. This annual increase of $1.35 millon for the seven active air travel clubs would be the net gain over the costs estimated for compliance with the remaining rule changes. Revenue gains are also possible for corporate transport and aircraft lease-aviation service firm operators, but these benefits are not reflected in these industry impact estimates because there is not reliable method for estimating the number of operators who will avail themselves of this opportunity.

**Table 1.**—*Part 125 Cost Impact (Initial and Recurring),*[1] *by Subpart*

[In millions of dollars]

| Subpart | Title | Operator category: Corporate transport | Lease-service firms | Travel clubs | Total[2] |
|---|---|---|---|---|---|
| A | General | 0 | 0 | 0 | 0 |
| | | 0 | 0 | [3](1.35) | (1.35) |
| B | Certification | 2.51 | 3.36 | .01 | 5.88 |
| | Rules | 2.04 | 8.83 | .02 | 10.89 |
| C | Manual | .09 | 2.25 | 0 | 2.34 |
| | Requirements | .51 | .69 | .01 | 1.21 |
| D | Airplane | .57 | 1.26 | .02 | 1.85 |
| | Requirements | .19 | .37 | .01 | .57 |
| E | Airworthiness | 0 | .24 | 0 | .24 |
| | Requirements | 0 | 0 | 0 | 0 |
| F | Equipment | .98 | 1.87 | 0 | 2.85 |
| | Requirements | 0 | .21 | 0 | .21 |
| G | Maintenance and | .06 | 52.71 | 0 | 52.77 |
| | Inspection | .01 | .78 | .01 | .80 |
| H | Navigator | .25 | 0 | 0 | .25 |
| | Requirements | .04 | 0 | [4](.1) | (.06) |
| I | Pilot | .03 | .02 | 0 | .05 |
| | Qualifications | .83 | 2.46 | 0 | 3.29 |
| J | Flight | 0 | 0 | 0 | 0 |
| | Operations | 0 | .02 | 0 | .02 |
| K | Flight | 0 | 0 | 0 | 0 |
| | Release | .15 | 1.78 | 0 | 1.93 |
| L | Records and | 0 | .05 | 0 | .05 |
| | Reports | .50 | .55 | 0 | 1.05 |
| Total | All | 4.49 | 61.76 | .03 | 66.28 |
| | | 4.27 | 15.69 | [3](1.40) | 18.56 |

[1] Upper number is initial cost, lower number is annual recurring cost.
[2] Does not include unallocated cost attributable to airplanes for which registration status was in transition.
[3] Added revenue, shown as cost savings, less increased premiums of insurance for aircraft hull and seat liability.
[4] Cost savings due to deletion of part 123 training requirements.

**Table 2.**—*Part 125 Initial, Recurring and Total Cost Impact, by Airplane Type*

[In millions of dollars]

| Airplane type | Type cost[1] | | Operator category: Corporate transport | Lease-service firms | Travel clubs | Total |
|---|---|---|---|---|---|---|
| Piston | I | = | 3.33 | 32.44 | 0.01 | 35.78 |
| | R | = | 2.63 | 12.54 | 0 | 15.17 |
| Turboprop | I | = | .88 | 5.20 | 0 | 6.08 |
| | R | = | .76 | 2.05 | 0 | 2.81 |
| Turobjet | I | = | .28 | 24.12 | .02 | 24.42 |
| | R | = | .88 | 1.10 | .04 | 2.02 |
| Total all airplanes | I | = | 4.49 | 61.76 | .03 | 66.28 |
| | R | = | 4.27 | 15.69 | [2](1.40) | 18.56 |
| Total first year cost, unadjusted | C | = | 8.76 | 77.45 | (1.37) | 84.84 |
| Total industry cost[3] | I | = | ..... | ..... | ..... | 67.83 |
| | R | = | ..... | ..... | ..... | 20.45 |
| | C | = | ..... | ..... | ..... | 88.28 |

[1] I = Initial Cost; R = Annual Recurring Cost beginning with effective date for compliance; C = Total First Year Cost (I + R).
[2] Net Revenue Gain of $1.40 million. Airplane mix precludes engine type breakout.
[3] Includes unallocated costs attributable to airplanes for which registration status is in transition.

*C. Discussion*

In analyzing the economic consequences of Notice 79–19, the magnitude of the economic impacts on the national economy and on various general factors were addressed. However, primary emphasis was placed on quantifying the cost impact on the segments of the aviation industry most affected by the proposed rules. For this purpose types of costs and categories of parties impacted were analyzed for each of the relevant subpart paragraphs.

1. *Impact on industry.* In conducting the industry cost impact analysis, the FAA commissioned an independent assessment of the cost impacts likely to result from the proposed rule changes. This assessment was conducted by the Aerospace Corporation during December 1978 and January 1979, and reflects data available at that time. Information on the structure, conduct, and results of this cost impact assessment, along with discussions of data limitations, are provided. Full documentation of the study and its associated data bases are provided in the report, "Industry Cost Impact Assessment of Proposed Part 125," January 31, 1979, The Aerospace Corporation, which is in the docket.

After that report was prepared, certain additional regulatory proposals were developed for which separate cost impacts were assessed. This study presents information on the analytical methods employed and the results obtained from conducting the additional cost assessment and in integrating the results with those from the initial industry cost assessment.

2. *Outline of initial industry study.* The cost impact assessment was structured to include the following major elements for the changes listed in the Part 125 proposals:

- Identification, classification, and characterization of potential cost impact areas through a detailed analysis of the rule changes that were planned to be proposed in Notice 79–19 and by comparison with the existing Part 91 and Part 123 provisions in light of known industry practices and procedures.
- Development of a classification system for operators of airplanes certificated for 20 or more passengers or a maximum payload of 5,000 pounds or more. This system was designed to differentiate the varying levels and types of cost impacts of the proposed changes across the diverse elements of the industry likely to be affected.
- Identification and classification of the population of airplanes and operators potentially impacted by the proposed rule changes to differentiate cost impact elements.
- Development and implementation of an optimal allocation method for choosing a scientific sample of operators with reasonable assurance of achieving high statistical significance of the results.
- Collection, processing, and analysis of impact estimates to produce assessments of cost impacts on the industry and its constituent parts for individual and aggregated proposed changes compiled under Part 125.

3. *Identification of Part 125 changes.* To begin the initial industry cost impact assessment process, it was necessary to develop an indepth analysis of the planned Part 125 and the changes from the existing rules under Parts 91, 121, and 123. For this purpose, a matrix was prepared to:

- Summarize each subpart of the planned Part 125;
- Identify specific changes to existing Parts 91, 121, and 123 that would be incorporated in the planned new Part 125;
- Assess the potential for cost impacts to the affected population according to type of propulsion of airplanes, type of operator, and type and magnitude of cost impact;
- Define the specific data required to identify, categorize, and quantify the potential operator cost impacts.

To assure that all planned provisions resulting in industry cost impacts were properly identified and interpreted, the draft matrix was reviewed by FAA experts in the office of the Associate Administrator for Aviation Standards and the Office of Aviation Policy.

As a result of this analysis and review process, 20 specific planned Part 125 provisions were identified that were likely to impose cost impacts. These provisions are listed in Table 3. (Two additional items are listed which were the subject of the supplemental analysis.) Preliminary analysis indicated that industry cost impacts for these 20 provisions could be differentiated into the following categories according to the type of cost that would be incurred by the affected Parts 91, 121, and 123 operators:

- Initial cost (the one-time charge for purchase and installation of equipment, for preparation of manuals, etc.).

**Table 3.**—*Part 125 paragraphs with industry cost impacts*

| Subpart | Para. | Title |
|---|---|---|
| A | 125.1 | Applicability. |
| B | 125.25 | Management Personnel Required. |
| | 125.31 | Contents of Certification and Operations Specifications. |
| | 125.39 | Duty Time Limitations. |
| C | 125.71 | Preparation. |
| D | [1] 125.91 | Airplane Requirements. |
| | 125.93 | Airplane Limitations. |
| E | 125.119 | Fire Precautions. |
| F | 125.207 | Emergency Equipment Requirements. |
| | 125.221 | Icing Conditions: Operating Limitation. |
| | 125.223 | Airborne Weather Radar Equipment Requirements. |
| G | [1] 125.247 | Inspection Programs. |
| | 125.249 | Maintenance Manual Requirements. |
| | 125.251 | Required Inspection Personnel. |
| H | 125.265 | Flight Navigator and Specialized Navigation Equipment. |
| I | 125.281 | Pilot in Command Qualifications. |
| | 125.283 | Second in Command Qualifications. |
| | 125.287 | Initial and Recurrent Pilot Testing Requirements. |
| | 125.291 | Pilot in Command: Instrument Proficiency Check Requirements. |
| J | 125.323 | Reporting Mechanical Irregularities. |
| K | 125.351–125.383 | Flight Release Rules. |
| L | 125.401–125.411 | Records and Reports. |

[1] Cost impacts covered in supplemental analysis.

- Annual recurring cost (continuing costs to maintain additional equipment, for upkeep of manuals, for continuing proficiency checks, for salaries of personnel, etc.), including annual revenue loss or gain.

4. *Industry characterization.* In parallel with the cost impact identification activity, a major effort was undertaken to acquire the data base needed to identify and characterize the Parts 91, 121, and 123 operators and divide them into more definitive subcategories for analytical purposes. The FAA "Aircraft Registration Master File," as of September 30, 1978, was used as the basis for identifying the population of Part 91 airplanes and their associated operators that might be impacted. This computerized data file is compiled from the current registration files on all U.S. civil aircraft. The registration files are maintained by the Data Services Division at the FAA Aeronautical Center in Oklahoma City, Oklahoma. Data on Part 121 commercial operators and on the total population of 11 active Part 123 operators were provided separately by the office of the Associate Administrator for Aviation Standards.

In the case of Part 91 operators, a total of 2,263 airplanes were identified as

meeting the criteria of general aviation "airplanes certificated to carry 20 or more passengers" after the specific deletions were made to conform to the exclusions provided in § 125.1(c). (The data base does not contain values for "maximum payload capacity," so that a large number of small jet turbine-powered airplanes capable of payloads in excess of 5,000 pounds were not included in this count.) Of these airplanes, 2,057 were owned by a total of 942 different individuals or entities, and 206 airplanes were listed in the registration files as "sale reported" or "registration pending" indicating that registration status was in transition.

The potentially affected airplanes of Part 91 operators were categorized according to their type of propulsion and the nature of their ownership characteristics. The propulsion categories used were piston (reciprocating), turboprop, and turbojet. The operators were segmented into the categories of corporate transport, aircraft lease and aviation service firms, certificated commercial operators (Parts 121 and 135), a miscellaneous category encompassing museums, exhibition, educational and other similar owners, aircraft manufacturers, Federal government, and state and local governments. These categories were determined to group airplanes and owners which could be expected to exhibit similar cost impacts under the planned Part 125, taken as a whole. Results of the categorization are shown in Table 4.

5. *Statistical study design.* A stratified sampling technique was designed in accordance with the categories described above to assure a representative cross-section of the industry. A total of 18 strata were used for the sampling allocation: 6 operator categories with 3 engine types per category. Three other categories of operators were identified but not included in the sampling allocation. These were air travel clubs for whom data on all 11 operators were obtained, aircraft manufacturers for whom data on all 3 operators were obtained, and the 2 unknown operator categories of identified aircraft. The unknown operator category has a population of 206 aircraft, or about 9 percent of the total industry population. For analysis purposes, the cost impact to this group was assumed to be proportional to its representation by airplane type in the total industry population. Actual allocation of the samples was chosen to yield a minimum variance estimate of the overall industry impact.

**Table 4.—*Part 125, Airplane Population Data Base (as of Sept. 30, 1978)***

| | Piston | Turboprop | Turbojet | Total |
|---|---|---|---|---|
| General aviation airplanes: | | | | |
| Corporate transport | 217 | 66 | 43 | 326 |
| Aircraft lease and aviation service firms | 1,003 | 108 | 193 | 1,304 |
| Certificated commercial operators | 10 | 41 | 124 | 175 |
| Museums, exhibition, education, miscellaneous | 87 | 13 | 0 | 100 |
| Aircraft manufacturers | 0 | 0 | 16 | 16 |
| Federal Government | 76 | 17 | 13 | 106 |
| State and local government | 28 | 2 | 0 | 30 |
| Sale reported | 169 | 5 | 15 | 189 |
| Registration pending | 17 | 0 | 0 | 17 |
| Subtotal | 1,607 | 252 | 404 | 2,263 |
| Air travel clubs: | | | | |
| Part 123 operators | 3 | 2 | 12 | 17 |
| Total | 1,610 | 254 | 416 | 2,280 |

Stratified sampling requires nonoverlapping subpopulations in each matrix cell. Since some operators own airplanes of more than one engine type, the sampling was done on an airplane basis rather than an operator basis. Random sampling by airplane type within a cell also has the benefit that operators with large fleets have a greater chance of being sampled. In effect, fleets of different sizes tend to be sampled in proportion to their fraction of the total airplane population. The resulting sampled distribution then resembles that from a population stratified by fleet size, even though the explicit sample allocation was based on only the two explicit stratification factors of operator category and engine type. Within each stratum, strictly random sampling was used.

In the analysis, the stratum variances were estimated judgmentally in order optimally to allocate the samples. Because these estimates proved to be valid, the stratified sampling technique was more accurate than totally random sampling. First, the sample was divided between the corporate transport and lease-service categories versus the other four categories. It was assumed the variances on each side were equal, so the samples were split directly according to population. Thus, 80 percent of the samples were assigned to the combined corporate and leasing categories, while the remaining 20 percent went to the other four categories. These 20 percent were further divided strictly by population into the 12 strata of the four categories.

As the data acquisition and analysis proceeded, it was determined that operators of a signficant unknown fraction of airplanes in the data base would not incur any costs because they did not currently operate under the Part 91 (Subpart D) provisions planned to be covered by the new Part 125. For example, the data base included inactive and public use airplanes as well as airplanes currently and prospectively operated under Part 121, 135, or 137, even though registered as general aviation airplanes. Because these aircraft would continue to be operated in their respective status, no cost impact would result from the Part 125 proposal. Tables 5 and 6 present estimates of those airplanes with confirmed cost impacts according to the stratification described above, along with information on the number of associated operators. This same data base was used for the supplemental analysis of the two additional proposed Part 125 rules regarding weighing of airplanes and engine overhauls. It was considered to be suitable, also, even after the maximum payload capacity was raised from 5,000 pounds to 6,000 pounds under Part 125 because payload capacity was not used as a criterion when the data base was established.

Since the new unknown population factor was equal for each of the strata, the optimal sample allocation for the combined uncertainties shifted toward the equal variance case and this adjustment was made without requiring additional sample selection. This condition was due to the small size of the adjustment: four samples moved from the lease operator-piston stratum to the corporate category. If more samples had been required, the minimum variance strategy could again be updated using the present data to estimate the stratum populations and variances. As it stands, the estimated

standard deviations proved to be very close to the data actually obtained.

6. *Estimated cost impacts.* Individual estimates were made for each of the sample strata for both initial and annual recurring costs. The product of the population and the cost per airplane then yields a total cost impact for each stratum, and a sum over all the strata gives the estimated total industry impact. For each stratum, the affected population was estimated as the data base population of the cell multiplied by the fraction of samples in that cell which would be affected by the Part 125 rules.

Table 5.—*Airplanes and Operators With Cost Impacts Attributable to Planned Part 125 (as of Sept. 30, 1978)*

| | Piston | | Turboprop | | Turbojet | | Total | |
|---|---|---|---|---|---|---|---|---|
| | Number of airplanes | Number of operators | Number of airplanes | Number of operators | Number of airplanes | Number of operators | Number of airplanes | Number of operators [1] |
| Corporate transport | 217 | 181 | 66 | 50 | 43 | 39 | 326 | 258 |
| Aircraft lease and service firms | 554 | 257 | 43 | 24 | 38 | 11 | 635 | 275 |
| Museums, exhibition, education, miscellaneous | 87 | 46 | 13 | 4 | 0 | 0 | 100 | 48 |
| Aircraft manufacturer | 0 | 0 | 0 | 0 | 16 | 3 | 16 | 3 |
| Air travel clubs [2] | 0 | 0 | 3 | 3 | 10 | 5 | 13 | 7 |
| Unknown operations [3] | 97 | ..... | 3 | ..... | 8 | ..... | 108 | ..... |
| Total | 955 | ..... | 128 | ..... | 115 | ..... | 1,198 | ..... |

[1] The total data reflects the absolute number of operators even though the same operator may be included in more than one airplane type.
[2] Data as of May 1980.
[3] Identified airplanes listed as "sale reported" or "registration pending" on FAA Aircraft Registration Master File, adjusted for proportional representation of impacted airplanes in total data base.

Table 6.—*Estimated Operators and Airplanes Per Operator[1] With Cost Impacts From Planned Part 125 (as of Sept. 30, 1978)*

| | Piston | | Turboprop | | Turbojet | | Total | |
|---|---|---|---|---|---|---|---|---|
| | Number of operators | AC per operator | Number of operators | AC per operator | Number of operators | AC per operator | Number of operators [2] | AC per operator |
| Corporate transport | 181 | 1.2 | 50 | 1.3 | 39 | 1.1 | 258 | 1.3 |
| Aircraft lease and service firms | 257 | 2.2 | 24 | 1.8 | 11 | 3.5 | 275 | 2.3 |
| Museums, exhibition, education, miscellaneous | 46 | 1.9 | 4 | 3.3 | 0 | 0 | 48 | 2.1 |
| Aircraft manufacturers | 0 | 0 | 0 | 0 | 3 | 5.3 | 3 | 5.3 |
| Air travel clubs [3] | 0 | 0 | 3 | 1.0 | 5 | 2.0 | 7 | 1.9 |

[1] Does not include 108 identified airplanes with unknown operators where registration was in transition.
[2] The total data reflects the absolute number of operators even though the same operator may be included in more than one airplane category.
[3] Data as of May 1980.

It was found that certain operator categories, namely Federal, state and local governments, and certificated commercial operator, would not experience a cost impact under the new regulations since all these operators are excepted or complying with more stringent FAR Parts. On the other hand, the sample indicated that all of the airplanes in the corporate and miscellaneous categories would be affected. For the most populated "lease and service firm" category, about half of the operators in the data base would be affected.

For the affected operators of all categories, several different types of costs were assessed. An estimate was made of the approximate cost impact of each proposed subpart paragraph of the proposed new Part 125.

These estimates were for both initial and recurring cost and were assessed as either an operator cost or an airplane specific cost. An operator cost is one remaining nearly constant regardless of the number of aircraft owned; for example, the cost of obtaining an operating certificate or preparing an operations manual. An airplane cost is one which is directly dependent on the number of airplanes, such as added equipment on each airplane. Mean values were determined for the operator and airplane costs in each stratum.

Usually, total cost in a cell would be the mean airplane cost multiplied by the number of airplanes plus the mean operator cost multiplied by the mumber of operators. This was not the case because the operator subpopulations are not disjoint (that is, some operators owned airplanes of all three engine types). As an alternative, the operator data were prorated into airplane data by finding the ratio of airplane operators for each category and dividing the operator costs (of that category) by that ratio. The implicit assumption made in this method is that the ratio is the same for different engine types in the same category; the data base verified that this was approximately true. The total cost within a cell is then equal to the airplane cost plus the prorated operator cost times the number of airplanes. This method allows initial and recurring costs for each subpart in each cell to be consistently combined between cells to yield totals by category and engine type.

7. *Initial industry cost impact summary.* The extrapolated industry costs estimated to result from the planned Part 125 rules are summarized in Table 7. The information is presented in the table in the same operator categories and airplane type stratification used in the statistical sampling program. For each stratified category, both initial and annually recurring mean costs are indicated along with appropriate totals. A total first year mean cost is also shown that represents the sum of the initial cost and the recurring cost for this first year.

The total industry cost of the planned Part 125 rule changes was computed to be $16.09 million initial cost and $19.24 million in annual recurring costs. This resulted in an expected first year cost of $35.33 million.

The costs that would have been incurred by the industry for individual subparts of the planned Part 125 are summarized in Table 8. Subparts B, C, F, G, and I would have produced the most significant industry cost impacts. These impacts would have been principally due to flight and duty time limits, the documentation and coordinaton associated with obtaining an operating certificate, the development of operations specifications and manuals, and documentation of an approved airworthiness inspection program. The next major cost element would have involved weather radar requirements, pilot recurrent testing requirements, and semiannual instrument proficiency checks.

**Table 7.—*Planned Part 125 Initial Industry Cost Impact Summary***

[In millions of dollars]

| Airplane type | Type cost [1] | | Operator category: Corporate transport | Lease-service firms | Museum educ. misc. | Aircraft manuf. | Travel clubs | Total |
|---|---|---|---|---|---|---|---|---|
| Piston | I | = | 2.95 | 7.99 | 0.84 | 0 | ..... | 11.78 |
| | R | = | 2.50 | 12.22 | .08 | 0 | ..... | 14.80 |
| Turboprop | I | = | .74 | .23 | .08 | 0 | ..... | 1.05 |
| | R | = | .73 | 2.01 | 0 | 0 | ..... | 2.74 |
| Turbojet | I | = | .23 | .85 | 0 | .72 | ..... | 1.80 |
| | R | = | .86 | 1.09 | 0 | .46 | ..... | 2.41 |
| All airplanes | I | = | 3.92 | 9.07 | .92 | .72 | 0 | 14.63 |
| | R | = | 4.09 | 15.32 | .08 | .46 | [3](2.46) | 17.49 |
| Total first year cost | C | = | 8.01 | 24.39 | 1.00 | 1.18 | (2.46) | 32.12 |
| Total industry cost [3] | I | = | ..... | | | | | 16.09 |
| | R | = | ..... | | | | | 19.24 |
| | C | = | ..... | | | | | 35.33 |

[1] I=Initial Cost; R=Annual Recurring Cost; C=Total First Year Cost (I+R).
[2] Revenue Gain. Airplane mix precludes engine type breakout.
[3] Includes 10 percent increase to account for airplanes in process for registration.

**Table 8.—*Planned Part 125 Cost Impact by Subpart* [1]**

[In millions of dollars [2]]

| Subpart | Title | Operator category: Corporate transport | Lease-service firms | Museum educ. misc. | Aircraft manuf. | Air travel clubs | Total [3] |
|---|---|---|---|---|---|---|---|
| A | General | 0 | 0 | 0 | 0 | 0 | 0 |
| | | 0 | 0 | 0 | 0 | [4](2.41) | (2.41) |
| B | Certification | 2.51 | 3.36 | 0.08 | 0.32 | .01 | 6.29 |
| | Rules | 2.04 | 8.83 | 0 | .02 | .02 | 10.91 |
| C | Manual | .09 | 2.25 | 0 | .20 | 0 | 2.54 |
| | Requirements | .51 | .69 | 0 | 0 | .01 | 1.21 |
| D | Airplane | 0 | .15 | 0 | 0 | 0 | .15 |
| | Requirements | 0 | 0 | 0 | 0 | 0 | |
| E | Airworthiness | 0 | .24 | .03 | 0 | 0 | .27 |
| | Requirements | 0 | 0 | 0 | 0 | 0 | 0 |
| F | Equipment | .98 | 1.87 | .81 | 0 | 0 | 3.66 |
| | Requirements | 0 | .21 | .08 | 0 | 0 | .29 |
| G | Maintenance | .06 | 1.13 | 0 | .20 | 0 | 1.39 |
| | and Inspection | .01 | .78 | 0 | 0 | .01 | .80 |
| H | Navigator | .25 | 0 | 0 | 0 | 0 | .25 |
| | Requirements | .04 | 0 | 0 | 0 | [5](.1) | .03 |
| I | Pilot | .03 | .02 | 0 | 0 | 0 | .05 |
| | Qualification | .83 | 2.46 | 0 | .29 | 0 | 3.58 |
| J | Flight | 0 | 0 | 0 | 0 | 0 | 0 |
| | Operators | 0 | .02 | 0 | 0 | 0 | .02 |
| K | Flight | 0 | 0 | 0 | 0 | 0 | 0 |
| | Release | .15 | 1.78 | 0 | .10 | 0 | 2.03 |
| L | Records and | 0 | .05 | 0 | 0 | 0 | .05 |
| | Reports | .50 | .55 | 0 | .05 | 0 | 1.10 |

[1] These estimates do not include costs for complying with engine overhaul and aircraft weighing requirements.
[2] Upper Number is Initial Cost, Lower Number is Annual Recurring Cost.
[3] Does not include unallocated cost attributable to airplanes where registration status was in transition.
[4] Added revenue, shown as cost savings.
[5] Cost savings due to deletion of Part 123 training requirements.

8. *Supplementary cost impact analysis.* After the initial analysis was completed, two additional Part 125 provisions were introduced. These provisions were § 125.247 relating to engine maintenance and § 125.91 requiring weighing of airplanes. Cost estimates for these two provisions were developed by determining the number and type of specific airplanes that would be impacted and applying representative cost factors to the identified population.

In the case of weighing of airplanes, the total population of airplanes identified in Table 5 would have had cost impacts under the NPRM. These 1,198 airplanes were all subject to Part 125 (as proposed in the NPRM) and no exclusions were provided by type of airplane or category of use. A survey of industry sources yielded a representative compliance cost of $1,750 per airplane, including associated documentation costs. For the purposes of this analysis, the 16 turbojet airplanes operated by airplane manufacturers were excluded on the assumption that they would already be complying with this requirement during normal use. Factual information regarding operation of these 16 airplanes was not readily available during the analysis. Accordingly, this assumption was permitted to stand, recognizing that the maximum possible error related to that assumption was $28,000. Initial costs were calculated by multiplying the population of each airplane type per operator category by this cost factor. The results of these calculations are presented in Table 9. In fact, these figures are overstated for the final rule: not only may exclusions and deviation authority be allowed which will reduce the number of airplanes subject to the rule, but the requirement was relaxed to permit use of weights measured over the 3 years preceding the effective date of the rule.

For engine overhaul costs associated with § 125.247, the population identified in Table 5 was again determined to have potential impacts. In this case it was assumed, based on a survey of operators, that only the lease-service firm category would have an additional cost impact. The other categories of operators were found to be following the engine manufacturers' recommended overhaul schedules, or it was found that their affected airplanes were not yet due for a scheduled overhaul. For the aviation lease-service firm category, the proportion of airplanes of unidentified operators was allocated, and a breakout between two-engine and four-engine classes based on the distribution observed in the sample operators was made. In addition, a downward adjustment factor of 25 percent was applied to account for the airplanes in this category that are already maintained to the required schedule, may be granted schedule extensions, or

are otherwise not yet due for overhaul. Cost factors for each type of engine, derived from a survey of industry sources, were as follows: Piston—$20,000; Turboprop—$50,000; Turbojet—$150,000. Research for this study (prior to publication of the final rule) revealed that the only impact of inflation (over the year since the original study) was an increase of 33 percent for turbojet engines, to $200,000. The other two had not changed. The calculation of cost impacts at the time of this study are set out in Table 10.

**Table 9.**—*Estimated Cost of Part 125 Airplane Weighing Requirement*

[In millions of dollars]

| Airplane type | Operator category | | | | | |
|---|---|---|---|---|---|---|
| | Corporate transport | Lease-service firm | Museum educ. misc. | Aircraft manuf. | Travel clubs | Total |
| Piston | 0.38 | 0.97 | 0.15 | 0 | 0.01 | 1.51 |
| Turboprop | .12 | .08 | .02 | 0 | 0 | .22 |
| Turbojet | .08 | .07 | 0 | 0 | .02 | .17 |
| Total first year cost | .58 | 1.12 | .17 | 0 | .03 | 1.90 |

9. *Total cost impacts.* Cost impacts from the initial industry assessment were combined with those from the two supplemental assessments according to each of the airplane type/operator category combinations. Subsequent to receipt of comments on the NPRM, some final adjustments were made. The composite, updated cost impacts showing initial and recurring cost details are provided in Tables 1 and 2 in Section B, Summary of Report.

Five final comments regarding total cost impacts are warranted here.

(a) There will be a significant, immediate cost to 275 aircraft lease and service firms amounting to an estimated $77.45 million the first year and $15.69 million each year after the first. Approximately 67 percent of the cost ($51.58 million) will be due to overhauling engines to meet more stringent requirements in Part 125 that do not exist in Subpart D of Part 91.

(b) Persons certificated under Part 121 for commercial operations (private carriage) using affected airplanes are not required but are expected immediately to obtain certification under Part 125 because of cost savings resulting from changed crew training and airplane maintenance requirements.

**Table 10.**—*Estimated Industry Cost Impacts of Engine Overhaul Requirements, Part 125*

| | Number lease-service firm airplanes[1] | Number airplanes impacted[2] | Impacted airplanes with two engines[3] | Impacted aircraft with four engines[3] | Total number of engines impacted | Dollars per engine cost factor | Cost impact (in millions of dollars) |
|---|---|---|---|---|---|---|---|
| Piston | 616 | 462 | 337 | 125 | 1,174 | 20,000 | 23.48 |
| Turboprop | 44 | 33 | 17 | 16 | 98 | 50,000 | 4.90 |
| Turbojet | 39 | 29 | 0 | 29 | 116 | 200,000 | 23.20 |
| Total | 699 | 524 | 354 | 170 | 1,388 | | 51.58 |

[1] Includes proportional allocation of identified airplanes with unknown operators.
[2] Reduction factor of 25 percent to account for non-impacted airplanes.
[3] Based on distribution observed in sampled operators of initial study.

(c) There will be a large (up to 40 percent) increase in premiums for insurance for the seven air travel clubs currently certificated under Part 123. This increase amounts to an estimated $140,000 each year, in addition to a current total hull and seat liability premium cost of approximately $350,000 per year. This increase in premiums results from the sharing of actuarial statistics with all operations to be certificated under Part 125. No bodily injury claim has been filed in 16 years for operations conducted by an air travel club under Part 123. These clubs will now be operating under different regulations with a much larger group of operators, some of whom have had a much poorer safety record. In combination with other factors, this could result in a significant loss of the market now served by the air travel clubs, and could result in their disappearance from the market.

(d) To the extent that deviation authority is granted, the economic impact on individual operators and industry segments will be reduced.

(e) By requiring all commercial operators to be certificated under Part 125, legitimate certificate holders can expect to recover at least some of the market lost to operators now operating illegally for "compensation or hire"under Part 91. The degree to which there is successful enforcement of the regulation will determine how much of the market is recovered.

**Discussion of Comments and Revisions of Sections**

Many sections proposed in Notice 79–19 were not the subject of substantive comments and contain no substantive changes from the proposal and, therefore, are not included in the discussion that follows. These sections are §§ 125.21 125.23, 125.27, 125.33, 125.41, 125.43, 125.47, 125.51, 125.53, 125.111 through 125.187, 125.201, 125.203, 125.205, 125.211, 125.213, 125.217, 125.261, 125.265, 125.271, 125.283, 125.289, 125.295, 125.319, 125.321, 125.323, 125.329, 125.331, 125.351, 125.353, 125.355, 125.357, 125.361, 125.363, 125.367, 125.369, 125.373, 125.375, and 125.377.

**Part 43**

*§ 43.15 Additional performance rules for inspections.*

Notice 79–19 proposed amending this section by substituting the words "Part 125" for "Part 123" in § 43.15(a).

Since time to make the change from the provisions of Part 123 to those of Part 125 is included in the final rule for operators holding a Part 123 certificate on the effective date of Part 125, deletion of Part 123, as proposed, is inappropriate. Therefore, § 43.15(a) is amended by adding the words "Part 125" following "Part 123" in the first sentence of the section.

**Part 65**

The notice proposed revising §§ 65.85 and 65.87 to specifically include the privilege of conducting the inspections required by new Part 125. However, § 65.81 presently includes, as the

privilege of a certificated mechanic, the performance and supervision of maintenance of an aircraft or appliance for which the mechanic is rated. Since, by definition, inspection is a part of maintenance, these persons may conduct any inspection except those which are excluded by another rule. Further, these persons are authorized by Part 43 to perform maintenance and approve it for return to service. Therefore, revision of §§ 65.85 and 65.87 is not required and the proposed revision is withdrawn.

**Part 91**

*§ 91.54 Truth in leasing clause requirement in leases and conditional sales contracts.*

Since Part 123 will not be revoked as proposed, but continues in effect until January 1, 1983, § 91.54 is amended by inserting the number "125" following the number "123" in § 91.54(b)(1)(ii) of the present rule.

*§ 91.181 Applicability.*

For the same reasons explained in § 91.54, § 91.181 is amended by adding the number "125" after "123" in paragraphs (a) and (b). The number "123" is retained in both paragraphs.

**Subpart E, Part 91—Operating Noise Limits**

The preamble to Notice 79–19 states that it does not propose to alter the requirements applicable to any particular aircraft under Part 91, Subpart E, even though it would be included in a new class for purposes of Part 125. The preamble also states that necessary editorial changes would be made to Subpart E on the basis of the Part 125 proposal. Those changes are accomplished in a separate rulemaking action.

**Part 121**

*§ 121.1 Applicability.*

Section 121.1(a)(5) is amended to require most commercial operators to operate under the rules of Part 125. Some operators, including those operating airplanes with over 30 passenger seats and 7,500 pounds maximum payload capacity as intrastate common carriers and those operating helicopters, will continue to operate under the rules of Part 121. Intrastate common carriers are not within the scope of Part 125. The proposal in the notice is revised to conform to the airplane size dividing line for Parts 121 and 135 which appears at various places in the regulations, including § 121.9, SFAR 38, and § 135.1. Under the revision, intrastate common carriers operating airplanes having a seating capacity of more than 30 passengers or a maximum playload capacity of more than 7,500 pounds will continue to operate under the rules of Part 121 and those operating airplanes having a seating capacity of 30 passengers or less and a maximum payload capacity of 7,500 pounds or less will continue to operate under the rules of Part 135.

*§ 121.53 Duration of certificate.*

To allow the timely transition of most commercial operators from § 121.1(a)(5) to Part 125, § 121.53 is amended to allow those operators certificated on the effective date of Part 125 to continue to operate under the rules of Part 121 until January 1, 1983. In addition, it allows certain operators, if they make timely application, to continue to conduct operations under Part 121 after January 1, 1983. This provides time for commercial operators to decide whether they should become common carriers under Part 121 or become certificated under Part 125. Section 121.53(f)(2) is revised to be consistent with the revision discussed under § 121.1.

**Part 123**

For the reasons expressed regarding § 91.54, the proposal is revised to revoke Part 123 effective January 1, 1983.

**Part 135**

*§ 135.1 Applicability.*

Section 135.1 is revised to be consistent with the amendments to §§ 121.1, 121.53, and the applicability of Part 125. Part 135 will continue to apply to commercial operators operating aircraft with a maximum seating capacity of less than 20 passengers or a maximum payload capacity of less than 6,000 pounds. In addition, since Part 125 does not apply to any common carriage operation, persons conducting common carriage operations solely between points entirely within any state of the United States in aircraft having a maximum passenger seating capacity of 30 seats or less and a maximum payload capacity of 7,500 pounds or less will continue to be governed by the rules of Part 135. Appropriate clarifying changes are made in § 135.1 to accomplish the above results and to make it consistent with § 121.9 and SFAR 38.

**Part 145**

*§ 145.2 Performance of maintenance, preventive maintenance, alterations, and required inspections for an air carrier or commercial operator under the continuous airworthiness requirements of Parts 121 and 127, and for airplanes under the inspection program required by Part 125.*

Section 145.2 is amended to include an additional authorization for repair stations to perform maintenance, preventive maintenance, alterations, and inspections of airplanes operated in accordance with Part 125. The existing paragraph is redesignated paragraph (a) and a new paragraph (b) is added which requires repair stations conducting inspections on the aircraft to do the work in accordance with the inspection program approved for the operator of the airplanes involved. Section 145.2 is adopted as proposed.

**Part 125; Subpart A—General**

*§ 125.1 Applicability.*

This section prescribes the applicability of Part 125 and contains a significant number of changes from the proposal based upon the comments and subsequent FAA evaluation.

The notice proposed to cover airplanes certificated to carry 20 or more passengers or a maximum payload of 5,000 pounds or more. The payload is changed to 6,000 pounds or more in response to comments from corporate flight departments which point out that airplanes between 5,000 and 6,000 pounds payload capacity would be subject to the rule even though they do not differ significantly from other business jets not covered by the rule. It was also stated that operations of these airplanes have not presented problems in the past. The FAA's own analysis of these assertions confirms that they are valid and that it is possible to meet the needs of the public while at the same time narrowing the scope of the regulation.

The word "capacity" is added to the phrase "or a maximum payload" to clarify that it is the payload capacity of a particular type airplane which governs applicability, not the actual payload being carried. For these same reasons, "having a seating capacity of" is substituted for "certificated to carry." It is recognized that the original seating capacity and payload capacity may be modified by a supplemental type certificate (STC). However, it is not the intent of this rule that an STC be issued to evade the applicability of Part 125.

As stated in the notice, the rule does not apply to airplanes required to be

operated under Parts 121, 135, or 137 of Chapter 1. This excludes air carrier and agricultural operations from Part 125 because those rules provide appropriate regulation of those operators.

In response to several comments, a provision is added which excludes airplanes that have been issued restricted, limited, or provisional airworthiness certificates or experimental certificates. These airplanes are excluded from the applicability of Part 125 since they are operated under special conditions and for special purposes which make compliance with Part 125 impractical. Additionally, §§ 91.39, 91.40, 91.41, and 91.42 specify operating limitations for these airplanes, thereby precluding the need for certification under another rule. Airplanes which have been issued special flight permits are also excluded from the applicability of Part 125 since the flight destination, route, operating limitations, and other limitations deemed appropriate by the Administrator are specified as part of the special flight permit. Certification under Part 125 in these cases would not only be impractical for the industry and administratively burdensome to the FAA, but impossible in most instances since inability to comply with an existing rule is normally the basis for issuing a special flight permit.

Another provision is added, based on the comments, which allows airplanes operating without passengers or cargo for training, ferrying, positioning, or maintenance purposes to operate under Part 91. Because Part 125 operations are based on passenger seating or payload capacity, the proposal, if adopted, would have required training, ferrying, positioning, or maintenance test flights to be operated under the rules of Part 125 even though no passengers or cargo are carried on those flights. Parts 121 and 135 permit such flights to operate under Part 91. The proposed rule would have been more restrictive than those of Parts 121 and 135. The rule, therefore, is modified to allow airplanes to be operated under Part 91 without passengers or cargo for training, ferrying, positioning, or maintenance purposes.

An applicability exclusion similar to that discussed in the preceding paragraph is added to preserve present regulatory concepts which permit operators certificated under Part 121, 135, or 137 to conduct operations such as ferry flights, training flights, positioning flights, maintenance test flights, carriage of company officials, and other operations for which no charge is made, under the rules of Part 91. Operational experience with respect to those operations is satisfactory and there is no demonstrated need to require them to be conducted under Part 125.

Deviation authority is included. This is more fully discussed under § 125.3.

As proposed in the notice, Part 125 applies to operation of the described airplanes by foreign citizens. The entire Part applies to any operation conducted in the United States. Outside the United States compliance with only the airplane maintenance inspection program is required. Requiring the foreign citizen operator to comply with all of Part 125 for any operation within the United States establishes a level of safety equivalent to that required of U.S. citizens operating airplanes in the United States. Operations to a territory, possession, or a coastal city such as Key West would be an operation in the United States even if the airplane remains only a short time and is then flown outside the United States. Therefore, any foreign citizen intending to operate to a point in the United States is required to complete the entire certification process under Part 125 before the operation can be conducted. Provisions are included for the issuance of a special flight permit to allow operations into the United States for the purpose of becoming certificated under Part 125. Compliance with only § 125.247 is required for operations conducted outside the United States. This ensures a satisfactory level of airworthiness and is responsive to treaty obligations. In addition, there is some indication that U.S. registration is used by some foreign citizens as the aviation counterpart of the maritime "flag of convenience." Part 125 will enable the FAA to monitor and enforce obligations on these operators more effectively than in the past.

The rule provides for deferred compliance dates for persons holding a certificate under Part 123, a certificate under the commercial operator rules of Part 121, or operations specifications under Part 129. Several air travel clubs comment that they oppose being included in Part 125 because the level of safety under Part 125 is lower than under Part 123 and insurance premiums will be higher if operations are conducted under Part 125. Other air travel clubs favor the proposal. This illustrates the difficult regulatory problem which the FAA encounters in carrying out the DOT Task Force recommendation that a single set of rules be developed for all noncommon carrier commercial-in-nature operations of the affected airplanes. As previously discussed in this preamble, the DOT Task Force also recommended elimination of Part 123. In solving this regulatory problem the FAA used its best judgment in tailoring a set of regulations to arrive at what is considered to be an appropriate level of safety under Part 125. If an air travel club determines that for insurance or other reasons it desires to operate at a level of safety higher than Part 125, it may do so. For example, it may continue to insist that its pilots meet qualifications exceeding the minimum levels specified in the rule. The air travel club may elect to become certificated as an air carrier under Part 121. In some cases it may be appropriate for the air travel club to request amended operations specifications to allow operation under rules differing from Part 125. Use of amended operations specifications would not prove to be unduly burdensome to either the operator or the FAA. The proposal is modified to provide air travel clubs a compliance date of January 1, 1983. This allows air travel clubs now in operation adequate time to decide whether to expand into the air carrier field or operate under Part 125 and, once that decision is made, adequate time to implement it. Since only existing Part 123 operators are covered by the deferred compliance date, no new applications for certification under Part 123 are allowed after the effective date of Part 125.

Certificated Part 121 commercial operators are also allowed until January 1, 1983, to decide whether to seek certification as air carriers or operate under Part 125. With the exception of intrastate common carriers, no new applications for certification as a commercial operator under Part 121 will be allowed after the effective date of Part 125.

Under another modification to the proposal, foreign air carriers holding operations specifications under Part 129 on the effective date of Part 125, and those who obtain operations specifications after that date, are not required to comply with Part 125 until January 1, 1983. This deferred compliance date is included because the agency is considering a regulatory project to revise Part 129. It would not be appropriate to subject foreign air carriers to Part 125 until the agency determines the proper action on Part 129.

§ *125.3 Deviation authority.*

Notice 79–19 contains an extensive discussion of possible ways of excluding corporate flight department operations from Part 125. This was in recognition of the fact that these operations have an excellent safety record under Subpart D

and have disclosed no compliance or enforcement problems. The notice preamble suggests that the commenters consider an outright applicability exclusion or deviation authority.

The general thrust of the comments is that the payload capacity "floor" should be raised from 5,000 pounds to 6,000 pounds and that deviation authority should be provided in the rule. The basis for increasing the payload capacity floor to 6,000 pounds is discussed under § 125.1.

Deviation authority is included in the final rule to provide a reasonable degree of flexibility to assess operations otherwise subject to Part 125 which may be safely and satisfactorily conducted without compliance with all or part of Part 125. This is a limited form of deviation authority in the sense that it is expected that, in virtually all cases, the deviation would be sought from a few specific sections. However, the agency recognizes that there may be operators who qualify for a deviation which would require them to comply with another set of rules. Since deviation authority must be the subject of an application in a form and manner acceptable to the Administrator, the FAA will scrutinize closely each operation and the circumstances as part of its decisionmaking process. In addition, if a deviation is warranted, the FAA will fashion appropriate safeguards and limitations. These will be placed in the operations specifications of an operator certificated under Part 125, or in the deviation letter of any operator given a deviation from the entire Part. Consistency in the granting of deviation authority is achieved by the provision that only the Associate Administrator for Aviation Standards may issue letters of deviation authority.

The FAA will prepare an advisory circular which will discuss the deviation authority procedure and those items which must be submitted with each request. For example, it is intended that the facts of each operation be fully disclosed to the FAA. This will ensure that the deviation request is not an attempt, for example, to conduct commerical operations under Part 91 rules.

*§ 125.5 Operating certificate and operations specifications required. (proposed § 125.3)*

Section 125.5(b) makes the rules of Part 125 applicable to anyone who engages in operations covered by Part 125 without an appropriate certificate and operations specifications. This is an enforcement tool. The words "or a letter of deviation authority issued under § 125.3" are added after the word "Part" to make the rules of Part 125 applicable to an operator who does not hold a letter of deviaton authority.

*§ 125.7 Display of certificate. (proposed § 125.5)*

A provision is added to require that a true copy of the certificate and any letter of deviation authority be carried in each of the operators's airplanes. This permits the Administrator, in any inspection of an airplane, to determine immediately those rules under which the airplane is operating.

*§ 125.9 Definitions. (proposed § 125.r)*

This section is adopted as proposed except that the word "capacity" is added following the word "payload" in § 125.9(a). This is done to be consistent with the terminology of § 125.1(a). Additionally, the word "rotor" is deleted from paragraph (b) of the section because it is not appropriate in a rule applicable to airplanes only.

*§ 125.11 Certificate eligibility and prohibited operations.*

Part 125, as proposed in the notice and as adopted in this final rule, does not permit common carriage. To fully implement this basic concept, this section is added.

Paragraph (a) prohibits the issuance of a Part 125 certificate to an person authorized to operate airplanes under any Air Carrier Operating Certificate issued by the FAA. Paragraph (b) prohibits a Part 125 certificate holder from conducting any operation which results directly or indirectly from any person's holding out to the public to furnish transportation. This prohibits a Part 125 certificate holder from receiving referral business originating in a holding out to the public by any person, including holders of an Air Carrier Operating Certificate.

**Supart B—Certification Rules and Miscellaneous Requirements**

*§ 125.25 Management personnel required.*

Three commenters object to § 125.25 as being "too vague" or "not specific" regarding the use of the word "qualified" in describing the management personnel required. The rule specifies the objective that the management must be capable of achieving, that is, that the management personnel are capable of assuring that the certificate holder's operations are conducted in accordance with the requirements of Part 125. Since no specific qualifications were proposed, such as those prescribed in §§ 121.61 and 135.39, the word "qualified" is deleted.

In § 25.25(b)(3), the designation of "one qualified person" is changed to "a person," not only for the aforementioned reasons but also to afford the certificate holder more flexibility by permitting the designation of more than one person when the person primarily designated is absent for reasons such as illness or vacation.

*§ 125.29 Duration of certificate.*

Two commenters recommend that a certificate issued under Part 125 be for a duration of 1 year, at which time the certificate holder would be required to requalify as is currently required in Part 123 for air travel clubs. This was not proposed for comment in the notice. The FAA will review the need for such a provision as operating experience accrues under Part 125. It also should be noted that the rule authorizes the Administrator to suspend or revoke a certificate for any cause that, at the time of suspension or revocation, is grounds for denying an application for a renewal of certificate. This provision provides a measure of control over certificates issued under Part 125.

*§ 125.31 Contents of certificate and operations specifications.*

Section 125.31 is revised to delete references to special en route authorizations and limitations because Part 125 operations will not involve fixed or designated routes. References to special airport authorizations and limitations are deleted for the same reason.

*§ 125.35 Amendment of operations specifications.*

One commenter states that the phrase "the amendment becomes effective not less than 30 days after the holder receives notice of the adoption of the amendment" in § 125.35(d) is not clear in its intent or application. The intent is to require a 30-day lead time for FAA-initiated amendments to existing operations specifications. To clarify the application of the rule, the phrase has been changed to read "that amendment becomes effective. . . ."

*Proposed § 125.37 Emergency evacuation.*

One commenter states that this item should be amended so that present operators who have already demonstrated emergency evacuation ability will not have to repeat the process. The title of this section, as proposed, is misleading because § 125.189 contains the provisions for emergency evacuation. However, in

considering the comment, the FAA noted that § 125.37 duplicates some aspects of Appendix A. Therefore, proposed § 125.37 is withdrawn and the remaining sections in Subpart B are numbered accordingly.

*§ 125.37 Duty time limitations. (proposed § 125.39)*

Several commenters object to this rule as proposed. Some recommend that the rule be made more stringent by using the same language as that contained in the flight time limitations of Part 121. Other commenters consider the rule too restrictive because it severely limits flexibility of operation. The rule, as proposed, is the same as that prescribed for air travel clubs. Consideration was not given in Notice 79–19, however, to providing for augmented crews on extended flights. Proposed § 125.39, therefore, is renumbered § 125.37 and is revised to include an additional provision whereby the Administrator may specify other rest, flight time, and duty time limitations in the operations specifications. In specifying other provisions, the Administrator considers the circumstances of the particular operation.

*§ 125.45 Inspection authority. (proposed § 125.47)*

Proposed § 125.47 is renumbered § 125.45 and is revised by appropriate reference to a letter of deviation authority to be consistent with the deviation authority provided for in § 125.3.

*§ 125.49 Airport requirements. (proposed § 125.51)*

Proposed § 125.51(c) is amended by substituting the words "their use" for the word "it" to permit approval of the use of flare pots or lanterns. Section 125.51 is renumbered § 125.49.

*§ 125.53 Flight locating requirements. (proposed § 125.55)*

One commenter objects because this rule does not propose the requirement to file an FAA flight plan for all flights, as required of air travel clubs under Part 123. This is another example of the difficult regulatory problems encountered by the FAA in tailoring a set of regulations to apply to the diverse types of operations which are included in Part 125. In dealing with that problem, the FAA elected to tailor this section after a Part 135 provision to prescribe those procedures that must be established by the certificate holder for locating each flight for which an FAA flight plan is not filed. This recognizes that operations under Part 125 will involve remote locations where it is not possible to file a flight plan. The FAA will monitor the operating experience under this regulation and and will not hesitate to propose different rules if that is deemed advisable. Section 125.55 is renumbered § 125.53 and is adopted as proposed.

**Subpart C—Manual Requirements**

The manual requirements in this subpart reflect a methodology to ensure that procedures and policies essential for safe operations are readily available for the guidance of flight, ground, and maintenance personnel. Therefore, with the exception of minor changes, the subpart appears as proposed.

*§ 125.71 Preparation.*

One commenter states that while § 125.71 requires the certificate holder to prepare and keep current a manual for the guidance of personnel, Part 125, as proposed, did not require the certificate holder to comply with that manual. Compliance with the requirements of the certificate holder's manual is made mandatory by operations specifications. Therefore, § 125.71 is adopted as proposed except the phrase "other than one who is the only pilot used in the certificate holder's operations," is deleted since it is unlikely that airplanes certificated for only one pilot would fall under Part 125.

*§ 125.73 Contents.*

One commenter notes that, as proposed, this section would delete the requirement for the revision number to appear on each revised page. This was not intentional and the rule, as adopted, includes this requirement. In addition, proposed paragraph (q) is redesignated (r) and a new paragraph (q) is added. It requires inclusion of the identity of each person authorized to administer tests required by this Part and designation of the tests authorized to be given by that person. This is necessary to ensure that responsibility for administering required tests is clearly established.

*§ 125.75 Airplane flight manual.*

Section 125.75 is changed by deleting "type of transport category" in paragraph (a) and "transport category" in paragraph (b). Part 125 covers operations of airplanes which may not be transport category type airplanes; however, the requirement for carriage of airplane flight manuals or approved equivalent is essential in providing an adequate level of safety in all operations under Part 125.

Sections 125.75 (a) and (b) are revised to allow an approved equivalent of the Airplane Flight manual to be used for those airplanes that were not required by type certification to have an Airplane Flight Manual. In addition, paragraph (b) is clarified to allow the manuals required by §§ 125.71 and 125.75 to be combined.

**Subpart D—Airplane Requirements**

*§ 125.91 Airplane requirements: general.*

This proposal includes a requirement that each airplane be weighed before being placed in service under Part 125 and reweighed every 3 years thereafter. Two commenters object to the requirement because it does not contain an exception for airplanes that have been weighed within the last 3 years. The FAA agrees that if an airplane has been weighed within 3 years of being placed in service under Part 125, it is unnecessary to reweigh the airplane when it enters Part 125 service. The rule is revised accordingly. In addition, a provision is added which states that the empty weight and center of gravity need not be ascertained if an airplane has been issued an original airworthiness certificate within the 36 calendar months preceding the operation. The procedure for issuing an original airworthiness certificate includes satisfactory determination of empty weight and center of gravity.

*§ 125.93 Airplane limitations.*

One commenter requests that the privileges afforded by Special Civil Air Regulation SR411B, recodified as §§ 121.198 and 129.23 of the Federal Aviation Regulations, be extended to operations conducted under Part 125. The commenter states that this could be accomplished as a second paragraph to § 125.93. The commenter further states that "if this section is not included we will lose an operating privilege that we now enjoy as a commercial operator of large aircraft (Douglas DC–7B)."

The agency did not contemplate that overweight operations would be conducted under Part 125 and hence there were no proposals to permit them. They require special safeguards to ensure an adequate level of safety. The commenter may petition for exemption which, if justified, could include appropriate safeguards.

**Subpart E—Special Airworthiness Requirements**

Sections 125.111 through 125.187 bring to Part 125 the substance of §§ 121.213 through 121.289. These special airworthiness requirements provide an applicant under Part 125 the privilege of using certain airplanes not certificated under Part 4b of the Civil Air Regulations, Part 25 of the FAR, or

which do not meet Special Civil Air Regulations 422/422A or 422B. Since this privilege is afforded certificate holders under Part 121, it is appropriate that it be afforded certificate holders under Part 125. Further, since carriage of passengers for compensation or hire is permitted under both Parts 121 and 125, it is appropriate that these sections be comparable.

*§ 125.189 Demonstration of emergency evacuation procedures.*

The specific requirements of Appendix B are applicable to those operators who are required to demonstrate emergency procedures in accordance with § 125.189. Several commenters suggest that airplanes for which emergency evacuation procedures previously have been demonstrated by the manufacturer or other persons satisfy the requirement of this Part. The FAA does not agree. Manufacturers are required by § 25.803(c)(7)(ii) to use airline crews in their demonstrations and the Administrator approves training programs of the airlines. There are no training requirements in Part 125 so the Administrator must ensure that each operator's procedures are satisfactory. Provisions are made in §§ 125.189 (b) and (d), however, to relieve certificate holders who previously have demonstrated required procedures in the same type and model airplanes under Part 121 or 123 from redemonstration for certification under Part 125.

**Subpart F—Instrument and Equipment Requirements**

*§ 125.207 Emergency equipment requirements*

Section 125.207(c) is deleted because it duplicates § 125.247(a)(3) which requires that each item of required equipment be regularly inspected,

*§ 125.209 Emergency equipment: extended overwater operations.*

Section 125.209(a)(2) is revised to require each liferaft to be of an approved type. This is consistent with other provisions of the FAR. This change is based upon the safety consideration that liferafts must be suitable for use in the event of a ditching or other incident.

*§ 125.215 Operating information required.*

One commenter states that the checklist required by this section is not required to be approved. This is true; however, § 125.215 requires that the checklist be appropriate. This provides an adequate level of safety.

*§ 125.219 Oxygen for medical use by passengers.*

One commenter indicates that § 125.219(b) is ambiguous or contradictory but did not explain his reasons. The intent of the rule is to prohibit smoking within 10 feet of where medical oxygen is being used or stored. This is a minimum standard and nothing prohibits the pilot in command from prohibiting smoking in the entire airplane when medical oxygen is in use.

*§ 125.221 Icing conditions: operating limitations.*

Paragraphs (b) and (c) are editorially changed to make it clear that ice protection equipment must meet the requirement of Appendix C of Part 125. The notice erroneously referred to § 34 of Appendix A to Part 135. This does not involve a substantive change.

*§ 125.223 Airborne weather radar equipment requirements.*

Section 125.223 requires airborne weather radar. One commenter states that this requirement is not needed in its operations which seldom involve flights beyond a radius of 5 miles from takeoff. Section 125.223 provides for situations where radar may not be required and § 125.3 provides for deviations. Operators may be able to justify deviation authority from this requirement.

**Subpart G—Maintenance**

*§ 125.241 Applicability.*

No comments were received concerning § 125.241 and, except for editorial changes, § 125.241 appears as proposed in the notice. The editorial changes are not substantive and consist of: the deletion of the words "and inspection" from the title of the subpart; substitution of the words "aircraft engine" for "airplane engine"; and the addition of the phrase "and their component parts" to the text.

The words "and inspection" are redundant since, by definition, inspection is a part of maintenance.

The words "aircraft engine" are substituted for "airplane engine" since "aircraft engine" is defined in Part 1. Further, by definition, an airplane is an aircraft and, therefore, only aircraft engines are eligible for installation on airplanes. Even though Part 125 is applicable to airplanes only, the introduction of a new term might cause confusion and is not required to accomplish the objective of the regulation.

The phrase "and their component parts" is added since, in some instances, parts of airframes, aircraft engines, propellers, appliances, and survival and emergency equipment may be maintained and approved for return to service when disassociated from the products of which they are a part. The addition clarifies a requirement which has been understood; that is, rules which apply to the whole, apply to the part.

*§ 125.243 Certificate holder's responsibilities.*

One commenter states that §§ 125.243 and 125.249 are in conflict because the former assigns responsibility for maintenance to the certificate holder, while the latter makes reference only to inspections. Section 125.243 makes the certificate holder primarily responsible for airworthiness, the performance of maintenance, preventive maintenance, alteration, and for ensuring that personnel accomplishing these functions make appropriate entries in the airplane and maintenance records. Section 125.249 deals only with the contents of the certificate holder's manual. However, the manual and its contents are only parts of the holder's responsibility. The sections are not actually in conflict; rather, one supplements the other.

The repetitious language of paragraphs (a) and (b) in the notice is reduced by rearrangement. Additionally, clear standards for entries for which the certificate holder is responsible are substituted for the indefinite term "appropriate" appearing in paragraph (d) of the notice. These editorial changes are not substantive and the requirements of the section are unchanged from those proposed in the notice.

*§ 125.245 Organization required to perform maintenance, preventive maintenance, and alteration.*

Section 125.245 requires a certificate holder to determine that persons with whom the holder arranges for maintenance, preventive maintenance, or alteration have organizational structures sufficient to reasonably ensure that the work arranged for will be completely and properly accomplished and that required record entries regarding that work will be made. The certificate holder must also determine that the organizational structure is sufficient to support the required inspection provisions of § 125.249(b)(2). This requirement is emphasized because some organizations, while adequate for performance of the work involved, may have insufficient personnel to meet the required inspection provisions of § 125.249(b)(2).

One commenter states that the phrase "enough qualified management personnel" used in § 125.25 affords too much latitude to the FAA regarding the certificate holder's management organization, and that the same is true for § 125.245. The reference to § 125.245 apparently relates to the phrase "organization adequate to perform" which appears in that section. Both phrases, however, have been used in Part 121 for several years without a history to support the commenter's position and, therefore, appear as proposed.

The title of § 125.245 is changed to make clear that the section deals with the organization required to perform specific functions as opposed to the organization of the functions. Additionally, paragraphs (a) and (b) are condensed to eliminate repetitious language appearing in the notice. However, no substantive change to the provisions of the notice is made.

*§ 125.247 Inspection programs and maintenance.*

Two commenters state that "hard-time overhauls" under § 125.247(e) of the proposal impose unrealistic limitations and an unnecessary economic burden on operators. One of these commenters suggests that "power deterioration criteria" provided by engine manufacturers would be more realistic in determining the need for engine overhauls.

The use of manufacturer's recommended overhaul times establishes a basic requirement for each certificate holder, but does not limit the holder to those times indefinitely. Certificate holders will not be able to use overhaul times established, for example, by a Part 121 operator who may have substantially extended overhaul times based on specific maintenance procedures, tests or checks, and experience which the Part 125 certificate holder may not have. The Part 125 certificate holder, however, will be permitted to extend overhaul times based on the holder's own procedures and experience, since the rule permits the certificate holder to develop its own programs. "Power deterioration criteria" could be a part of such a program if justified by the certificate holder.

A third commenter states that § 125.247 should not apply to U.S.-registered airplanes operated entirely outside the United States by other than U.S. citizens since the section requires the airplane to be inspected and maintained in a manner which may be contrary to the regulations of the governing State. Further, the commenter states that governing States would be forced to prohibit operations of U.S.-registered airplanes by operators of the governing States in order to fulfill their responsibilities under the Chicago Convention.

The commenter's analysis does not take into consideration the option in § 125.247(e)(3) (paragraph (e) of the notice) which provides that operators may develop their own programs. Such programs can be designed to meet the requirements of both the United States and the governing States.

It should be noted that § 125.247(a)(3) (§ 125.247 (a) and (b) of the notice) speaks to both inspection programs and maintenance, while § 125.247(d)(1) (§ 125.247(e) of the notice) speaks only to maintenance (engine overhaul times). Thus airplanes, including aircraft engines, propellers, appliances, survival and emergency equipment, and their component parts, must be inspected in accordance with an inspection program. Engines, in addition to the inspection requirements, must be maintained in accordance with manufacturer's recommended overhaul periods, or those approved by the Administrator. Both the inspection program required by § 125.247(d)(1) and the maintenance required by § 125.247 (a)(1) and (a)(2) are to be made a part of the manual required by § 125.249.

The changes to § 125.247 clarify the requirements of the section by providing a breakdown of the section's requirements but do not result in substantive changes to the requirements proposed in the notice.

*§ 125.249 Maintenance manual requirements.*

One commenter recommends that maintenance personnel be permitted to "approve for return to service" by their initials and certificate numbers, rather than their names as required by § 125.249(b)(2) (§ 125.249(c)(3) of the notice). This is a deviation from the requirements of Part 43 and, since Part 125 does not otherwise deviate from Part 43, doing so in this instance would introduce ambiguity in the requirements of the two Parts.

Another commenter objects to the "required inspection" requirements of § 125.249(a)(3)(ii) (§ 125.249(b)(2) of the notice), stating that such inspection does not enhance safety when the work force is small or when shift work is not involved. However, certificate holders will not have control of either the use of shift work or work force size when arrangements are made with others to accomplish maintenance. Further, the privilege of arranging for others to accomplish certain maintenance functions will be used, at one time or another, by most certificate holders, including those who have maintenance facilities of their own. Additionally, shift work and work force size are only two of many reasons for using required inspection procedures. Therefore, the provisions of § 125.249(b)(2) of the notice are adopted without substantive change as § 125.249(a)(3)(ii). The section is rearranged and, for the purpose of clarity, § 125.249(b) is made specific and consistent with Part 43, since variance from Part 43 is not intended.

*§ 125.251 Required inspection personnel.*

One commenter states that § 125.251 requires neither a training program nor a determination of qualification for maintenance personnel and thus does not provide the same level of safety as Part 123. However, under Part 125 required inspections may only be accomplished by certificated persons who are authorized by Part 43, while they may be accomplished by repairments or other personnel, after training and a determination of qualification under Part 123. The limitations imposed by Parts 43, 65, and 145, plus the determination of qualification made under § 125.245, will provide a level of safety at least the equivalent of Part 123. The section, therefore, is adopted without change.

**Subpart H—Airman and Crewmember Requirements**

One commenter recommends that the airman and crewmember requirements be the same as those under Part 123. These were not proposed because the FAA made certain judgments in selecting the provisions for Part 125 and it is not essential to carry over these requirements from Part 123. Operating experience will be closely monitored and more stringent provisions will be proposed if necessary.

*§ 125.263 Composition of flightcrew.*

One commenter objects to the proposed rule because it lacks the specific training program requirements to be used to qualify a pilot in the performance of flight engineer duties and allows any flight crewmember to perform these duties. The commenter fails to consider that a fully qualified flight engineer will be part of the flightcrew of any airplane for which the type certificate requires a flight engineer. It further provides that a flight crewmember qualified to perform duties of a flight engineer in case of incapacitation must be aboard each flight.

*§ 125.267 Flight navigator and long-range navigation equipment.*

Section 125.267(a)(2) is revised to require two independent long-range navigation means that are approved. In the present and future navigation of oceanic areas, flight tracks must be maintained within certain limits. If the navigation system failed, it would be impossible to maintain those tracks. Therefore, the requirement is increased to provide a functioning backup system. The wording, "specialized means of navigation," implies that Doppler radar or Inertial Navigation System must be used. This has been changed to read "long-range navigation" to allow use of Omega, "Loran-C," or any other long-range navigation system approved in the future.

One commenter states that the phrase "reliably fixed" is not clear and the requirement for a navigator, when the airplane position cannot be reliably fixed for more than 1 hour, is too restrictive. The term "reliably fixed" has been successfully used in Part 121 and is necessary to provide acceptable accuracy for air traffic control purposes. This section requires a navigator or approved long-range means of navigation which enables a reliable determination of the airplane's location by each pilot seated at the pilot's duty station. The FAA concludes that this requirement is realistic considering the present state-of-the-art of navigation systems and the increase in flights in oceanic and remote areas.

*§ 125.269 Flight attendants.*

One commenter objects to basing the requirement for flight attendants on the number of passengers carried and not on seating capacity. The commenter also objects because there were no proposed requirements for a flight attendant for less than 19 passengers. The rule is consistent with the flight attendant requirements of § 91.215 which applies to large airplane operations. It bases the flight attendant requirements on the number of passengers on the airplane, and none are required if less than 20 passengers are carried. The FAA considers those requirements to be satisfactory for the noncommon carrier operations which will be conducted under Part 125. Proposed § 125.269 is adopted without change.

**Subpart I—Flight Crewmember Requirements**

*§ 125.281 Pilot-in-command qualifications.*

Three commenters recommend that the pilot-in-command qualifications include a requirement for an airline transport pilot certificate. Other than total flight time as a pilot of at least 1,200 hours rather than 1,500 hours, the aeronautical experience requirements are identical to those required for an airline transport pilot certificate. The primary reason for establishing these standards is because there are highly qualified pilots who do not meet the requirements for a first class medical certificate and therefore do not hold an airline transport pilot certificate. The FAA considers these operations to be commercial in nature which requires a commercial pilot certificate, along with required aeronautical experience, to provide an acceptable degree of safety. Paragraph (c) is deleted because the requirements of Part 61 are applicable and those requirements need not be restated in this section.

*§ 125.285 Pilot qualifications: recent experience.*

One commenter states that in §§ 125.285 through 125.295, use of the terms "check airman," "approved check airman," "authorized check pilot," and "authorized check airman" require clarification as to whether or not these terms are synonymous. The FAA agrees that this should be clarified; therefore, the term "authorized check airman" is used in place of "check airman," "approved check airman," or "authorized check pilot" where such terms appear in this subpart.

Proposed § 125.285(c)(2), which required a pilot to be currently qualified in another airplane of the same group, is deleted. This is too restrictive because it does not allow a certificate holder operating only one type of airplane in the same group to allow its pilots to use a visual simulator to reestablish recency of experience.

Proposed § 125.285(c)(3) is redesignated (c)(2) and the word "training" is changed to "testing" because Part 125 contains no training requirements. Thus, the landings required in the airplane must be made within 45 days following completion of simulator testing.

*§ 125.287 Initial and recurrent pilot testing requirements.*

One commenter objects to the absence of a requirement for flightcrew initial or recurrent training. Training programs are required for air carriers because they are required by the Federal Aviation Act of 1958 to provide the highest degree of safety. Under the Part 125 regulatory design, reliance is placed upon required tests and checks to ensure that airmen are proficient. These tests and checks are adequate to ensure an acceptable level of safety in Part 125.

*§ 125.291 Pilot in command: instrument proficiency check requirements.*

One corporate flight department states that the required 6-month pilot-in-command instrument proficiency check, as opposed to once each 12 months, is an added requirement "not justified by the excellent safety record of the FAR 91, Subpart D, operator." The FAA does not agree. Corporate operations are only one segment of those covered by Part 125. The regulatory design of Part 125 emphasizes tests and checks in lieu of training requirements. This requirement is part of that philosophy which is applied to all Part 125 operations to ensure pilot competency.

Section 125.291 is changed to require each pilot in command to demonstrate only those instrument approach procedures which the certificate holder desires to use instead of at least one instrument approach using an ILS, VOR, and NDB facility as proposed. The letter of competency will be limited to those facilities and types of procedures satisfactorily demonstrated. This will ensure an adequate level of safety.

*§ 125.293 Crewmember: tests and checks, grace provisions, accepted standards.*

One commenter asks if this rule means that a person who is unable to demonstrate a satisfactory performance on a pilot-in-command check could serve as a second in command if the tests and checks applicable to a second in command have been satisfactorily demonstrated. The proposal would have precluded serving as second in command. Upon reconsideration, the proposal is revised to provide that the certificate holder may not use the pilot, nor may the pilot serve, in the capacity for which the pilot is being checked in operations under Part 125 until the pilot has satisfactorily completed the check. This permits a pilot in command who fails the pilot-in-command checks to serve as second in command if qualifed and if the tests and check applicable to a second in command have been demonstrated satisfactorily.

*§ 125.297 Approval of airplane simulators and other training devices.*

One commenter recommends that approval of a simulator be automatic if the simulator is already approved under Part 121 for a certificated air carrier. While the simulator is an approved simulator, the use in checks by an operator under this Part must be specifically approved. The reason is that the air carrier that uses a simulator has

an approved training program and the approval of the use of the simulator is predicated on its use in the training program and ensures that all phases of flight are covered. This is not true of a certificate holder under Part 125. For approval to use a simulator, the certificate holder must show the specific procedures and maneuvers that it plans to use in the testing of pilots.

**Subpart J—Flight Operations**

*§ 125.311 Flight crewmembers at controls.*

One commenter states that the requirements in § 125.311 deletes the provision in Part 91 that one crewmember use an oxygen mask above flight level 350 when one pilot leaves the flight station. The FAA disagrees. The requirement of § 91.32 must be complied with by operators under Part 125 since the rules of Part 125 are requirements in addition to the rules of Part 91, except Subpart D.

*§ 125.313 Manipulation of controls when carrying passengers.*

Several commenters object to the relaxation from Part 121 and 123 rules regarding persons at the controls of revenue passenger flights. In response to their comments, § 125.313 is revised to prohibit any persons from manipulating the controls during passenger flights except qualified pilots employed by the certificate holder operating that airplane.

*§ 125.315 Admission to flight deck.*

This rule prohibits admission of any person to the flight deck except for specific authorized categories. One category is "any person who has the permission of the pilot in command." One commenter expresses concern that this is too lax. The FAA does not agree. A pilot in command is responsible for the operation and safety of an aircraft. This includes the exercise of good judgment. If operating experience indicates the required judgment is not being exercised, appropriate restrictions will then be imposed.

*§ 125.317 Inspector's credentials: admission to pilots' compartment: forward observer's seat.*

Two commenters complain that providing an observer's seat in the cockpit for an FAA inspector is too restrictive for corporate flight department operations and aircraft manufacturers. The FAA considers this provision necessary to observe cockpit operations of the large airplanes which will be operated under Part 125. There may be specific, limited cirrcumstances in which a deviation may be appropriate.

*§ 125.325 Instrument approach procedures and IFR Landing minimums.*

This section is revised to provide more flexibility for the Part 125 operator. As it was proposed in the notice, each instrument approach procedure for each airport used by the Part 125 operator would be required to be listed in the operations specifications. This is an air carrier requirement and is not necessary for Part 125 operations. The revision requires that each type of instrument procedure to be used, such as ILS, NDB, and VOR, must be listed in the operations specifications. This will reduce the paperwork required of Part 125 operators.

*§ 125.327 Briefing of passengers before flight.*

Paragraph 125.327(e) is deleted because it duplicates the requirement in § 125.327(a) to conduct a briefing before takeoff. Therefore, § 125.327(f) is redesignated (e). The redesignated paragraph is revised to clarify that the "before overwater briefing" need not be given before takeoff but must be given before starting the overwater portion of the flight.

**Subpart K—Flight Release Rules**

*§ 125.359 Flight release under VFR.*

One commenter states that the proposed rule removes the restriction for commercial operators to fly their airplanes under instrument flight rules (IFR). Present Part 121 does not require visual flight to be conducted under IFR. However, in some cases the operations specifications of Part 121 operators require all flights to be conducted under IFR. There may be circumstances under Part 125 where safety will require that all operations, including those under visual flight conditions, be conducted under IFR. The operations specifications of a Part 125 operator can be amended to impose such a requirement.

*§ 125.365 Alternate airport for departure.*

Reference to the word "dispatch" in the notice is deleted because Part 125 does not contain dispatching requirements.

*§ 125.371 Continuing flight in unsafe conditions.*

One commenter states that it is not appropriate to continue flight in an unsafe condition and suggests that this provision is not necessary if there were a provision for an approved mimimum equipment list (MEL) in Part 125. Section 125.201 makes this provision; however, the FAA does not agree that it eliminates the need for § 125.371. It is necessary to prohibit continuation of a flight toward the destination airport if it cannot be completed safely unless in the pilot's opinion there is no safer procedure. In that event, continuation of flight must be treated as an emergency situation.

*§ 125.379 Landing weather minimums: IFR*

The requirement that a pilot in command must have 100 hours in operations under this Part is deleted. Under the present Part 91, a pilot in command may use the lowest minimums authorized, and it is not a compromise of safety to allow pilots in command who have conducted operations under Parts 91, 121, 123, and 135 to continue to do so under Part 125. However, because Part 125 allows operation for compensation or hire, there is a need for the pilot in command to have 100 hours in the type airplane before exercising the authority to descend to authorized minimums.

*§ 125.381 Takeoff and landing weather minimums: IFR*

The reference to radio range is changed to nonprecision approach procedures because there are no longer any radio ranges in the conterminous United States and nonprecision approach describes any procedure that is not a precision approach, that is, any procedure without vertical guidance. In addition, the provision that an approach may be continued if the airplane is on a nonprecision approach and has reached the MDA is changed to the final approach segment. The final approach segment is defined and is pictured on approach charts. This makes nonprecision approaches consistent with precision and PAR approaches. Finally, the missed approach point (MAP) is substituted for the minimum descent altitude (MDA) in the last sentence, because MAP is a defined point and MDA is not a defined point.

One commenter states that § 125.381 prohibits any "look-see"approaches. The FAA agrees that this paragraph prohibits any approach when the weather is reported to be below minimums except in certain cases when the airplane is on the final approach segment. The FAA concludes that instrument approaches of airplanes covered by Part 125, in reported weather conditions below minimums, should be prohibited as part of the selective upgrade of safety from Part 91 levels. This section does not prohibit a "look-see" approach at an airport with an approved instrument approach

procedure when that airport has no weather reporting facility. Descent below minimums is coverd by Part 91 which must be complied with by Part 125 operators.

*§ 125.383 Load manifest.*

One commenter states that the requirement concerning landing weights is deleted. This is an inadvertent omission and § 125.383(a)(3), as adopted, includes landing weights. One commenter observes that the flight attendant names were required to appear in two places in accordance with §§ 125.383 and 125.403. The FAA agrees and the requirement for flight attendant names is deleted from § 125.383. The section is revised to require passengers' names on the load manifest. This requirement is the same as that required for supplemental air carriers, commerical operators, and air travel clubs.

**Subpart L—Records and Reports**

*§ 125.401 Crewmember record.*

One commenter points out that § 125.401, as proposed, eliminates the requirement for maintaining crewmember training records. The commenter is correct. However, Part 125 does not contain training requirements and requiring training records would be inappropriate. Another commenter states that the requirement of § 125.401(a)(1) to maintain mute check and route qualification records is inappropriate since such qualifications are not practical in the types of operations anticipated under Part 125. The FAA agrees that Part 125 will not involve fixed or designated routes and these requirements are deleted. However, the remaining records are considered essential to a certificate holder to ensure that crewmembers meet at least minimum qualifications for the operations conducted and are essential to the FAA in its routine surveillance activities. Except for the noted changes, § 125.401 is adopted as proposed.

*§ 125.403 Flight release form.*

One commenter states that requiring the names of all crewmembers to be included on both the load manifest and the flight release is redundant. The FAA agrees and § 125.403(a)(4) is changed to require the name and duty assignment of each crewmember. Flight releases provide an effective means by which the certificate holder may assign crewmember duties and provide information concerning the anticipated flight in a clear, concise form. Further, they provide a record of specific responsibilities in the event they come under discussion during or subsequent to the flight.

*§ 125.405 Disposition of load manifest, flight release, and flight plans.*

One commenter points out that requiring the pilot route qualification record to be carried in the airplane is inappropriate since route qualification is not practical under Part 125. The FAA agrees that Part 125 operations will not involve fixed or designated routes. Section 125.405(a)(4) is deleted. Section 125.405(a)(5) is redesignated (a)(4) and the intended route of the flight is made a required part of the flight plan. Except for these changes, the section is adopted as proposed.

*§ 125.407 Maintenance log: airplanes.*

The qualifying phrase "that is critical to the safety of flight" in proposed § 125.407(a) introduces a subjective test regarding action to be taken in response to reported or observed failures or malfunctions. It could result in some failures or malfunctions being repaired without appropriate maintenance entries. Part 43 requires a record of all maintenance or inspection, and since all other maintenance required in Part 125 must be done in accordance with Part 43, the proposal is in conflict with Part 43. Therefore, instead of developing a new system and complicating the regulatory structure, the FAA finds that the provisions of § 135.65 (c) and (d) provide an adequate level of safety. Sections 135.65 (c) and (d) are therefore incorporated as § 125.407 with the following changes: The reference to rotor is deleted from paragraph (c); the phrase "the applicable maintenance requirements of this chapter" is deleted and "in accordance with Part 43" substituted; and "§ 125.249" is substituted for "§ 135.21" in paragraph (d). These changes are in concert with the substance of the notice.

*§ 125.409 Reports of defects or unairworthy conditions.*

No comments were received on this section which is a simplified procedure for the reporting of defects and unairworthy items. FAA Form 8010-7 will normally be used for these reports. However, if a certificate holder desires to use another reporting method, that method may be used provided it is made a part of the certificate holder's manual, required by § 125.249, and is approved by the Administrator. Additional material is added to the proposed section to clarify a time frame for submission of reports and to specify where reports are to be submitted. This permits the FAA to make timely use of the data in correcting deficiencies which adversely affect safety.

*§ 125.411 Airworthiness release or maintenance record entry.*

One commenter points out that since Part 125 does not provide for certificate holders to use "repairmen," the reference in § 125.411(a)(3) is inappropriate. The commenter is correct and the phrase "authorized in Part 43" is substituted. This eliminates the need for the last paragraph appearing under subparagraph (3) in the notice. The words "60 days" are substituted for "2 months" in paragraph (c) to eliminate the question of calendar months. Except for these minor changes, the section appears as published in the notice.

**Federal Reports Act Approvals**

As adopted by these amendments, §§ 125.21, 125.35, 125.53, 125.71, 125.249, 125.295, 125.319, 125.323, 125.383, 125.401, 125.403, 125.407, 125.409, and 125.411 will become effective 30 days after notice is published in the **Federal Register** that the requirements of these sections are approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

**Adoption of the Amendments**

Accordingly, 14 CFR Chapter 1 is amended as follows, effective February 1, 1981.

## PART 43—MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION

**§ 43.15 [Amended]**

1. By amending § 43.15(a) by adding the words "or Part 125" after the words "Part 123."

## PART 91—GENERAL OPERATING AND FLIGHT RULES

**§ 91.54 [Amended]**

2. By amending § 91.54(b)(1) (i) and (ii) by adding the number "125," after the number "123".

3. By adding a new paragraph (c) to § 91.161 to read as follows:

**§ 91.161 Applicability.**

* * * * *

(c) Section 91.165, 91.169, 91.171, and Subpart D of this Part do not apply to an airplane inspected in accordance with Part 125 of this chapter.

**§ 91.181 [Amended]**

4. By amending the second sentence of § 91.181(a) by adding "125," after "123".

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

5. By revising § 121.1(a)(5) to read as follows:

**§ 121.1 Applicability.**

(a) * * *

(5) Each commercial operator when it engages in the carriage of persons or property in air commerce for compensation or hire—

(i) With large aircraft other than airplanes; or

(ii) As a common carrier solely between places entirely within any state of the United States, with airplanes having a seating capacity of more than 30 passengers or a maximum payload capacity of more than 7,500 pounds.

* * * * *

6. By adding a paragraph (f) to § 121.53 to read as follows:

**§ 121.53 Duration of certificate.**

* * * * *

(f) Each operating certificate with commercial operator authority for the operations of airplanes issued under this Part and in effect January 31, 1981 terminates January 1, 1983, unless the certificate holder applies to:

(1) Conduct its operations in accordance with the air carrier rules of Part 121; or

(2) Conduct common carriage operations solely between points entirely within any state of the United States using airplanes having a seating capacity of more than 30 passengers or a maximum payload capacity of more than 7,500 pounds.

If the certificate holder makes timely application in accordance with this paragraph, a certificate continues in effect until final FAA action is taken on the application.

## PART 123—CERTIFICATION AND OPERATIONS: AIR TRAVEL CLUBS USING LARGE AIRPLANES

7. By adding a new paragraph (d) to § 123.1 to read as follows:

**§ 123.1 Applicability.**

* * * * *

(d) The rules of this Part apply only to holders of air travel club operating certificates issued before January 31, 1981, and will continue in effect until January 1, 1983.

8. By revoking Part 123 effective January 1, 1983.

## PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

9. By amending § 135.1(a)(3) to read as follows:

**§ 135.1 Applicability.**

(a) * * *

(3) The carriage in air commerce of persons or property for compensation or hire as a commercial operator (not an air carrier) in aircraft having a maximum seating capacity of less than 20 passengers or a maximum payload capacity of less than 6,000 pounds, or the carriage in air commerce of persons or property in common carriage operations solely between points entirely within any state of the United States in aircraft having a maximum seating capacity of 30 seats or less or a maximum payload capacity of 7,500 pounds or less; and

* * * * *

## PART 145—REPAIR STATIONS

10. In § 145.2 by amending the title of that section, by designating the existing paragraph as (a), and by adding a new paragraph (b) to read as follows:

**§ 145.2 Performance of maintenance, preventive maintenance, alterations, and required inspections for an air carrier or commercial operator under the continuous airworthiness requirements of Parts 121 and 127, and for airplanes under the inspection program required by Part 125.**

(a) * * *

(b) Each repair station that performs inspections on airplanes governed by Part 125 of this chapter shall do that work in accordance with the inspection program approved for the operator of the airplane.

11. Complaince with §§ 125.21, 125.35, 125.53, 125.71, 125.249, 125.295, 125.319, 125.323, 125.383, 125.401, 125.403, 125.407, 125.409, and 125.411 is not required until 30 days after a notice of approval of the requirements of those sections by the Office of Management and Budget is published in the **Federal Register.**

### New Part 125

12. By adding to Subchapter G of 14 CFR Chapter 1 a new Part 125 to read as follows:

## PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE

### Subpart A—General

Sec.
125.1 Applicability.
125.3 Deviation authority.
125.5 Operating certificate and operations specifications required.
125.7 Display of certificate.
125.9 Definitions.
125.11 Certificate eligibility and prohibited operations.

### Subpart B—Certification Rules and Miscellaneous Requirements

125.21 Application for operating certificate.
125.23 Rules applicable to operations subject to this part.
125.25 Management personnel required.
125.27 Issue of certificate.
125.29 Duration of certificate.
125.31 Contents of certificate and operations specifications.
125.33 Operations specifications not a part of certificate.
125.35 Amendment of operations specifications.
125.37 Duty time limitations.
125.39 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.
125.41 Availability of certificate and operations specifications.
125.43 Use of operations specifications.
125.45 Inspection authority.
125.47 Change of address.
125.49 Airport requirements.
125.51 En route navigational facilities.
125.53 Flight locating requirements.

### Subpart C—Manual Requirements

125.71 Preparation.
125.73 Contents.
125.75 Airplane flight manual.

### Subpart D—Airplane Requirements

125.91 Airplane requirements: general.
125.93 Airplane limitations.

### Subpart E—Special Airworthiness Requirements

125.111 General.
125.113 Cabin interiors.
125.115 Internal doors.
125.117 Ventilation.
125.119 Fire precautions.
125.121 Proof of compliance with § 125.119.
125.123 Propeller deicing fluid.
125.125 Pressure cross-feed arrangements.
125.127 Location of fuel tanks.
125.129 Fuel system lines and fittings.
125.131 Fuel lines and fittings in designated fire zones.
125.133 Fuel valves.
125.135 Oil lines and fittings in designated fire zones.
125.137 Oil valves.
125.139 Oil system drains.
125.141 Engine breather lines.
125.143 Firewalls.
125.145 Firewall construction.
125.147 Cowling.
125.149 Engine accessory section diaphragm.
125.151 Powerplant fire protection.
125.153 Flammable fluids.
125.155 Shutoff means.
125.157 Lines and fittings.
125.159 Vent and drain lines.
125.161 Fire-extinguishing systems.
125.163 Fire-extinguishing agents.
125.165 Extinguishing agent container pressure relief.

Sec.
125.167 Extinguishing agent container compartment temperature.
125.169 Fire-extinguishing system materials.
125.171 Fire-detector systems.
125.173 Fire detectors.
125.175 Protection of other airplane components against fire.
125.177 Control of engine rotation.
125.179 Fuel system independence.
125.181 Induction system ice prevention.
125.183 Carriage of cargo in passenger compartments.
125.185 Carriage of cargo in cargo compartments.
125.187 Landing gear: aural warning device.
125.189 Demonstration of emergency evacuation procedures.

**Subpart F—Instrument and Equipment Requirements**

125.201 Inoperable instruments and equipment.
125.203 Radio and navigational equipment.
125.205 Equipment requirements: airplanes under IFR.
125.207 Emergency equipment requirements.
125.209 Emergency equipment: extended overwater operations.
125.211 Seat and safety belts.
125.213 Miscellaneous equipment.
125.215 Operating information required.
125.217 Passenger information.
125.219 Oxygen for medical use by passengers.
125.221 Icing conditions: operating limitations.
125.223 Airborne weather radar equipment requirements.

**Subpart G—Maintenance**

125.241 Applicability.
125.243 Certificate holder's responsibilities.
125.245 Organization required to perform maintenance, preventive maintenance, and alteration.
125.247 Inspection programs and maintenance.
125.249 Maintenance manual requirements.
125.251 Required inspection personnel.

**Subpart H—Airman and Crewmember Requirements**

125.261 Airman: limitations on use of services.
125.263 Composition of flightcrew.
125.265 Flight engineer requirements.
125.267 Flight navigator and long-range navigation equipment.
125.269 Flight attendants.
125.271 Emergency and emergency evacuation duties.

**Subpart I—Flight Crewmember Requirements**

125.281 Pilot-in-command qualifications.
125.283 Second-in-command qualifications.
125.285 Pilot qualifications: recent experience.
125.287 Initial and recurrent pilot testing requirements.
125.289 Initial and recurrent flight attendant crewmember testing requirements.
125.291 Pilot in command: instrument proficiency check requirements.
125.293 Crewmember: tests and checks, grace provisions, accepted standards.
125.295 Check airman authorization: application and issue.
125.297 Approval of airplane simulators and other training devices.

**Subpart J—Flight Operations**

125.311 Flight crewmembers at controls.
125.313 Manipulations of controls when carrying passengers.
125.315 Admission to flight deck.
125.317 Inspector's credentials: admission to pilots' compartment: forward observer's seat.
125.319 Emergencies.
125.321 Reporting potentially hazardous meteorological conditions and irregularities of ground and navigation facilities.
125.323 Reporting mechanical irregularities.
125.325 Instrument approach procedures and IFR landing minimums.
125.327 Briefing of passengers before flight.
125.329 Minimum altitudes for use of autopilot.
125.331 Carriage of persons without compliance with the passenger-carrying requirements of this part.

**Subpart K—Flight Release Rules**

125.351 Flight release authority.
125.353 Facilities and services.
125.355 Airplane equipment.
125.357 Communication and navigation facilities.
125.359 Flight release under VFR.
125.361 Flight release under IFR or over-the-top.
125.363 Flight release over water.
125.365 Alternate airport for departure.
125.367 Alternate airport for destination: IFR or over-the-top.
125.369 Alternate airport weather minimums.
125.371 Continuing flight in unsafe conditions.
125.373 Original flight release or amendment of flight release.
125.375 Fuel supply: nonturbine and turbopropeller-powered airplanes.
125.377 Fuel supply: turbine-engine-powered airplanes other than turbopropeller.
125.379 Landing weather minimums: IFR.
125.381 Takeoff and landing weather minimums: IFR.
125.383 Load manifest.

**Subpart L—Records and Reports**

125.401 Crewmember record.
125.403 Flight release form.
125.405 Disposition of load manifest, flight release, and flight plans.
125.407 Maintenance log: airplanes.
125.409 Reports of defects or unairworthy conditions.
125.411 Airworthiness release or maintenance record entry.
Appendix A—Additional Emergency Equipment.
Appendix B—Criteria for Demonstration of Emergency Evacuation Procedures Under § 125.189.
Appendix C—Ice Protection.

**Authority:** Secs. 313, 601 through 610, and 1102, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1421–1430 and 1502); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)).

## Subpart A—General

### § 125.1 Applicability.

(a) Except as provided in paragraphs (b), (c), (d), and (e) of this section, this Part prescribes rules governing the operations of U.S. registered civil airplanes which have a seating capacity of 20 or more passengers, or a maximum payload capacity of 6,000 pounds or more.

(b) The rules of this Part do not apply to the operations of airplanes specified in paragraph (a) when—

(1) They are required to be operated under Parts 121, 135, or 137 of this chapter;

(2) They have been issued restricted, limited, or provisional airworthiness certificates, special flight permits, or experimental certificates;

(3) They are being operated without carrying passengers or cargo under Part 91 for training, ferrying, positioning, or maintenance purposes;

(4) They are being operated under Part 91 by an operator certificated to operate those airplanes under Part 121, 135, or 137 of this chapter;

(5) They are being operated under a deviation authority issued under § 125.3 of this chapter;

(c) The rules of this Part, except § 125.247, do not apply to the operation of airplanes specified in paragraph (a) when they are operated outside the United States by a person who is not a citizen of the United States.

(d) An operator who holds a certificate on the effective date of this Part as a commercial operator under Part 121 of this chapter or as an air travel club under Part 123 of this chapter may continue operations under those rules until the expiration of that certificate, but no later than January 1, 1983.

(e) Until January 1, 1983, this Part does not apply to foreign air carriers holding operations specifications issued under Part 129 of this chapter.

### § 125.3 Deviation authority.

(a) The Associate Adminstrator for Aviation Standards may, upon consideration of the circumstances of a particular operation, issue deviation authority providing relief from specified sections of Part 125. This deviation authority will be issued as a Letter of Deviation Authority.

(b) A Letter of Deviation Authority may be terminated or amended at any time by the Associate Administrator for Aviation Standards.

(c) A request for deviation authority must be submitted to the Department of Transportation, Federal Aviation Administration, Associate

Administrator for Aviation Standards, 800 Independence Ave., S.W., Washington, D.C. 20591, not less than 60 days prior to the date of intended operations. A request for deviation authority must contain a complete statement of the circumstances and justification for the deviation requested.

**§ 125.5 Operating certificate and operations specifications required.**

(a) After February 1, 1981, no person may engage in operations governed by this Part unless than person holds a certificate and operations specification or appropriate deviation authority.

(b) Applicants who file an application before June 1, 1981 shall continue to operate under the rules applicable to their operations on January 31, 1981 until the application for an operating certificate required by this Part has been denied or the operating certificate and operations specifications required by this Part have been issued.

(c) The rules of this Part which apply to a certificate holder also apply to any person who engages in any operation governed by this Part without an appropriate certificate and operations specifications required by this Part or a Letter of Deviation Authority issued under § 125.3

**§ 125.7 Display of certificate.**

(a) The certificate holder must display a true copy of the certificate in each of its aircraft.

(b) Each operator holding a Letter of Deviation Authority issued under this Part must carry a true copy in each of its airplanes.

**§ 125.9 Definitions.**

(a) For the purposes of this Part, "maximum payload capacity" means:

(1) For an airplane for which a maximum zero fuel weight is prescribed in FAA technical specifications, the maximum zero fuel weight, less empty weight, less all justifiable airplane equipment, and less the operating load (consisting of minimum flightcrew, foods and beverages and supplies and equipment related to foods and beverages, but not including disposable fuel or oil):

(2) For all other airplanes, the maximum certificated takeoff weight of an airplane, less the empty weight, less all justifiable airplane equipment, and less the operating load (consisting of minimum fuel load, oil, and flightcrew). The allowance for the weight of the crew, oil, and fuel is as follows:

(i) Crew—200 pounds for each crewmember required under this chapter

(ii) Oil—350 pounds.

(iii) Fuel—the minimum weight of fuel required under this chapter for a flight between domestic points 174 nautical miles apart under VFR weather conditions that does not involve extended overwater operations.

(b) For the purposes of this Part, "empty weight" means the weight of the airframe, engines, propellers, and fixed equipment. Empty weight excludes the weight of the crew and payload, but includes the weight of all fixed ballast, unusable fuel supply, undrainable oil, total quantity of engine coolant, and total quantity of hydraulic fluid.

(c) For the purposes of this Part, "maximum zero fuel weight" means the maximum permissible weight of an airplane with no disposable fuel or oil. The zero fuel weight figure may be found in either the airplane type certificate data sheet of the approved Airplane Flight Manual, or both.

(d) For the purposes of this section, "justifiable airplane equipment" means any equipment necessary for the operation of the airplane. It does not include equipment or ballast specifically installed, permanently or otherwise, for the purpose of altering the empty weight of an airplane to meet the maximum payload capacity.

**§ 125.11 Certificate eligibility and prohibited operations.**

(a) No person is eligible for a certificate under this Part if that person is authorized to operate airplanes under any Air Carrier Operating Certificate.

(b) No certificate holder may conduct any operation which results directly or indirectly from any person's holding out to the public to furnish transportation.

## Subpart B—Certification Rules and Miscellaneous Requirements

**§ 125.21 Application for operating certificate.**

(a) Each applicant for the issuance of an operating certificate must submit an application in a form and manner prescribed by the Administrator to the FAA Flight Standards district office in whose area the applicant proposes to establish or has established its principal operations base. The application must be submitted at least 60 days before the date of intended operations.

(b) Each application submitted under paragraph (a) of this section must contain a signed statement showing the following:

(1) The name and address of each director and each officer or person employed or who will be employed in a management position described in § 125.25.

(2) A list of flight crewmembers with the type of airman certificate held, including ratings and certificate numbers.

**§ 125.23 Rules applicable to operations subject to this Part.**

Each person operating an airplane in operations under this Part shall—

(a) While operating inside the United States, comply with the applicable rules in Part 91 of this chapter; and

(b) While operating outside the United States, comply with Annex 2, Rules of the Air, to the Convention on International Civil Aviation or the regulations of any foreign country, whichever applies, and with any rules of Parts 61 and 91 of this chapter and this Part that are more restrictive than that Annex or those regulations and that can be complied with or without violating that Annex or those regulations. Annex 2 is incorporated by reference in § 91.1(c) of this chapter.

**§ 125.25 Management personnel required.**

(a) Each applicant for a certificate under this Part must show that it has enough management personnel, including at least a director of operations, to assure that its operations are conducted in accordance with the requirements of this Part.

(b) Each applicant shall—

(1) Set forth the duties, responsibilities, and authority of each of its management personnel in the general policy section of its manual;

(2) List in the manual the names and addesses of each of its management personnel;

(3) Designate a person as responsible for the scheduling of inspections required by the manual and for the updating of the approved weight and balance system on all airplanes.

(c) Each certificate holder shall notify the FAA Flight Standards district office charged with the overall inspection of the certificate holder of any change made in the assignment of persons to the listed positions within 10 days, excluding Saturdays, Sundays, and Federal holidays, of such change.

**§ 125.27 Issue of certificate.**

(a) An applicant for a certificate under this subpart is entitled to a certificate if the Administrator finds that the applicant is properly and adequately equipped and able to conduct a safe operation in accordance with the requirements of this Part and the operations specifications provided for in this Part.

(b) The Administrator may deny an application for a certificate under this subpart if the Administrator finds—

(1) That an operating certificate required under this Part or Part 121, 123, or 135 of this chapter previously issued to the applicant was revoked; or

(2) That a person who was employed in a management position under § 125.25 of this Part with (or has exercised control with respect to) any certificate holder under Part 121, 123, 125, or 135 of this chapter whose operating certificate has been revoked, will be employed in any of those positions or a similar position with the applicant and that the person's employment or control contributed materially to the reasons for revoking that certificate.

**§ 125.29 Duration of certificate.**

(a) A certificate issued under this Part is effective until surrendered, suspended, or revoked.

(b) The Administrator may suspend or revoke a certificate under section 609 of the Federal Aviation Act of 1958 and the applicable procedures of Part 13 of this chapter for any cause that, at the time of suspension or revocation, would have been grounds for denying an application for a certificate.

(c) If the Administrator suspends or revokes a certificate or it is otherwise terminated, the holder of that certificate shall return it to the Administrator.

**§ 125.31 Contents of certificate and operations specifications.**

(a) Each certificate issued under this Part contains the following:

(1) The holder's name.

(2) A description of the operations authorized.

(3) The date it is issued.

(b) The operations specifications issued under this Part contain the following:

(1) The kinds of operations authorized.

(2) The types and registration numbers of airplanes authorized for use.

(3) Approval of the provisions of the operator's manual relating to airplane inspections, together with necessary conditions and limitations.

(4) Registration numbers of airplanes that are to be inspected under an approved airplane inspection program under § 125.247.

(5) Procedures for control of weight and balance of airplanes.

(6) Any other item that the Administrator determines is necessary to cover a particular situation.

**§ 125.33 Operations specifications not a part of certificate.**

Operations specifications are not a part of an operating certificate.

**§ 125.35 Amendment of operations specifications.**

(a) The FAA Flight Standards district office charged with the overall inspection of the certificate holder may amend any operations specifications issued under this Part if—

(1) It determines that safety in air commerce requires that amendment; or

(2) Upon application by the holder, that district office determines that safety in air commerce allows that amendment.

(b) The certificate holder must file an application to amend operations specifications at least 15 days before the date proposed by the applicant for the amendment to become effective, unless a shorter filing period is approved. The application must be on a form and in a manner prescribed by the Administrator and be submitted to the FAA Flight Standards district office charged with the overall inspection of the certificate holder.

(c) Within 30 days after a notice of refusal to approve a holder's application for amendment is received, the holder may petition the Director of Airworthiness or the Director of Flight Operations, as appropriate, to reconsider the refusal to amend.

(d) When the FAA Flight Standards district office charged with the overall inspection of the certificate holder amends operations specifications, that district office gives notice in writing to the holder of a proposed amendment to the operations specifications, fixing a period of not less than 7 days within which the holder may submit written information, views, and arguments concerning the proposed amendment. After consideration of all relevant matter presented, that district office notifies the holder of any amendment adopted, or a rescission of the notice. That amendment becomes effective not less than 30 days after the holder receives notice of the adoption of the amendment, unless the holder petitions the Director of Airworthiness or the Director of Flight Operations, as appropriate, for reconsideration of the amendment. In that case, the effective date of the amendment is stayed pending a decision by the Director. If the Director finds there is an emergency requiring immediate action as to safety in air commerce that makes the provisions of this paragraph impracticable or contrary to the public interest, the Director notifies the certificate holder that the amendment is effective on the date of receipt, without previous notice.

**§ 125.37 Duty time limitations.**

(a) Each flight crewmember must be relieved from all duty for at least 8 consecutive hours during any 24-hour period.

(b) The Administrator may specify rest, flight time, and duty time limitations in the operations specifications that are other than those specified in paragraph (a).

**§ 125.39 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.**

If the holder of a certificate issued under this Part permits any airplane owned or leased by that holder to be engaged in any operation that the certificate holder knows to be in violation of § 91.12(a) of this chapter, that operation is a basis for suspending or revoking the certificate.

**§ 125.41 Availability of certificate and operations specifications.**

Each certificate holder shall make its operating certificate and operations specifications available for inspection by the Administrator at its principal operations base.

**§ 125.43 Use of operations specifications.**

(a) Each certificate holder shall keep each of its employees informed of the provisions of its operations specifications that apply to the employee's duties and responsibilities.

(b) Each certificate holder shall maintain a complete and separate set of its operations specifications. In addition, each certificate holder shall insert pertinent excerpts of its operations specifications, or reference thereto, in its manual in such a manner that they retain their identity as operations specifications.

**§ 125.45 Inspection authority.**

(a) Each certificate holder shall allow the Administrator, at any time or place, to make any inspections or tests to determine its compliance with the Federal Aviation Act of 1958, the Federal Aviation Regulations, its operating certificate and operations specifications, its letter of deviation authority, or its eligibililty to continue to hold its certificate or its letter of deviation authority.

**§ 125.47 Change of address.**

Each certificate holder shall notify the FAA Flight Standards district office charged with the overall inspection of its operations, in writing, at least 30 days in advance, of any change in the address of its principal business office, its principal operations base, or its principal maintenance base.

**§ 125.49 Airport requirements.**

(a) No certificate holder may use any airport unless it is adequate for the

proposed operation, considering such items as size, surface, obstructions, and lighting.

(b) No pilot of an airplane carrying passengers at night may take off from, or land on, an airport unless—

(1) That pilot has determined the wind direction from an illuminated wind direction indicator or local ground communications, or, in the case of takeoff, that pilot's personal observations; and

(2) The limits of the area to be used for landing or takeoff are clearly shown by boundary or runway marker lights.

(c) For the purposes of paragraph (b) of this section, if the area to be used for takeoff or landing is marked by flare pots or lanterns, their use must be approved by the Administrator.

**§ 125.51 En route navigational facilities.**

(a) Except as provided in paragraph (b) of this section, no certificate holder may conduct any operation over a route unless nonvisual ground aids are—

(1) Available over the route for navigating airplanes within the degree of accuracy required for ATC; and

(2) Located to allow navigation to any airport of destination, or alternate airport, within the degree of accuracy necessary for the operation involved.

(b) Nonvisual ground aids are not required for—

(1) Day VFR operations that can be conducted safely by pilotage because of the characteristics of the terrain;

(2) Night VFR operations on routes that the Administrator determines have reliable landmarks adequate for safe operation; or

(3) Operations where the use of celestial or other specialized means of navigation, such as an inertial navigation system, is approved.

**§ 125.53 Flight locating requirements.**

(a) Each certificate holder must have procedures established for locating each flight for which an FAA flight plan is not filed that—

(1) Provide the certificate holder with at least the information required to be included in a VFR flight plan;

(2) Provide for timely notification of an FAA facility or search and rescue facility, if an airplane is overdue or missing; and

(3) Provide the certificate holder with the location, date, and estimated time for reestablishing radio or telephone communications, if the flight will operate in an area where communications cannot be maintained.

(b) Flight locating information shall be retained at the certificate holder's principal operations base, or at other places designated by the certificate holder in the flight locating procedures, until the completion of the flight.

(c) Each certificate holder shall furnish the representative of the Administrator assigned to it with a copy of its flight locating procedures and any changes or additions, unless those procedures are included in a manual required under this Part.

## Subpart C—Manual Requirements

**§ 125.71 Preparation.**

(a) Each certificate holder shall prepare and keep current a manual setting forth the certificate holder's procedures and policies acceptable to the Administrator. This manual must be used by the certificate holder's flight, ground, and maintenance personnel in conducting its operations. However, the Administrator may authorize a deviation from this paragraph if the Administrator finds that, because of the limited size of the operation, all or part of the manual is not necessary for guidance of flight, ground, or maintenance personnel.

(b) Each certificate holder shall maintain at least one copy of the manual at its principal operations base.

(c) The manual must not be contrary to any applicable Federal regulations, foreign regulation applicable to the certificate holder's operations in foreign countries, or the certificate holder's operating certificate or operations specifications.

(d) A copy of the manual, or appropriate portions of the manual (and changes and additions) shall be made available to maintenance and ground operations personnel by the certificate holder and furnished to—

(1) Its flight crewmembers; and

(2) The FAA Flight Standards district office charged with the overall inspection of its operations.

(e) Each employee of the certificate holder to whom a manual or appropriate portions of it are furnished under paragraph (d)(1) of this section shall keep it up to date with the changes and additions furnished to them.

(f) Except as provided in paragraph (g) of this section, each certificate holder shall carry appropriate parts of the manual in each airplane when away from the principal operations base. The appropriate parts must be available for use by ground or flight personnel. If a certificate holder carries aboard an airplane all or any portion of the maintenance part of its manual in microfilm, it must also carry a reading device that provides a legible facsimile image of the microfilmed maintenance information and instructions.

(g) If a certificate holder conducts airplane inspections or maintenance at specified stations where it keeps the approved inspection program manual, it is not required to carry the manual aboard the airplane en route to those stations.

**§ 125.73 Contents.**

Each manual shall have the date of the last revision and revision number on each revised page. The manual must include—

(a) The name of each management person who is authorized to act for the certificate holder, the person's assigned area of responsibility, and the person's duties, responsibilities, and authority;

(b) Procedures for ensuring compliance with airplane weight and balance limitations;

(c) Copies of the certificate holder's operations specifications or appropriate extracted information, including area of operations authorized, category and class of airplane authorized, crew complements, and types of operations authorized;

(d) Procedures for complying with accident notification requirements;

(e) Procedures for ensuring that the pilot in command knows that required airworthiness inspections have been made and that the airplane has been approved for return to service in compliance with applicable maintenance requirements;

(f) Procedures for reporting and recording mechanical irregularities that come to the attention of the pilot in command before, during, and after completion of a flight;

(g) Procedures to be followed by the pilot in command for determining that mechanical irregularities or defects reported for previous flights have been corrected or that correction has been deferred;

(h) Procedures to be followed by the pilot in command to obtain maintenance, preventive maintenance, and servicing of the airplane at a place where previous arrangements have not been made by the operator, when the pilot is authorized to so act for the operator;

(i) Procedures for the release for, or continuation of, flight if any item of equipment required for the particular type of operation becomes inoperative or unserviceable en route;

(j) Procedures for refueling airplanes, eliminating fuel contamination, protecting from fire (including electrostatic protection), and supervising and protecting passengers during refueling;

(k) Procedures to be followed by the pilot in command in the briefing under § 125.327;

(l) Flight locating procedures, when applicable;

(m) Procedures for ensuring compliance with emergency procedures, including a list of the functions assigned each category of required crewmembers in connection with an emergency and emergency evacuation;

(n) The approved airplane inspection program;

(o) Procedures and instructions to enable personnel to recognize hazardous materials, as defined in Title 49 CFR, and if these materials are to be carried, stored, or handled, procedures and instructions for—

(1) Accepting shipment of hazardous material required by Title 49 CFR, to assure proper packaging, marking, labeling shipping documents, compatibility of articles, and instructions on their loading, storage, and handling;

(2) Notification and reporting hazardous material incidents as required by Title 49 CFR; and

(3) Notification of the pilot in command when there are hazardous materials aboard, as required by Title 49 CFR;

(p) Procedures for the evacuation of persons who may need the assistance of another person to move expeditiously to an exit if an emergency occurs;

(q) The identity of each person who will administer tests required by this Part, including the designation of the tests authorized to be given by the person; and

(r) Other procedures and policy instructions regarding the certificate holder's operations that are issued by the certificate holder.

**§ 125.75 Airplane flight manual.**

(a) Each certificate holder shall keep a current approved Airplane Flight Manual or approved equivalent for each type airplane that it operates.

(b) Each certificate holder shall carry the approved Airplane Flight Manual or the approved equivalent aboard each airplane it operates. A certificate holder may elect to carry a combination of the manuals required by this section and § 125.71. If it so elects, the certificate holder may revise the operating procedures sections and modify the presentation of performance from the applicable Airplane Flight Manual if the revised operating procedures and modified performance data presentation are approved by the Administrator.

## Subpart D—Airplane Requirements

**§ 125.91 Airplane requirements: general.**

(a) No certificate holder may operate an airplane governed by this Part unless it—

(1) Carries an appropriate current airworthiness certificate issued under this chapter; and

(2) Is in an airworthy condition and meets the applicable airworthiness requirements of this chapter, including those relating to identification and equipment.

(b) No person may operate an airplane unless the current empty weight and center of gravity are calculated from the values established by actual weighing of the airplane within the preceding 36 calendar months.

(c) Paragraph (b) of this section does not apply to airplanes issued an original airworthiness certificate within the preceding 36 calendar months.

**§ 125.93 Airplane limitations.**

No certificate holder may operate a land airplane (other than a DC–3, C–46, CV–240, CV–340, CV–440, CV–580, CV–600, CV–640, or Martin 404) in an extended overwater operation unless it is certificated or approved as adequate for ditching under the ditching provisions of Part 25 of this chapter.

## Subpart E—Special Airworthiness Requirements

**§ 125.111 General.**

(a) Except as provided in paragraph (b) of this section, no certificate holder may use an airplane powered by airplane engines rated at more than 600 horsepower each for maximum continuous operation unless that airplane meets the requirements of §§ 125.113 through 125.181.

(b) If the Administrator determines that, for a particular model of airplane used in cargo service, literal compliance with any requirement under paragraph (a) of this section would be extremely difficult and that compliance would not contribute materially to the objective sought, the Administrator may require compliance with only those requirements that are necessary to accomplish the basic objectives of this Part.

(c) This section does not apply to any airplane certificated under—

(1) Part 4b of the Civil Air Regulations in effect after October 31, 1946;

(2) Part 25 of this chapter; or

(3) Special Civil Air Regulation 422, 422A, or 422B.

**§ 125.113 Cabin interiors.**

(a) Upon the first major overhaul of an airplane cabin or refurbishing of the cabin interior, all materials in each compartment used by the crew or passengers that do not meet the following requirements must be replaced with materials that meet these requirements:

(1) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, § 25.853 in effect on April 30, 1972.

(2) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, the materials requirement under which the airplane was type certificated.

(b) Except as provided in paragraph (a) of this section, each compartment used by the crew or passengers must meet the following requirements:

(1) Materials must be at least flash resistant.

(2) The wall and ceiling linings and the covering of upholstering, floors, and furnishings must be flame resistant.

(3) Each compartment where smoking is to be allowed must be equipped with self-contained ash trays that are completely removable and other compartments must be placarded against smoking.

(4) Each receptacle for used towels, papers, and wastes must be of fire-resistant material and must have a cover or other means of containing possible fires started in the receptacles.

**§ 125.115 Internal doors.**

In any case where internal doors are equipped with louvres or other ventilating means, there must be a means convenient to the crew for closing the flow of air through the door when necessary.

**§ 125.117 Ventilation.**

Each passenger or crew compartment must be suitably ventilated. Carbon monoxide concentration may not be more than one part in 20,000 parts of air, and fuel fumes may not be present. In any case where partitions between compartments have louvres or other means allowing air to flow between compartments, there must be a means convenient to the crew for closing the flow of air through the partitions when necessary.

**§ 125.119 Fire precautions.**

(a) Each compartment must be designed so that, when used for storing cargo or baggage, it meets the following requirements:

(1) No compartment may include controls, wiring, lines, equipment, or accessories that would upon damage or failure, affect the safe operation of the airplane unless the item is adequately shielded, isolated, or otherwise

protected so that it cannot be damaged by movement of cargo in the compartment and so that damage to or failure of the item would not create a fire hazard in the compartment.

(2) Cargo or baggage may not interfere with the functioning of the fire-protective features of the compartment.

(3) Materials used in the construction of the compartments, including tie-down equipment, must be at least flame resistant.

(4) Each compartment must include provisions for safeguarding against fires according to the classifications set forth in paragraphs (b) through (f) of this section.

(b) *Class A.* Cargo and baggage compartments are classified in the "A" category if a fire therein would be readily discernible to a member of the crew while at that crewmember's station, and all parts of the compartment are easily accessible in flight. There must be a hand fire extinguisher available for each Class A compartment.

(c) *Class B.* Cargo and baggage compartments are classified in the "B" category if enough access is provided while in flight to enable a member of the crew to effectively reach all of the compartment and its contents with a hand fire extinguisher and the compartment is so designed that, when the access provisions are being used, no hazardous amount of smoke, flames, or extinguishing agent enters any compartment occupied by the crew or passengers. Each Class B compartment must comply with the following:

(1) It must have a separate approved smoke or fire detector system to give warning at the pilot or flight engineer station.

(2) There must be a hand-held fire extinguisher available for the compartment.

(3) It must be lined with fire-resistant material, except that additional service lining of flame-resistant material may be used.

(d) *Class C.* Cargo and baggage compartments are classified in the "C" category if they do not conform with the requirements for the "A", "B", "D", or "E" categories. Each Class C compartment must comply with the following:

(1) It must have a separate approved smoke or fire detector system to give warning at the pilot or flight engineer station.

(2) It must have an approved built-in fire-extinguishing system controlled from the pilot or flight engineer station.

(3) It must be designed to exclude hazardous quantities of smoke, flames, or extinguishing agents from entering into any compartment occupied by the crew or passengers.

(4) It must have ventilation and draft controlled so that the extinguishing agent provided can control any fire that may start in the compartment.

(5) It must be lined with fire-resistant material, except that additional service lining of flame-resistant material may be used.

(e) *Class D.* Cargo and baggage compartments are classified in the "D" category if they are so designed and constructed that a fire occurring therein will be completely confined without endangering the safety of the airplane or the occupants. Each Class D compartment must comply with the following:

(1) It must have a means to exclude hazardous quantities of smoke, flames, or noxious gases from entering any compartment occupied by the crew or passengers.

(2) Ventilation and drafts must be controlled with each compartment so that any fire likely to occur in the compartment will not progress beyond safe limits.

(3) It must be completely lined with fire-resistant material.

(4) Consideration must be given to the effect of heat within the compartment on adjacent critical parts of the airplane.

(f) *Class E.* On airplanes used for the carriage of cargo only, the cabin area may be classified as a Class "E" compartment. Each Class E compartment must comply with the following:

(1) It must be completely lined with fire-resistant material.

(2) It must have a separate system of an approved type smoke or fire detector to give warning at the pilot or flight engineer station.

(3) It must have a means to shut off the ventilating air flow to or within the compartment and the controls for that means must be accessible to the flightcrew in the crew compartment.

(4) It must have a means to exclude hazardous quantities of smoke, flames, or noxious gases from entering the flightcrew compartment.

(5) Required crew emergency exits must be accessible under all cargo loading conditions.

**§ 125.121 Proof of compliance with § 125.119.**

Compliance with those provisions of § 125.119 that refer to compartment accessibility, the entry of hazardous quantities of smoke or extinguishing agent into compartment occupied by the crew or passengers, and the dissipation of the extinguishing agent in Class "C" compartments must be shown by tests in flight. During these tests it must be shown that no inadvertent operation of smoke or fire detectors in other compartments within the airplane would occur as a result of fire contained in any one compartment, either during the time it is being extinguished, or thereafter, unless the extinguishing system floods those compartments simultaneously.

**§ 125.123 Propeller deicing fluid.**

If combustible fluid is used for propeller deicing, the certificate holder must comply with § 125.153.

**125.125 Pressure cross-feed arrangements.**

(a) Pressure cross-feed lines may not pass through parts of the airplane used for carrying persons or cargo unless there is a means to allow crewmembers to shut off the supply of fuel to these lines or the lines are enclosed in a fuel and fume-proof enclosure that is ventilated and drained to the exterior of the airplane. However, such an enclosure need not be used if those lines incorporate no fittings on or within the personnel or cargo areas and are suitably routed or protected to prevent accidental damage.

(b) Lines that can be isolated from the rest of the fuel system by valves at each end must incorporate provisions for relieving excessive pressures that may result from exposure of the isolated line to high temperatures.

**§ 125.127 Location of fuel tanks.**

(a) Fuel tanks must be located in accordance with § 125.153.

(b) No part of the engine nacelle skin that lies immediately behind a major air outlet from the engine compartment may be used as the wall of an integral tank.

(c) Fuel tanks must be isolated from personnel compartments by means of fume- and fuel-proof enclosures.

**§ 125.129 Fuel system lines and fittings.**

(a) Fuel lines must be installed and supported so as to prevent excessive vibration and so as to be adequate to withstand loads due to fuel pressure and accelerated flight conditions.

(b) Lines connected to components of the airplane between which there may be relative motion must incorporate provisions for flexibility.

(c) Flexible connections in lines that may be under pressure and subject to axial loading must use flexible hose assemblies rather than hose clamp connections.

(d) Flexible hoses must be of an acceptable type or proven suitable for the particular application.

**§ 125.131 Fuel lines and fittings in designated fire zones.**

Fuel lines and fittings in each designated fire zone must comply with § 125.157.

**§ 125.133 Fuel valves.**

Each fuel valve must—

(a) Comply with § 125.155;

(b) Have positive stops or suitable index provisions in the "on" and "off" positions; and

(c) Be supported so that loads resulting from its operation or from accelerated flight conditions are not transmitted to the lines connected to the valve.

**§ 125.135 Oil lines and fittings in designated fire zones.**

Oil lines and fittings in each designated fire zone must comply with § 125.157.

**§ 125.137 Oil valves.**

(a) Each oil valve must—

(1) Comply with § 125.155;

(2) Have positive stops or suitable index provisions in the "on" and "off" positions; and

(3) Be supported so that loads resulting from its operation or from accelerated flight conditions are not transmitted to the lines attached to the valve.

(b) The closing of an oil shutoff means must not prevent feathering the propeller, unless equivalent safety provisions are incorporated.

**§ 125.139 Oil system drains.**

Accessible drains incorporating either a manual or automatic means for positive locking in the closed position must be provided to allow safe drainage of the entire oil system.

**§ 125.141 Engine breather lines.**

(a) Engine breather lines must be so arranged that condensed water vapor that may freeze and obstruct the line cannot accumulate at any point.

(b) Engine breathers must discharge in a location that does not constitute a fire hazard in case foaming occurs and so that oil emitted from the line does not impinge upon the pilots' windshield.

(c) Engine breathers may not discharge into the engine air induction system.

**§ 125.143 Firewalls.**

Each engine, auxiliary power unit, fuel-burning heater, or other item of combusting equipment that is intended for operation in flight must be isolated from the rest of the airplane by means of firewalls or shrouds, or by other equivalent means.

**§ 125.145 Firewall construction.**

Each firewall and shroud must—

(a) Be so made that no hazardous quantity of air, fluids, or flame can pass from the engine compartment to other parts of the airplane;

(b) Have all openings in the firewall or shroud sealed with close-fitting fireproof grommets, bushings, or firewall fittings;

(c) Be made of fireproof material; and

(d) Be protected against corrosion.

**§ 125.147 Cowling.**

(a) Cowling must be made and supported so as to resist the vibration, inertia, and air loads to which it may be normally subjected.

(b) Provisions must be made to allow rapid and complete drainage of the cowling in normal ground and flight attitudes. Drains must not discharge in locations constituting a fire hazard. Parts of the cowling that are subjected to high temperatures because they are near exhaust system parts or because of exhaust gas impingement must be made of fireproof material. Unless otherwise specified in these regulations, all other parts of the cowling must be made of material that is at least fire resistant.

**§ 125.149 Engine accessory section diaphragm.**

Unless equivalent protection can be shown by other means, a diaphragm that complies with § 125.145 must be provided on air-cooled engines to isolate the engine power section and all parts of the exhaust system from the engine accessory compartment.

**§ 125.151 Powerplant fire protection.**

(a) Designated fire zones must be protected from fire by compliance with §§ 125.153 through 125.159.

(b) Designated fire zones are—

(1) Engine accessory sections;

(2) Installations where no isolation is provided between the engine and accessory compartment; and

(3) Areas that contain auxiliary power units, fuel-burning heaters, and other combustion equipment.

**§ 125.153 Flammable fluids.**

(a) No tanks or reservoirs that are a part of a system containing flammable fluids or gases may be located in designated fire zones, except where the fluid contained, the design of the system, the materials used in the tank, the shutoff means, and the connections, lines, and controls provide equivalent safety.

(b) At least one-half inch of clear airspace must be provided between any tank or reservior and a firewall or shroud isolating a designated fire zone.

**§ 125.155 Shutoff means.**

(a) Each engine must have a means for shutting off or otherwise preventing hazardous amounts of fuel, oil, deicer, and other flammable fluids from flowing into, within, or through any designated fire zone. However, means need not be provided to shut off flow in lines that are an integral part of an engine.

(b) The shutoff means must allow an emergency operating sequence that is compatible with the emergency operation of other equipment, such as feathering the propeller, to facilitate rapid and effective control of fires.

(c) Shutoff means must be located outside of designated fire zones, unless equivalent safety is provided, and it must be shown that no hazardous amount of flammable fluid will drain into any designated fire zone after a shutoff.

(d) Adequate provisions must be made to guard against inadvertent operation of the shutoff means and to make it possible for the crew to reopen the shutoff means after it has been closed.

**§ 125.157 Lines and fittings.**

(a) Each line, and its fittings, that is located in a designated fire zone, if it carries flammable fluids or gases under pressure, or is attached directly to the engine, or is subject to relative motion between components (except lines and fittings forming an integral part of the engine), must be flexible and fire-resistant with fire-resistant, factory-fixed, detachable, or other approved fire-resistant ends.

(b) Lines and fittings that are not subject to pressure or to relative motion between components must be of fire-resistant materials.

**§ 125.159 Vent and drain lines.**

All vent and drain lines, and their fittings, that are located in a designated fire zone must, if they carry flammable fluids or gases, comply with § 125.157, if the Administrator finds that the rupture or breakage of any vent or drain line may result in a fire hazard.

**§ 125.161 Fire-extinguishing systems.**

(a) Unless the certificate holder shows that equivalent protection against destruction of the airplane in case of fire is provided by the use of fireproof materials in the nacelle and other components that would be subjected to flame, fire-extinguishing systems must be provided to serve all designated fire zones.

(b) Materials in the fire-extinguishing system must not react chemically with the extinguishing agent so as to be a hazard.

**§ 125.163 Fire-extinguishing agents.**

Only methyl bromide, carbon dioxide, or another agent that has been shown to provide equivalent extinguishing action may be used as a fire-extinguishing agent. If methyl bromide or any other toxic extinguishing agent is used, provisions must be made to prevent harmful concentrations of fluid or fluid vapors from entering any personnel compartment either because of leakage during normal operation of the airplane or because of discharging the fire extinguisher on the ground or in flight when there is a defect in the extinguishing system. If a methyl bromide system is used, the containers must be charged with dry agent and sealed by the fire-extinguisher manufacturer or some other person using satisfactory recharging equipment. If carbon dioxide is used, it must not be possible to discharge enough gas into the personnel compartments to create a danger of suffocating the occupants.

**§ 125.165 Extinguishing agent container pressure relief.**

Extinguishing agent containers must be provided with a pressure relief to prevent bursting of the container because of excessive internal pressures. The discharge line from the relief connection must terminate outside the airplane in a place convenient for inspection on the ground. An indicator must be provided at the discharge end of the line to provide a visual indication when the container has discharged.

**§ 125.167 Extinguishing agent container compartment temperature.**

Precautions must be taken to ensure that the extinguishing agent containers are installed in places where reasonable temperatures can be maintained for effective use of the extinguishing system.

**§ 125.169 Fire-extinguishing system materials.**

(a) Except as provided in paragraph (b) of this section, each component of a fire-extinguishing system that is in a designated fire zone must be made of fireproof materials.

(b) Connections that are subject to relative motion between components of the airplane must be made of flexible materials that are at least fire-resistant and be located so as to minimize the probability of failure.

**§ 125.171 Fire-detector systems.**

Enough quick-acting fire detectors must be provided in each designated fire zone to assure the detection of any fire that may occur in that zone.

**§ 125.173 Fire detectors.**

Fire detectors must be made and installed in a manner that assures their ability to resist, without failure, all vibration, inertia, and other loads to which they may be normally subjected. Fire detectors must be unaffected by exposure to fumes, oil, water, or other fluids that may be present.

**§ 125.175 Protection of other airplane components against fire.**

(a) Except as provided in paragraph (b) of this section, all airplane surfaces aft of the nacelles in the area of one nacelle diameter on both sides of the nacelle centerline must be made of material that is at least fire resistant.

(b) Paragraph (a) of this section does not apply to tail surfaces lying behind nacelles unless the dimensional configuration of the airplane is such that the tail surfaces could be affected readily by heat, flames, or sparks emanating from a designated fire zone or from the engine from a designated fire zone or from the engine compartment of any nacelle.

**§ 12.177 Control of engine rotation.**

(a) Except as provided in paragraph (b) of this section, each airplane must have a means of individually stopping and restarting the rotation of any engine in flight.

(b) In the case of turbine engine installations, a means of stopping rotation need be provided only if the Administrator finds that rotation could jeopardize the safety of the airplane.

**§ 125.179 . Fuel system independence.**

(a) Each airplane fuel system must be arranged so that the failure of any one component does not result in the irrecoverable loss of power of more than one engine.

(b) A separate fuel tank need not be provided for each engine if the certificate holder shows that the fuel system incorporates features that provide equivalent safety.

**§ 125.181 Induction system ice prevention.**

A means for preventing the malfunctioning of each engine due to ice accumulation in the engine air induction system must be provided for each airplane.

**§ 125.183 Carriage of cargo in passenger compartments.**

(a) Except as provided in paragraph (b) or (c) of this section, no certificate holder may carry cargo in the passenger compartment of an airplane.

(b) Cargo may be carried aft of the foremost seated passengers if it is carried in an approved cargo bin that meets the following requirements:

(1) The bin must withstand the load factors and emergency landing conditions applicable to the passenger seats of the airplane in which the bin is installed, multiplied by a factor of 1.15, using the combined weight of the bin and the maximum weight of cargo that may be carried in the bin.

(2) The maximum weight of cargo that the bin is approved to carry and any instructions necessary to ensure proper weight distribution within the bin must be conspicuously marked on the bin.

(3) The bin may not impose any load on the floor or other structure of the airplane that exceeds the load limitations of that structure.

(4) The bin must be attached to the seat tracks or to the floor structure of the airplane, and its attachment must withstand the load factors and emergency landing conditions applicable to the passenger seats of the airplane in which the bin is installed, multiplied by either the factor 1.15 or the seat attachment factor specified for the airplane, whichever is greater, using the combined weight of the bin and the maximum weight of cargo that may be carried in the bin.

(5) The bin may not be installed in a position that restricts access to or use of any required emergency exit, or of the aisle in the passenger compartment.

(6) The bin must be fully enclosed and made of material that is at least flame-resistant.

(7) Suitable safeguards must be provided within the bin to prevent the cargo from shifting under emergency landing conditions.

(8) The bin may not be installed in a position that obscures any passenger's view of the "seat belt" sign, "no smoking" sign, or any required exit sign, unless an auxiliary sign or other approved means for proper notification of the passenger is provided.

(c) All cargo may be carried forward of the foremost seated passengers and carry-on baggage may be carried alongside the foremost seated passengers if the cargo (including carry-on baggage) is carried either in approved bins as specified in paragraph (b) of this section or in accordance with the following:

(1) It is properly secured by a safety belt or other tie down having enough strength to eliminate the possibility of shifting under all normally anticipated flight and ground conditions.

(2) It is packaged or covered in a manner to avoid possible injury to passengers.

(3) It does not impose any load on seats or the floor structure that exceeds

the load limitation for those components.

(4) Its location does not restrict access to or use of any required emergency or regular exit, or of the aisle in the passenger compartment.

(5) Its location does not obscure any passenger's view of the "seat belt" sign, "no smoking" sign, or required exit sign, unless an auxiliary sign or other approved means for proper notification of the passenger is provided.

**§ 125.185 Carriage of cargo in cargo compartments.**

When cargo is carried in cargo compartments that are designed to require the physical entry of a crewmember to extinguish any fire that may occur during flight, the cargo must be loaded so as to allow a crewmember to effectively reach all parts of the compartment with contents of a hand-held fire extinguisher.

**§ 125.187 Landing gear: aural warning device.**

(a) Each airplane must have a landing gear aural warning device that functions continuously under the following conditions:

(1) For airplanes with an established approach wing-flap position, whenever the wing flaps are extended beyond the maximum certificated approach climb configuration position in the Airplane Flight Manual and the landing gear is not fully extended and locked.

(2) For airplanes without an established approach climb wing-flap position, whenever the wing flaps are extended beyond the position at which landing gear extension is normally performed and the landing gear is not fully extended and locked.

(b) The warning system required by paragraph (a) of this section—

(1) May not have a manual shutoff;

(2) Must be in addition to the throttle-actuated device installed under the type certification airworthiness requirements; and

(3) May utilize any part of the throttle-actuated system including the aural warning device.

(c) The flap position sensing unit may be installed at any suitable place in the airplane.

**§ 125.189 Demonstration of emergency evacuation procedures.**

(a) Each certificate holder must show, by actual demonstration conducted in accordance with paragraph (a) of Appendix B of this Part, that the emergency evacuation procedures for each type and model of airplane with a seating of more than 44 passengers, that is used in its passenger-carrying operations, allow the evacuation of the full seating capacity, including crewmembers, in 90 seconds or less, in each of the following circumstances:

(1) A demonstration must be conducted by the certificate holder upon the initial introduction of a type and model of airplane into passenger-carrying operations. However, the demonstration need not be repeated for any airplane type or model that has the same number and type of exits, the same cabin configuration, and the same emergency equipment as any other airplane used by the certificate holder in successfully demonstrating emergency evacuation in compliance with this paragraph.

(2) A demonstration must be conducted—

(i) Upon increasing by more than 5 percent the passenger seating capacity for which successful demonstration has been conducted; or

(ii) Upon a major change in the passenger cabin interior configuration that will affect the emergency evacuation of passengers.

(b) If a certificate holder has conducted a successful demonstration required by § 121.291(a) in the same type airplane as a Part 121 or 123 certificate holder, it need not conduct a demonstration under this paragraph in that type airplane to achieve certification under Part 125.

(c) Each certificate holder operating or proposing to operate one or more landplanes in extended overwater operations, or otherwise required to have certain equipment under § 125.209, must show, by a simulated ditching conducted in accordance with paragraph (b) of Appendix B of this Part, that it has the ability to efficiently carry out its ditching procedures.

(d) If a certificate holder has conducted a successful demonstration required by § 121.291(b) in the same type airplane as a Part 121 or 123 certificate holder, it need not conduct a demonstration under this paragraph in that type airplane to achieve certification under Part 125.

## Subpart F—Instrument and Equipment Requirements

**§ 125.201 Inoperable instruments and equipment.**

(a) No person may take off an airplane unless the following instruments and equipment are in an operable condition:

(1) Instruments and equipment that are either specifically or otherwise required by the air worthiness requirements under which the airplane is type certificated and which are essential for safe operations under all operating conditions.

(2) Instruments and equipment required by an airworthiness directive to be in operable condition unless the airworthiness directive provides otherwise.

(b) No person may take off any airplane with inoperable instruments or equipment installed, other than those described in paragraph (a) of this section, unless the following conditions are met:

(1) An approved Minimum Equipment List exists for the airplane type.

(2) The airplane has within it a letter of authorization, issued by the FAA Flight Standards district office having certification responsibility for the certificate holder, authorizing operation of the airplane under the Minimum Equipment List. The letter of authorization may be obtained by written request of the certificate holder. The Minimum Equipment List and the letter of authorization constitute a supplemental type certificate for the airplane.

(3) The approved Minimum Equipment List must provide for the operation of the airplane with the instruments and equipment in an inoperable condition.

(4) The airplane records available to the pilot must include an entry describing the inoperable instruments and equipment.

(5) The airplane is operated under all applicable conditions and limitations contained in the Minimum Equipment List and the letter authorizing the use of the list.

(c) Without regard to the requirements of paragraph (a)(1) of this section, an airplane with inoperable instruments or equipment may be operated under a special flight permit under §§ 21.197 and 21.199 of this chapter.

**§ 125.203 Radio and navigational equipment.**

(a) No person may operate an airplane unless it has two-way radio communications equipment able, at least in flight, to transmit to, and receive from, ground facilities 25 miles away.

(b) No person may operate an airplane over-the-top unless it has radio navigational equipment able to receive radio signals from the ground facilities to be used.

(c) No person may operate an airplane carrying passengers under IFR or in extended overwater operations unless it has at least the following radio communication and navigational equipment appropriate to the facilities to be used which are capable of transmitting to, and receiving from, at

any place on the route to be flown, at least one ground facility:

(1) Two transmitters, (2) two microphones, (3) two headsets or one headset and one speaker (4) a marker beacon receiver, (5) two independent receivers for navigation, and (6) two independent receivers for communications.

(d) For the purposes of paragraphs (c)(5) and (c)(6) of this section, a receiver is independent if the function of any part of it does not depend on the functioning of any part of another receiver. However, a receiver that can receive both communications and navigational signals may be used in place of a separate communications receiver and a separate navigational signal receiver.

**§ 125.205 Equipment requirements: Airplanes under IFR.**

No person may operate an airplane under IFR unless it has—

(a) A vertical speed indicator;

(b) A free-air temperature indicator;

(c) A heated pitot tube for each airspeed indicator;

(d) A power failure warning device or vacuum indicator to show the power available for gyroscopic instruments from each power source;

(e) An alternate source of static pressure for the altimeter and the airspeed and vertical speed indicators;

(f) At least two generators each of which is on a separate engine, or which any combination on one-half of the total number are rated sufficiently to supply the electrical loads of all required instruments and equipment necessary for safe emergency operation of the airplane; and

(g) Two independent sources of energy (with means of selecting either), of which at least one is an engine-driven pump or generator, each of which is able to drive all gyroscopic instruments and installed so that failure of one instrument or source does not interfere with the energy supply to the remaining instruments or the other energy source. For the purposes of this paragraph, each engine-driven source of energy must be on a different engine.

(h) For the purposes of paragraph (f) of this section, a continuous inflight electrical load includes one that draws current continuously during flight, such as radio equipment, electrically driven instruments, and lights, but does not include occasional intermittent loads.

(i) An airspeed indicating system with heated pitot tube or equivalent means for preventing malfunctioning due to icing.

(j) A sensitive altimeter.

(k) Instrument lights providing enough light to make each required instrument, switch, or similar instrument easily readable and installed so that the direct rays are shielded from the flight crewmembers' eyes and that no objectionable reflections are visible to them. There must be a means of controlling the intensity of illumination unless it is shown that nondimming instrument lights are satisfactory.

**§ 125.207 Emergency equipment requirements.**

(a) No person may operate an airplane having a seating capacity of 20 or more passengers unless it is equipped with the following emergency equipment:

(1) One approved first aid kit for treatment of injuries likely to occur in flight or in a minor accident, which meets the following specifications and requirements:

(i) Each first aid kit must be dust and moisture proof and contain only materials that either meet Federal Specifications GGK–391a, as revised, or as approved by the Administrator.

(ii) Required first aid kits must be readily accessible to the cabin flight attendants.

(iii) At time of takeoff, each first aid kit must contain at least the following or other contents approved by the Administrator:

| Contents: | Quantity |
|---|---|
| Adhesive bandage compressors, 1 in | 16 |
| Antiseptic swabs | 20 |
| Ammonia inhalents | 10 |
| Bandage compressors, 4 in | 8 |
| Triangular bandage compressors, 40 in | 5 |
| Burn compound, ⅛ oz or an equivalent of other burn remedy | 6 |
| Arm splint, noninflatable | 1 |
| Leg splint, noninflatable | 1 |
| Roller bandage, 4 in | 4 |
| Adhesive tape, 1-in standard roll | 2 |
| Bandage scissors | 1 |

(2) A crash axe carried so as to be accessible to the crew but inaccessible to passengers during normal operations.

(3) Signs that are visible to all occupants to notify them when smoking is prohibited and when safety belts should be fastened. The signs must be so constructed that they can be turned on and off by a crewmember. They must be turned on for each takeoff and each landing and when otherwise considered to be necessary by the pilot in command.

(4) The additional emergency equipment specified in Appendix A of this Part.

(b) *Megaphones.* Each passenger-carrying airplane must have a portable battery-powered megaphone or megaphones readily accessible to the crewmembers assigned to direct emergency evacuation, installed as follows:

(1) One megaphone on each airplane with a seating capacity of more than 60 and less than 100 passengers, at the most rearward location in the passenger cabin where it would be readily accessible to a normal flight attendent seat. However, the Administrator may grant a deviation from the requirements of this subparagraph if the Administrator finds that a different location would be more useful for evacuation of persons during an emergency.

(2) Two megaphones in the passenger cabin on each airplane with a seating capacity of more than 99 and less than 200 passengers, one installed at the forward end and the other at the most rearward location where it would be readily accessible to a normal flight attendant seat.

(3) Three megaphones in the passenger cabin on each airplane with a seating capacity of more than 199 passengers, one installed at the forward end, one installed at the most rearward location where it would be readily accessible to a normal flight attendant seat, and one installed in a readily accessible location in the mid-section of the airplane.

**§ 125.209 Emergency equipment: Extended overwater operations.**

(a) No person may operate an airplane in extended overwater operations unless it carries, installed in conspicuously marked locations easily accessible to the occupants if a ditching occurs, the following equipment:

(1) An approved life preserver equipped with an approved survivor locator light, or an approved flotation means, for each occupant of the aircraft. The life preserver or other flotation means must be easily accessible to each seated occupant. If a flotation means other than a life preserver is used, it must be readily removable from the airplane.

(2) Enough approved life rafts (with proper buoyancy) to carry all occupants of the airplane, and at least the following equipment for each raft clearly marked for easy identification—

(i) One canopy (for sail, sunshade, or rain catcher);

(ii) One radar reflector (or similar device);

(iii) One life raft repair kit;

(iv) One bailing bucket;

(v) One signaling mirror;

(vi) One police whistle;

(vii) One raft knife;

(viii) One $CO_2$ bottle for emergency inflation;
(ix) One inflation pump;
(x) Two oars;
(xi) One 75-foot retaining line;
(xii) One magnetic compass;
(xiii) One dye marker;
(xiv) One flashlight having at least two size "D" cells or equivalent;
(xv) At least one approved pyrotechnic signaling device;
(xvi) A 2-day supply of emergency food rations supplying at least 1,000 calories a day for each person;
(xvii) One sea water desalting kit for each two persons that raft is rated to carry, or two pints of water for each person the raft is rated to carry;
(xviii) One fishing kit; and
(xix) One book on survival appropriate for the area in which the airplane is operated.

(b) No person may operate an airplane in extended overwater operations unless there is attached to one of the life rafts required by paragraph (a) of this section, a survival type emergency locator transmitter that meets TSO–C91. Batteries used in this transmitter must be replaced (or recharged, if the batteries are rechargeable) when the transmitter has been in use for more than 1 cumulative hour, and also when 50 percent of their useful life (or for rechargeable batteries, 50 percent of their useful life of charge), as established by the transmitter manufacturer under TSO–C91 has expired. The new expiration date for the replacement or recharged batteries must be legibly marked on the outside of the transmitter. The battery useful life or useful life of charge requirements of this paragraph do not apply to batteries (such as water-activated batteries) that are essentially unaffected during probably storage intervals.

**§ 125.211 Seat and safety belts.**

(a) No person may operate an airplane unless there are available during the takeoff, en route flight, and landing—

(1) An approved seat or berth for each person on board the airplane who is at least 2 years old; and

(2) An approved safety belt for separate use by each person on board the airplane who is at least 2 years old, except that two persons occupying a berth may share one approved safety belt and two persons occupying a multiple lounge or divan seat may share one approved safety belt during en route flight only.

(b) During the takeoff and landing of an airplane, each person on board shall occupy an approved seat or berth with a separate safety belt properly secured about that person. However, a person who is not at least 2 years old may be held by an adult who is occupying a seat or berth. A safety belt provided for the occupant of a seat may not be used during takeoff and landing by more than one person who is at least 2 years old.

(c) Each sideward facing seat must comply with the applicable requirements of § 25.785(c) of this chapter.

(d) No certificate holder may take off or land an airplane unless each passenger seat back is in the upright position. Each passenger shall comply with instructions given by a crewmember in compliance with this paragraph. This paragraph does not apply to seats on which cargo or persons who are unable to sit erect for a medical reason are carrier in accordance with procedures in the certificate holder's manual if the seat back does not obstruct any passenger's access to the aisle or to any emergency exit.

(e) Each occupant of a seat equipped with a shoulder harness must fasten the shoulder harness during takeoff and landing, except that, in the case of crewmembers, the shoulder harness need not be fastened if the crewmember cannot perform his required duties with the shoulder harness fastened.

**§ 125.213 Miscellaneous equipment.**

No person may conduct any operation unless the following equipment is installed in the airplane:

(a) If protective fuses are installed on an airplane, the number of spare fuses approved for the airplane and appropriately described in the certificate holder's manual.

(b) A windshield wiper or equivalent for each pilot station.

(c) A power supply and distribution system that meets the requirements of §§ 25.1309, 25.1331, 25.1351 (a) and (b) (1) through (4), 25.1353, 25.1355, and 25.1431(b) or that is able to produce and distribute the load for the required instruments and equipment, with use of an external power supply if any one power source or component of the power distribution system fails. The use of common elements in the system may be approved if the Administrator finds that they are designed to be reasonably protected against malfunctioning. Engine-driven sources of energy, when used, must be on separate engines.

(d) A means for indicating the adequacy of the power being supplied to required flight instruments.

(e) Two independent static pressure systems, vented to the outside atmospheric pressure so that they will be least affected by air flow variation or moisture or other foreign matter, and installed so as to be airtight except for the vent. When a means is provided for transferring an instrument from its primary operating system to an alternative system, the means must include a positive positioning control and must be marked to indicate clearly which system is being used.

(f) A placard on each door that is the means of access to a required passenger emergency exist to indicate that it must be open during takeoff and landing.

(g) A means for the crew, in an emergency, to unlock each door that leads to a compartment that is normally accessible to passengers and that can be locked by passengers.

**§ 125.215 Operating information required.**

(a) The operator of an airplane must provide the following materials, in current and appropriate form, accessible to the pilot at the pilot station, and the pilot shall use them:

(1) A cockpit checklist.

(2) An emergency cockpit checklist containing the procedures required by paragraph (c) of this section, as appropriate.

(3) Pertinent aeronautical charts.

(4) For IFR operations, each pertinent navigational en route, terminal area, and approach and letdown chart;

(5) One–engine-inoperative climb performance data and, if the airplane is approved for use in IFR or over-the-top operations, that data must be sufficient to enable the pilot to determine that the airplane is capable of carrying passengers over-the-top or in IFR conditions at a weight that will allow it to climb, with the critical engine inoperative, at least 50 feet a minute when operating at the MEA's of the route to be flown or 5,000 feet MSL, whichever is higher.

(b) Each cockpit checklist required by paragraph (a)(1) of this section must contain the following procedures: (1) Before starting engines; (2) Before take-off; (3) Cruise; (4) Before landing; (5) After landing; (6) Stopping engines.

(c) Each emergency cockpit checklist required by paragraph (a)(2) of this section must contain the following procedures, as appropriate:

(1) Emergency operation of fuel, hydraulic, electrical, and mechanical systems.

(2) Emergency operation of instruments and controls.

(3) Engine inoperative procedures.

(4) Any other emergency procedures necessary for safety.

**§ 125.217 Passenger information.**

(a) No person may operate an airplane carrying passengers unless it is equipped with passenger information

signs that meet the requirements of § 25.791 of this chapter. The signs must be constructed so that the crewmembers can turn them on and off. They must be turned on for each takeoff and each landing and when otherwise considered to be necessary by the pilot in command.

(b) No passenger or crewmember may smoke while the no smoking sign is lighted and each passenger shall fasten that passenger's seat belt and keep it fastened while the seat belt sign is lighted.

**§ 125.219 Oxygen for medical use by passengers.**

(a) Except as provided in paragraphs (d) and (e) of this section, no certificate holder may allow the carriage or operation of equipment for the storage, generation or dispensing of medical oxygen unless the unit to be carried is constructed so that all valves, fittings, and gauges are protected from damage during that carriage or operation and unless the following conditions are met—

(1) The equipment must be—

(i) Of an approved type or in conformity with the manufacturing, packaging, marking, labeling, and maintenance requirements of Title 49 CFR Parts 171, 172, and 173, except § 173.24(a)(1);

(ii) When owned by the certificate holder, maintained under the certificate holder's approved maintenance program;

(iii) Free of flammable contaminants on all exterior surfaces; and

(iv) Appropriately secured.

(2) When the oxygen is stored in the form of a liquid, the equipment must have been under the certificate holder's approved maintenance program since its purchase new or since the storage container was last purged.

(3) When the oxygen is stored in the form of a compressed gas as defined in Title 49 CFR § 173.300(a)—

(i) When owned by the certificate holder, it must be maintained under its approved maintenance program; and

(ii) The pressure in any oxygen cylinder must not exceed the rated cylinder pressure.

(4) The pilot in command must be advised when the equipment is on board and when it is intended to be used.

(5) The equipment must be stowed, and each person using the equipment must be seated so as not to restrict access to or use of any required emergency or regular exit or of the aisle in the passenger compartment.

(b) When oxygen is being used, no person may smoke and no certificate holder may allow any person to smoke within 10 feet of oxygen storage and dispensing equipment carried under paragraph (a) of this section.

(c) No certificate holder may allow any person other than a person trained in the use of medical oxygen equipment to connect or disconnect oxygen bottles or any other ancillary component while any passenger is aboard the airplane.

(d) Paragraph (a)(1)(i) of this section does not apply when that equipment is furnished by a professional or medical emergency service for use on board an airplane in medical emergency when no other practical means of transportation (including any other properly equipped certificate holder) is reasonally available and the person carried under the medical emergency is accompanied by a person trained in the use of medical oxygen.

(e) Each certificate holder who, under the authority of paragraph (d) of this section, deviates from paragraph (a)(1)(i) of this section under medical emergency shall, within 10 days, excluding Saturdays, Sundays, and Federal holidays, after the deviation, send to the FAA Flight Standards district office charged with the overall inspection of the certificate holder a complete report of the operation involved, including a description of the deviation and the reasons for it.

**§ 125.221 Icing conditions: Operating limitations.**

(a) No pilot may take off an airplane that has—

(1) Frost, snow, or ice adhering to any propeller, windshield, or powerplant installation, or to an airspeed, altimeter, rate of climb, or flight attitude instrument system;

(2) Snow or ice adhering to the wings or stabilizing or control surfaces; or

(3) Any frost adhering to the wings, or stabilizing or control surfaces, unless that frost has been polished to make it smooth.

(b) Except for an airplane that has ice protection provisions that meet Appendix C of this Part or those for transport category airplane type certification, no pilot may fly—

(1) Under IFR into known or forecast light or moderate icing conditions; or

(2) Under VFR into known light or moderate icing conditions, unless the airplane has functioning deicing or anti-icing equipment protecting each propeller, windshield, wing, stabilizing or control surface, and each airspeed, altimeter, rate of climb, or flight attitude instrument system.

(c) Except for an airplane that has ice protection provisions that meet Appendix C of this Part or those for transport category airplane type certification, no pilot may fly an airplane into known or forecast severe icing conditions.

(d) If current weather reports and briefing information relied upon by the pilot in command indicate that the forecast icing condition that would otherwise prohibit the flight will not be encountered during the flight because of changed weather conditions since the forecast, the restrictions in paragraphs (b) and (c) of this section based on forecast conditions do not apply.

**§ 125.223 Airborne weather radar equipment requirements.**

(a) No person may operate an airplane governed by this Part in passenger-carrying operations unless approved airborne weather radar equipment is installed in the airplane.

(b) No person may begin a flight under IFR or night VFR conditions when current weather reports indicate that thunderstorms, or other potentially hazardous weather conditions that can be detected with airborne weather radar equipment, may reasonably be expected along the route to be flown, unless the airborne weather radar equipment required by paragraph (a) of this section is in satisfactory operating condition.

(c) If the airborne weather radar equipment becomes inoperative en route, the airplane must be operated under the instructions and procedures specified for that event in the manual required by § 125.71.

(d) This section does not apply to airplanes used solely within the State of Hawaii, within the State of Alaska, within that part of Canada west of longitude 130 degrees W, between latitude 70 degrees N, and latitude 53 degrees N, or during any training, test, or ferry flight.

(e) Without regard to any other provision of this Part, an alternate electrical power supply is not required for airborne weather radar equipment.

## Subpart G—Maintenance

**§ 125.241 Applicability.**

This subpart prescribes rules, in addition to those prescribed in other Parts of this chapter, for the maintenance of airplanes, airframes, aircraft engines, propellers, appliances, each item of survival and emergency equipment, and their component parts operated under this part.

**§ 125.243 Certificate holder's responsibilities.**

(a) With regard to airplanes, including airframes, aircraft engines, propellers, appliances, and survival and emergency equipment, operated by a certificate holder, that certificate holder is primarily responsible for—

(1) Airworthiness;
(2) The performance of maintenance, preventive maintenance, and alteration in accordance with applicable regulations and the certificate holder's manual;
(3) The scheduling and performance of inspections required by this Part; and
(4) Ensuring that maintenance personnel make entries in the airplane maintenance log and maintenance records which meet the requirements of Part 43 of this chapter and the certificate holder's manual, and which indicate that the airplane has been approved for return to service after maintenance, preventive maintenance, or alteration has been performed.

**§ 125.245 Organization required to perform maintenance, preventive maintenance, and alteration.**

The certificate holder must ensure that each person with whom it arranges for the performance of maintenance, preventive maintenance, alteration, or required inspection items identified in the certificate holder's manual in accordance with § 125.249(a)(3)(ii) must have an organization adequate to perform that work.

**§ 125.247 Inspection programs and maintenance.**

(a) No person may operate an airplane subject to this Part unless—
(1) The replacement times for life-limited parts specified in the aircraft type certificate data sheets, or other documents approved by the Administrator, are complied with;
(2) Defects disclosed between inspections, or as a result of inspection, have been corrected in accordance with Part 43 of this chapter; and
(3) The airplane, including airframe, aircraft engines, propellers, appliances, and survival and emergency equipment, and their component parts, is inspected in accordance with an inspection program approved by the Administrator.
(b) The inspection program specified in paragraph (a)(3) of this section must include at least the following:
(1) Instructions, procedures, and standards for the conduct of inspections for the particular make and model of airplane, including necessary tests and checks. The instructions and procedures must set forth in detail the parts and areas of the airframe, aircraft engines, propellers, appliances, and survival and emergency equipment required to be inspected.

(2) A schedule for the performance of inspections that must be performed under the program, expressed in terms of the time in service, calendar time, number of system operations, or any combination of these.
(c) No person may be used to perform the inspections required by this Part unless that person is authorized to perform maintenance under Part 43 of this chapter.
(d) No person may operate an airplane subject to this Part unless—
(1) The installed engines have been maintained in accordance with the overhaul periods recommended by the manufacturer or approved by the Administrator; and
(2) The engine overhaul periods are specified in the inspection programs required by § 125.247(a)(3).
(e) Inspection programs which may be approved for use under this Part include, but are not limited to—
(1) A continuous inspection program which is a part of a current continuous airworthiness program approved for use by a certificate holder under Part 121 or 135 of this chapter;
(2) Inspection programs currently recommended by the manufacturer of the airplane, aircraft engines, propellers, appliances, or survival and emergency equipment; or
(3) An inspection program developed by a certificate holder under this Part.

**§ 125.249 Maintenance manual requirements.**

(a) Each certificate holder's manual required by § 125.71 of this Part shall contain, in addition to the items required by § 125.73 of this Part, at least the following:
(1) A description of the certificate holder's maintenance organization, when the certificate holder has such an organization.
(2) A list of those persons with whom the certificate holder has arranged for performance of inspections under this Part. The list shall include the persons' names and addresses.
(3) The inspection programs required by § 125.247 of this Part to be followed in the performance of inspections under this Part including—
(i) The method of performing routine and nonroutine inspections (other than required inspections);
(ii) The designation of the items that must be inspected (required inspections), including at least those which if improperly accomplished could result in a failure, malfunction, or defect endangering the safe operation of the airplane;
(iii) The method of performing required inspections;
(iv) Procedures for the inspection of work performed under previously required inspection findings ("buy-back procedures");
(v) Procedures, standards, and limits necessary for required inspections and acceptance or rejection of the items required to be inspected;
(vi) Instructions to prevent any person who performs any item of work from performing any required inspection of that work; and
(vii) Procedures to ensure that work interruptions do not adversely affect required inspections and to ensure required inspections are properly completed before the airplane is released to service.
(b) In addition, each certificate holder's manual shall contain a suitable system which may include a coded system that provides for the retention of the following:
(1) A description (or reference to data acceptable to the Administrator) or the work performed.
(2) The name of the person performing the work and the person's certificate type and number.
(3) The name of the person approving the work and the person's certificate type and number.

**§ 125.251 Required inspection personnel.**

(a) No person may use any person to perform required inspections unless the person performing the inspection is appropriately certificated, properly trained, qualified, and authorized to do so.
(b) No person may perform a required inspection if that person performed the item of work required to be inspected.

## Subpart H—Airman and Crewmember Requirements

**§ 125.261 Airman: Limitations on use of services.**

(a) No certificate holder may use any person as an airman nor may any person serve as an airman unless that person—
(1) Holds an appropriate current airman certificate issued by the FAA;
(2) Has any required appropriate current airman and medical certificates in that person's possession while engaged in operations under this Part; and
(3) Is otherwise qualified for the operation for which that person is to be used.
(b) Each airman covered by paragraph (a) of this section shall present the certificates for inspection upon the request of the Administrator.

**§ 125.263 Composition of flightcrew.**

(a) No certificate holder may operate an airplane with less than the minimum flightcrew specified in the type certificate and the Airplane Flight Manual approved for that type airplane

and required by this Part for the kind of operation being conducted.

(b) In any case in which this Part requires the performance of two or more functions for which an airman certificate is necessary, that requirement is not satisfied by the performance of multiple functions at the same time by one airman.

(c) On each flight requiring a flight engineer, at least one flight crewmember, other than the flight engineer, must be qualified to provide emergency performance of the flight engineer's functions for the safe completion of the flight if the flight engineer becomes ill or is otherwise incapacitated. A pilot need not hold a flight engineer's certificate to perform the flight engineer's functions in such a situation.

**§ 125.265 Flight engineer requirements.**

(a) No person may operate an airplane for which a flight engineer is required by the type certification requirements without a flight crewmember holding a current flight engineer certificate.

(b) No person may serve as a required flight engineer on an airplane unless, within the preceding 6 calendar months, that person has had at least 50 hours of flight time as a flight engineer on that type airplane, or the Administrator has checked that person on that type airplane and determined that person is familiar and competent with all essential current information and operating procedures.

**§ 125.267 Flight navigator and long-range navigation equipment**

(a) No certificate holder may operate an airplane outside the 48 conterminous States and the District of Columbia when its position cannot be reliably fixed for a period of more than 1 hour, without—

(1) A flight crewmember who holds a current flight navigator certificate; or

(2) Two independent, properly functioning, and approved long-range means of navigation which enable a reliable determination to be made of the position of the airplane by each pilot seated at that person's duty station.

(b) Operations where a flight navigator or long-range navigation equipment, or both, are required are specified in the operations specifications of the operator.

**§ 125.269 Flight attendants.**

(a) Each certificate holder shall provide at least the following flight attendants on each passenger-carrying airplane used:

(1) For airplanes having more than 19 but less than 51 passengers—one flight attendant.

(2) For airplanes having more than 50 but less than 101 passengers—two flight attendants.

(3) For airplanes having more than 100 passengers—two flight attendants plus one additional flight attendant for each unit (or part of a unit) of 50 passengers above 100 passengers.

(b) The number of flight attendants approved under paragraphs (a) and (b) of this section are set forth in the certificate holder's operations specifications.

(c) During takeoff and landing, flight attendants required by this section shall be located as near as practicable to required floor level exits and shall be uniformly distributed throughout the airplane to provide the most effective egress of passengers in event of an emergency evacuation.

**§ 125.271 Emergency and emergency evacuation duties.**

(a) Each certificate holder shall, for each type and model of airplane, assign to each category of required crewmember, as appropriate, the necessary functions to be performed in an emergency or a situation requiring emergency evacuation. The certificate holder shall show those functions are realistic, can be practically accomplished, and will meet any reasonably anticipated emergency including the possible incapacitation of individual crewmembers or their inability to reach the passenger cabin because of shifting cargo in combination cargo-passenger airplanes.

(b) The certificate holder shall describe in its manual the functions of each category of required crewmembers under paragraph (a) of this section.

## Subpart I—Flight Crewmember Requirements

**§ 125.281 Pilot-in-command qualifications.**

No certificate holder may use any person, nor may any person serve, as pilot in command of an airplane unless that person—

(a) Holds at least a commercial pilot certificate, an appropriate category, class, and type rating, and an instrument rating; and

(b) Has had at least 1,200 hours of flight time as a pilot, including 500 hours of cross-country flight time, 100 hours of night flight time, including at least 10 night takeoffs and landings, and 75 hours of actual or simulated instrument flight time, at least 50 hours of which were actual flight.

**§ 125.283 Second-in-command qualifications.**

No certificate holder may use any person, nor may any person serve, as second in command of an airplane unless that person—

(a) Holds at least a commercial pilot certificate with appropriate category and class ratings, and an instrument rating; and

(b) For flight under IFR, meets the recent instrument experience requirements prescribed for a pilot in command in Part 61 of this chapter.

**§ 125.285 Pilot qualifications: recent experience.**

(a) No certificate holder may use any person, nor may any person serve, as a required pilot flight crewmember unless within the preceding 90 days that person has made at least three takeoffs and landings in the type airplane in which that person is to serve. The takeoffs and landings required by this paragraph may be performed in a visual simulator approved under § 125.297 to include takeoff and landing maneuvers. However, any person who fails to qualify for a 90-consecutive-day period following the date of that person's last qualification under this paragraph must reestablish recency of experience as provided in paragraph (b) of this section.

(b) A required pilot flight crewmember who has not met the requirements of paragraph (a) of this section may reestablish recency of experience by making at least three takeoffs and landings under the supervision of an authorized check airman, in accordance with the following:

(1) At least one takeoff must be made with a simulated failure of the most critical powerplant.

(2) At least one landing must be made from an ILS approach to the lowest ILS minimums authorized for the certificate holder.

(3) At least one landing must be made to a complete stop.

(c) A required pilot flight crewmember who performs the maneuvers prescribed in paragraph (b) of this section in a visual simulator must—

(1) Have previously logged 100 hours of flight time in the same type airplane in which the pilot is to serve; and

(2) Be observed on the first two landings made in operations under this Part by an authorized check airman who acts as pilot in command and occupies a pilot seat. The landings must be made in weather minimums that are not less than those contained in the certificate holder's operations specifications for Category I operations and must be made within 45 days following completion of simulator testing.

(d) An authorized check airman who observes the takeoffs and landings prescribed in paragraphs (b) and (c)(3) of this section shall certify that the person being observed is proficient and qualified to perform flight duty in operations under this Part, and may require any additional maneuvers that are determined necessary to make this certifying statement.

**§ 125.287 Initial and recurrent pilot testing requirements.**

(a) No certificate holder may use any person, nor may any person serve as a pilot, unless, since the beginning of the 12th calendar month before that service, that person has passed a written or oral test, given by the Administrator or an authorized check airman on that person's knowledge in the following areas—

(1) The appropriate provisions of Parts 61, 91, and 125 of this chapter and the operations specifications and the manual of the certificate holder;

(2) For each type of airplane to be flown by the pilot, the airplane powerplant, major components and systems, major appliances, performance and operating limitations, standard and emergency operating procedures, and the contents of the approved Airplane Flight Manual or approved equivalent, as applicable;

(3) For each type of airplane to be flown by the pilot, the method of determining compliance with weight and balance limitations for takeoff, landing and en route operations;

(4) Navigation and use of air navigation aids appropriate to the operation of pilot authorization, including, when applicable, instrument approach facilities and procedures;

(5) Air traffic control procedures, including IFR procedures when applicable;

(6) Meteorology in general, including the principles of frontal systems, icing, fog, thunderstorms, and windshear, and, if appropriate for the operation of the certificate holder, high altitude weather;

(7) Procedures for avoiding operations in thunderstorms and hail, and for operating in turbulent air or in icing conditions; and

(8) New equipment, procedures, or techniques, as appropriate.

(b) No certificate holder may use any person, nor may any person serve, as a pilot in any airplane unless, since the beginning of the 12th calendar month before that service, that person has passed a competency check given by the Administrator or an authorized check airman in that type of airplane to determine that person's competence in practical skills and techniques in that airplane or type of airplane. The extent of the competency check shall be determined by the Administrator or authorized check airman conducting the competency check. The competency check may include any of the maneuvers and procedures currently required for the original issuance of the particular pilot certificate required for the operations authorized and appropriate to the category, class and type of airplane involved. For the purposes of this paragraph, type, as to an airplane, means any one of a group of airplanes determined by the Administrator to have a similar means of propulsion, the same manufacturer, and no significantly different handling or flight characteristics.

(c) The instrument proficiency check required by § 125.291 may be substituted for the competency check required by this section for the type of airplane used in the check.

(d) For the purposes of this Part, competent performance of a procedure or maneuver by a person to be used as a pilot requires that the pilot be the obvious master of the airplane with the successful outcome of the maneuver never in doubt.

(e) The Administrator or authorized check airman certifies the competency of each pilot who passes the knowledge or flight check in the certificate holder's pilot records.

(f) Portions of a required competency check may be given in an airplane simulator or other appropriate training device, if approved by the Administrator.

**§ 125.289 Initial and recurrent flight attendant crewmember testing requirements.**

No certificate holder may use any person, nor may any person serve, as a flight attendant crewmember, unless, since the beginning of the 12th calendar month before that service, the certificate holder has determined by appropriate initial and recurrent testing that the person is knowledgeable and competent in the following areas as appropriate to assigned duties and responsibilities:

(a) Authority of the pilot in command;

(b) Passenger handling, including procedures to be followed in handling deranged persons or other persons whose conduct might jeopardize safety;

(c) Crewmember assignments, functions, and responsibilities during ditching and evacuation of persons who may need the assistance of another person to move expeditiously to an exit in an emergency;

(d) Briefing of passengers;

(e) Location and operation of portable fire extinguishers and other items of emergency equipment;

(f) Proper use of cabin equipment and controls;

(g) Location and operation of passenger oxygen equipment;

(h) Location and operation of all normal and emergency exits, including evacuation chutes and escape ropes; and

(i) Seating of persons who may need assistance of another person to move rapidly to an exit in an emergency as prescribed by the certificate holder's operations manual.

**§ 125.291 Pilot in command: instrument proficiency check requirements.**

(a) No certificate holder may use any person, nor may any person serve, as a pilot in command of an airplane under IFR unless, since the beginning of the sixth calendar month before that service, that person has passed an instrument proficiency check and the Administrator or an authorized check airman has so certified in a letter of competency.

(b) No pilot may use any type of precision instrument approach procedure under IFR unless, since the beginning of the sixth calendar month before that use, the pilot has satisfactorily demonstrated that type of approach procedure and has been issued a letter of competency under paragraph (g) of this section. No pilot may use any type of nonprecision approach procedure under IFR unless, since the beginning of the sixth calendar month before that use, the pilot has satisfactorily demonstrated either that type of approach procedure or any other two different types of nonprecision approach procedures and has been issued a letter of competency under paragraph (g) of this section. The instrument approach procedure or procedures must include at least one straight-in approach, one circling approach, and one missed approach. Each type of approach procedure demonstrated must be conducted to published minimums for that procedure.

(c) The instrument proficiency check required by paragraph (a) of this section consists of an oral or written equipment test and a flight check under simulated or actual IFR conditions. The equipment test includes questions on emergency procedures, engine operation, fuel and lubrication systems, power settings, stall speeds, best engine-out speed, propeller and supercharge operations, and hydraulic, mechanical, and electrical systems, as appropriate. The flight check includes navigation by instruments, recovery from simulated emergencies,

and standard instrument approaches involving navigational facilities which that pilot is to be authorized to use.

(1) For a pilot in command of an airplane, the instrument proficiency check must include the procedures and maneuvers for a commercial pilot certificate with an instrument rating and, if required, for the appropriate type rating.

(2) The instrument proficiency check must be given by an authorized check airman or by the Administrator.

(d) If the pilot in command is assigned to pilot only one type of airplane, that pilot must take the instrument proficiency check required by paragraph (a) of this section in that type of airplane.

(e) If the pilot in command is assigned to pilot more than one type of airplane, that pilot must take the instrument proficiency check required by paragraph (a) of this section in each type of airplane to which that pilot is assigned, in rotation, but not more than one flight check during each period described in paragraph (a) of this section.

(f) Portions of a required flight check may be given in an airplane simulator or other appropriate training device, if approved by the Administrator.

(g) The Administrator or authorized check airman issues a letter of competency to each pilot who passes the instrument proficiency check. The letter of competency contains a list of the types of instrument approach procedures and facilities authorized.

**§ 125.293 Crewmember: tests and checks, grace provisions, accepted standards.**

(a) If a crewmember who is required to take a test or a flight check under this Part completes the test or flight check in the calendar month before or after the calendar month in which it is required, that crewmember is considered to have completed the test or check in the calendar month in which it is required.

(b) If a pilot being checked under this subpart fails any of the required maneuvers, the person giving the check may give additional training to the pilot during the course of the check. In addition to repeating the maneuvers failed, the person giving the check may require the pilot being checked to repeat any other maneuvers that are necessary to determine the pilot's proficiency. If the pilot being checked is unable to demonstrate satisfactory performance to the person conducting the check, the certificate holder may not use the pilot, nor may the pilot serve, in the capacity for which the pilot is being checked in operations under this Part until the pilot has satisfactorily completed the check.

**§ 125.295 Check airman authorization: application and issue.**

Each certificate holder desiring FAA approval of a check airman shall submit a request in writing to the FAA Flight Standards district office charged with the overall inspection of the certificate holder. The Administrator may issue a letter of authority to each check airman if that airman passes the appropriate oral and flight test. The letter of authority lists the tests and checks in this Part that the check airman is qualified to give, and the category, class and type airplane, where appropriate, for which the check airman is qualified.

**§ 125.297 Approval of airplane simulators and other training devices.**

(a) Airplane simulators and other training devices approved by the Administrator may be used in checks required in this subpart.

(b) Each airplane simulator and other training device that is used in checks required under this subpart must meet the following requirements:

(1) It must be specifically approved for—

(i) The certificate holder;

(ii) The type airplane and, if applicable, the particular variation within type for which the check is being conducted; and

(iii) The particular maneuver, procedure, or crewmember function involved;

(2) It must maintain the performance, functional, and other characteristics that are required for approval.

(3) It must be modified to conform with any modification to the airplane being simulated that changes the performance, functional, or other characteristics required for approval.

## Subpart J—Flight Operations

**§ 125.311 Flight crewmembers at controls.**

(a) Except as provided in paragraph (b) of this section, each required flight crewmember on flight deck duty must remain at the assigned duty station with seat belt fastened while the airplane is taking off or landing and while it is en route.

(b) A required flight crewmember may leave the assigned duty station—

(1) If the crewmember's absence is necessary for the performance of duties in connection with the operation of the airplane;

(2) If the crewmember's absence is in connection with physiological needs; or

(3) If the crewmember is taking a rest period and relief is provided—

(i) In the case of the assigned pilot in command, by a pilot qualified to act as pilot in command.

(ii) In the case of the assigned second in command, by a pilot qualified to act as second in command of that airplane during en route operations. However, the relief pilot need not meet the recent experience requirements of § 125.285.

**§ 125.313 Manipulation of controls when carrying passengers.**

No pilot in command may allow any person to manipulate the controls of an airplane while carrying passengers during flight, nor may any person manipulate the controls while carrying passengers during flight, unless that person is a qualified pilot of the certificate holder operating that airplane.

**§ 125.315 Admission to flight deck.**

(a) No person may admit any person to the flight deck of an airplane unless the person being admitted is—

(1) A crewmember;

(2) An FAA inspector or an authorized representative of the National Transportation Safety Board who is performing official duties; or

(3) Any person who has the permission of the pilot in command.

(b) No person may admit any person to the flight deck unless there is a seat available for the use of that person in the passenger compartment, except—

(1) An FAA inspector or an authorized representative of the Administrator or National Transportation Safety Board who is checking or observing flight operations; or

(2) A certificated airman employed by the certificate holder whose duties require an airman certificate.

**§ 125.317 Inspector's credentials: admission to pilots' compartment: forward observer's seat.**

(a) Whenever, in performing the duties of conducting an inspection, an FAA inspector presents an Aviation Safety Inspector credential, FAA Form 110A, to the pilot in command of an airplane operated by the certificate holder, the inspector must be given free and uninterrupted access to the pilot compartment of that airplane. However, this paragraph does not limit the emergency authority of the pilot in command to exclude any person from the pilot compartment in the interest of safety.

(b) A forward observer's seat on the flight deck, or forward passenger seat with headset or speaker, must be provided for use by the Administrator while conducting en route inspections. The suitability of the location of the seat and the headset or speaker for use in conducting en route inspections is determined by the Administrator.

**§ 125.319 Emergencies.**

(a) In an emergency situation that requires immediate decision and action, the pilot in command may take any action considered necessary under the circumstances. In such a case, the pilot in command may deviate from prescribed operations, procedures and methods, weather minimums, and this chapter, to the extent required in the interests of safety.

(b) In an emergency situation arising during flight that requires immediate decision and action by appropriate management personnel in the case of operations conducted with a flight following service and which is known to them, those personnel shall advise the pilot in command of the emergency, shall ascertain the decision of the pilot in command, and shall have the decision recorded. If they cannot communicate with the pilot, they shall declare an emergency and take any action that they consider necessary under the circumstances.

(c) Whenever emergency authority is exercised, the pilot in command or the appropriate management personnel shall keep the appropriate ground radio station fully informed of the progress of the flight. The person declaring the emergency shall send a written report of any deviation, through the operator's director of operations, to the Administrator within 10 days, exclusive of Saturdays, Sundays, and Federal holidays, after the flight is completed or, in the case of operations outside the United States, upon return to the home base.

**§ 125.321 Reporting potentially hazardous meteorological conditions and irregularities of ground and navigation facilities.**

Whenever the pilot in command encounters a meteorological condition or an irregularity in a ground or navigational facility in flight, the knowledge of which the pilot in command considers essential to the safety of other flights, the pilot in command shall notify an appropriate ground station as soon as practicable.

**§ 125.323 Reporting mechanical irregularities.**

The pilot in command shall ensure that all mechanical irregularities occurring during flight are entered in the maintenance log of the airplane at the next place of landing. Before each flight, the pilot in command shall ascertain the status of each irregularity entered in the log at the end of the preceding flight.

**§ 125.325 Instrument approach procedures and IFR landing minimums.**

No person may make an instrument approach at an airport except in accordance with IFR weather minimums and unless the type of instrument approach procedure to be used is listed in the certificate holder's operations specifications.

**§ 125.327 Briefing of passengers before flight.**

(a) Before each takeoff, each pilot in command of an airplane carrying passengers shall ensure that all passengers have been orally briefed on—

(1) Smoking;

(2) Use of seat belts;

(3) The placement of seat backs in an upright position before takeoff and landing;

(4) Location and means for opening the passenger entry door and emergency exists;

(5) Location of survival equipment;

(6) If the flight involves extended overwater operation, ditching procedures and the use of required flotation equipment;

(7) If the flight involves operations above 12,000 feet MSL, the normal and emergency use of oxygen; and

(8) Location and operation of fire extinguishers.

(b) Before each takeoff, the pilot in command shall ensure that each person who may need the assistance of another person to move expeditiously to an exit if an emergency occurs and that person's attendant, if any, has received a briefing as to the procedures to be followed if an evacuation occurs. This paragraph does not apply to a person who has been given a briefing before a previous leg of a flight in the same airplane.

(c) The oral briefing required by paragraph (a) of this section shall be given by the pilot in command or a member of the crew. It shall be supplemented by printed cards for the use of each passenger containing—

(1) A diagram and method of operating the emergency exits; and

(2) Other instructions necessary for the use of emergency equipment on board the airplane.

Each card used under this paragraph must be carried in the airplane in locations convenient for the use of each passenger and must contain information that is appropriate to the airplane on which it is to be used.

(d) The certificate holder shall describe in its manual the procedure to be followed in the briefing required by paragraph (a) of this section.

(e) If the airplane does not proceed directly over water after takeoff, no part of the briefing required by paragraph (a)(6) of this section has to be given before takeoff but the briefing required by paragraph (a)(6) must be given before reaching the overwater part of the flight.

**§ 125.329 Minimum altitudes for use of autopilot.**

(a) Except as provided in paragraphs (b), (c), and (d) of this section, no person may use an autopilot at an altitude above the terrain which is less than 500 feet or less than twice the maximum altitude loss specified in the approved Airplane Flight Manual or equivalent for a malfunction of the autopilot, whichever is higher.

(b) When using an instrument approach facility other than ILS, no person may use an autopilot at an altitude above the terrain that is less than 50 feet below the approved minimum descent altitude for that procedure, or less than twice the maximum loss specified in the approved Airplane Flight Manual or equivalent for a malfunction of the autopilot under approach conditions, whichever is higher.

(c) For ILS approaches when reported weather conditions are less than the basic weather conditions in Section 91.105 of this chapter, no person may use an autopilot with an approach coupler at an altitude above the terrain that is less than 50 feet above the terrain, or the maximum altitude loss specified in the approved Airplane Flight Manual or equivalent for the malfunction of the autopilot with approach coupler, whichever is higher.

(d) Without regard to paragraph (a), (b), or (c) of this section, the Administrator may issue operations specifications to allow the use, to touchdown, of an approved flight control guidance system with automatic capability, if—

(1) The system does not contain any altitude loss (above zero) specified in the approved Airplane Flight Manual or equivalent for malfunction of the autopilot with approach coupler; and

(2) The Administrator finds that the use of the system to touchdown will not otherwise adversely affect the safety standards of this section.

**§ 125.331 Carriage of persons without compliance with the passenger-carrying provisions of this Part.**

The following persons may be carried aboard an airplane without complying with the passenger-carrying requirements of this Part:

(a) A crewmember.

(b) A person necessary for the safe handling of animals on the airplane.

(c) A person necessary for the safe handling of hazardous materials (as defined in Subchapter C of Title 49 CFR).

(d) A person performing duty as a security or honor guard accompanying a shipment made by or under the authority of the U.S. Government.

(e) A military courier or a military route supervisor carried by a military cargo contract operator if that carriage is specifically authorized by the appropriate military service.

(f) An authorized representative of the Administrator conducting an en route inspection.

(g) A person authorized by the Administrator.

## Subpart K—Flight Release Rules

### § 125.351 Flight release authority.

(a) No person may start a flight without authority from the person authorized by the certificate holder to exercise operational control over the flight.

(b) No person may start a flight unless the pilot in command or the person authorized by the cetificate holder to exercise operational control over the flight has executed a flight release setting forth the conditions under which the flight will be conducted. The pilot in command may sign the flight release only when both the pilot in command and the person authorized to exercise operational control believe the flight can be made safely, unless the pilot in command is authorized by the certificate holder to exercise operational control and execute the flight release without the approval of any other person.

(c) No person may continue a flight from an intermediate airport without a new flight release if the airplane has been on the ground more than 6 hours.

### § 125.353 Facilities and services.

During a flight, the pilot in command shall obtain any additional available information of meteorological conditions and irregularities of facilities and services that may affect the safety of the flight.

### § 125.355 Airplane equipment.

No person may release an airplane unless it is airworthy and is equipped as prescribed.

### § 125.357 Communication and navigation facilities.

No person may release an airplane over any route or route segment unless communication and navigation facilities equal to those required by § 125.51 are in satisfactory operating condition.

### § 125.359 Flight release under VFR.

No person may release an airplane for VFR operation unless the ceiling and visibility en route, as indicated by available weather reports or forecasts, or any combination thereof, are and will remain at or above applicable VFR minimums until the airplane arrives at the airport or airports specified in the flight release.

### § 125.361 Flight release under IFR or over-the-top.

Except as provided in § 125.363, no person may release an airplane for operations under IFR or over-the-top unless appropriate weather reports or forecasts, or any combination thereof, indicate that the weather conditions will be at or above the authorized minimums at the estimated time of arrival at the airport or airports to which released.

### § 125.363 Flight release over water.

(a) No person may release an airplane for a flight that involves extended overwater operation unless appropriate weather reports or forecasts, or any combination thereof, indicate that the weather conditions will be at or above the authorized minimums at the estimated time of arrival at any airport to which released or to any required alternate airport.

(b) Each certificate holder shall conduct extended overwater operations under IFR unless it shows that operating under IFR is not necessary for safety.

(c) Each certificate holder shall conduct other overwater operations under IFR if the Administrator determines that operation under IFR is necessary for safety.

(d) Each authorization to conduct extended overwater operations under VFR and each requirement to conduct other overwater operations under IFR will be specified in the operations specifications.

### § 125.365 Alternate airport for departure.

(a) If the weather conditions at the airport of takeoff are below the landing minimums in the certificate holder's operations specifications for that airport, no person may release an airplane from that airport unless the flight release specifies an alternate airport located within the following distances from the airport of takeoff:

(1) *Airplanes having two engines.* Not more than 1 hour from the departure airport at normal cruising speed in still air with one engine inoperative.

(2) *Airplanes having three or more engines.* Not more than 2 hours from the departure airport at normal cruising speed in still air with one engine inoperative.

(b) For the purposes of paragraph (a) of this section, the alternate airport weather conditions must meet the requirements of the certificate holder's operations specifications.

(c) No person may release an airplane from an airport unless that person lists each required alternate airport in the flight release.

### § 125.367 Alternate airport for destination: IFR or over-the-top.

(a) Except as provided in paragraph (b) of this section, each person releasing an airplane for operation under IFR or over-the-top shall list at least one alternate airport for each destination airport in the flight release.

(b) An alternate airport need not be designated for IFR or over-the-top operations where the airplane carries enough fuel to meet the requirements of §§ 125.375 and 125.377 for flights outside the 48 conterminous States and the District of Columbia over routes without an available alternate airport for a particular airport of destination.

(c) For the purposes of paragraph (a) of this section, the weather requirements at the alternate airport must meet the requirements of the operator's operations specifications.

(d) No person may release a flight unless that person lists each required alternate airport in the flight release.

### § 125.369 Alternate airport weather minimums.

No person may list an airport as an alternate airport in the flight release unless the appropriate weather reports or forecasts, or any combination thereof, indicate that the weather conditions will be at or above the alternate weather minimums specified in the certificate holder's operations specifications for that airport when the flight arrives.

### § 125.371 Continuing flight in unsafe conditions.

(a) No pilot in command may allow a flight to continue toward any airport to which it has been released if, in the opinion of the pilot in command, the flight cannot be completed safely, unless, in the opinion of the pilot in command, there is no safer procedure. In that event, continuation toward that airport is an emergency situation.

### § 125.373 Original flight release or amendment of flight release.

(a) A certificate holder may specify any airport authorized for the type of airplane as a destination for the purpose of original release.

(b) No person may allow a flight to continue to an airport to which it has

been released unless the weather conditions at an alternate airport that was specified in the flight release are forecast to be at or above the alternate minimums specified in the operations specifications for that airport at the time the airplane would arrive at the alternate airport. However, the flight release may be amended en route to include any alternate airport that is within the fuel range of the airplane as specified in § 125.375 or § 125.377.

(c) No person may change an original destination or alternate airport that is specified in the original flight release to another airport while the airplane is in route unless the other airport is authorized for that type of airplane.

(d) Each person who amends a flight release en route shall record that amendment.

**§ 125.375 Fuel supply: nonturbine and turbopropeller-powered airplanes.**

(a) Except as provided in paragraph (b) of this section, no person may release for flight or takeoff a nonturbine or turbopropeller-powered airplane unless, considering the wind and other weather conditions expected, it has enough fuel—

(1) To fly to and land at the airport to which it is released;

(2) Thereafter, to fly to and land at the most distant alternate airport specified in the flight release; and

(3) Thereafter, to fly for 45 minutes at normal crusing fuel consumption.

(b) If the airplane is released for any flight other than from one point in the conterminous United States to another point in the conterminous United States, it must carry enough fuel to meet the requirements of subparagraphs (1) and (2) of paragraph (a) of this section and thereafter fly for 30 minutes plus 15 percent of the total time required to fly at normal cruising fuel consumption to the airports specified in subparagraphs (1) and (2) of paragraph (a) of this section, or fly for 90 minutes at normal cruising fuel consumption, whichever is less.

(c) No person may release a nonturbine or turbopropeller-powered airplane to an airport for which an alternate is not specified under § 125.367(b) unless it has enough fuel, considering wind and other weather conditions expected, to fly to that airport and thereafter to fly for 3 hours at normal cruising fuel consumption.

**§ 125.377 Fuel supply: Turbine-engine-powered airplanes other than turbopropeller.**

(a) Except as provided in paragraph (b) of this section, no person may release for flight or takeoff a turbine-powered airplane (other than a turbopropeller-powered airplane) unless, considering the wind and other weather conditions expected, it has enough fuel—

(1) To fly to and land at the airport to which it is released;

(2) Thereafter, to fly to and land at the most distant alternate airport specified in the flight release; and

(3) Thereafter, to fly for 45 minutes at normal cruising fuel consumption.

(b) For any operation outside the 48 conterminous United States and the District of Columbia, unless authorized by the Administrator in the operations specifications, no person may release for flight or take off a turbine-engine powered airplane (other than a turbopropeller-powered airplane) unless, considering wind and other weather conditions expected, it has enough fuel—

(1) To fly and land at the airport to which it is released;

(2) After that, to fly for a period of 10 percent of the total time required to fly from the airport of departure and land at the airport to which it was released;

(3) After that, to fly to and land at the most distant alternate airport specified in the flight release, if an alternate is required; and

(4) After that, to fly for 30 minutes at holding speed at 1,500 feet above the alternate airport (or the destination airport if no alternate is required) under standard temperature conditions.

(c) No person may release a turbine-engine-powered airplane (other than a turbopropeller airplane) to an airport for which an alternate is not specified under § 125.367(b) unless it has enough fuel, considering wind and other weather conditions expected, to fly to that airport and thereafter to fly for at least 2 hours at normal cruising fuel consumption.

(d) The Administrator may amend the operations specifications of a certificate holder to require more fuel than any of the minimums stated in paragraph (a) or (b) of this section if the Administrator finds that additional fuel is necessary on a particular route in the interest of safety.

**§ 125.379 Landing weather minimums: IFR.**

(a) If the pilot in command of an airplane has not served 100 hours as pilot in command in the type of airplane being operated, the MDA or DH and visibility landing minimums in the certificate holder's operations specification are increased by 100 feet and one-half mile (or the RVR equivalent). The MDA or DH and visibility minimums need not be increased above those applicable to the airport when used as an alternate airport, but in no event may the landing minimums be less than a 300-foot ceiling and 1 mile of visibility.

(b) The 100 hours of pilot-in-command experience required by paragraph (a) may be reduced (not to exceed 50 percent) by substituting one landing in operations under this Part in the type of airplane for 1 required hour of pilot-in-command experience if the pilot has at least 100 hours as pilot in command of another type airplane in operations under this Part.

(c) Category II minimums, when authorized in the certificate holder's operations specifications, do not apply until the pilot in command subject to paragraph (a) of this section meets the requirements of that paragraph in the type of airplane the pilot is operating.

**§ 125.381 Takeoff and landing weather minimums: IFR.**

(a) Regardless of any clearance from ATC, if the reported weather conditions are less than that specified in the certificate holder's operations specifications, no pilot may—

(1) Take off an airplane under IFR; or

(2) Except as provided in paragraph (c) of this section, land an airplane under IFR.

(b) Except as provided in paragraph (c) of this section, no pilot may execute an instrument approach procedure if the latest reported visibility is less than the landing minimums specified in the certificate holder's operations specifications.

(c) If a pilot initiates an instrument approach procedure when the latest weather report indicates that the specified visibility minimums exist, and a later weather report indicating below minimums conditions is received after the airplane—

(1) Is on an ILS final approach and has passed the outer market,

(2) Is on final approach, using a segment/nonprecision approach procedure, or

(3) Is on PAR final approach and has been turned over to the final approach controller,

the approach may be continued and a landing may be made if the pilot in command finds, upon reaching the authorized MAP or DH, that actual weather conditions are at least equal to the minimums prescribed in the operations specifications.

**§ 125.383 Load manifest.**

(a) Each certificate holder is responsible for the preparation and accuracy of a load manifest in duplicate containing information concerning the loading of the airplane. The manifest

must be prepared before each takeoff and must include—

(1) The number of passengers;

(2) The total weight of the loaded airplane;

(3) The maximum allowable takeoff and landing weights for that flight;

(4) The center of gravity limits;

(5) The center of gravity of the loaded airplane, except that the actual center of gravity need not be computed if the airplane is loaded according to a loading schedule or other approved method that ensures that the center of gravity of the loaded airplane is within approved limits. In those cases, an entry shall be made on the manifest indicating that the center of gravity is within limits according to a loading schedule or other approved method;

(6) The registration number of the airplane;

(7) The origin and destination ; and

(8) Names of passengers.

(b) The pilot in command of an airplane for which a load manifest must be prepared shall carry a copy of the completed load manifest in the airplane to its destination. The certificate holder shall keep copies of completed load manifests for at least 30 days at its principal operations base, or at another location used by it and approved by the Administrator.

## Subpart L—Records and Reports

### § 125.401 Crewmember record.

(a) Each certificate holder shall—

(1) Maintain current records of each crewmember that show whether or not that crewmember complies with this chapter (e.g., proficiency checks, airplane qualifications, any required physical examinations, and flight time records); and

(2) Record each action taken concerning the release from employment or physical or professional disqualification of any flight crewmember and keep the record for at least 6 months thereafter.

(b) Each certificate holder shall maintain the records required by paragraph (a) of this section at its principal operations base, or at another location used by it and approved by the Administrator.

(c) Computer record systems approved by the Administrator may be used in complying with the requirements of paragraph (a) of this section.

### § 125.403 Flight release form.

(a) The flight release may be in any form but must contain at least the following information concerning each flight:

(1) Company or organization name.

(2) Make, model, and registration number of the airplane being used.

(3) Date of flight.

(4) Name and duty assignment of each crewmember.

(5) Departure airport, destination airports, alternate airports, and route.

(6) Minimum fuel supply (in gallons or pounds).

(7) A statement of the type of operation (e.g., IFR, VFR).

(b) The airplane flight release must contain, or have attached to it, weather reports, available weather forecasts, or a combination thereof.

### § 125.405 Disposition of load manifest, flight release, and flight plans.

(a) The pilot in command of an airplane shall carry in the airplane to its destination the original or a signed copy of the—

(1) Load manifest required by § 125.383;

(2) Flight release;

(3) Airworthiness release; and

(4) Flight plan, including route.

(b) If a flight originates at the principal operations base of the certificate holder, it shall retain at that base a signed copy of each document listed in paragraph (a) of this section.

(c) Except as provided in paragraph (d) of this section, if a flight originates at a place other than the principal operations base of the certificate holder, the pilot in command (or another person not aboard the airplane who is authorized by the operator) shall, before or immediately after departure of the flight, mail signed copies of the documents listed in paragraph (a) of this section to the principal operations base.

(d) If a flight originates at a place other than the principal operations base of the certificate holder and there is at that place a person to manage the flight departure for the operator who does not depart on the airplane, signed copies of the documents listed in paragraph (a) of this section may be retained at that place for not more than 30 days before being sent to the principal operations base of the certificate holder. However, the documents for a particular flight need not be further retained at that place or be sent to the principal operations base, if the originals or other copies of them have been previously returned to the principal operations base.

(e) The certificate holder shall:

(1) Identify in its operations manual the person having custody of the copies of documents retained in accordance with paragraph (d) of this section; and

(2) Retain at its principal operations base either the original or a copy of the records required by this section for at least 30 days.

### § 125.407 Maintenance log: airplanes.

(a) Each person who takes corrective action or defers action concerning a reported or observed failure or malfunction of an airframe, aircraft engine, propeller, or appliance shall record the action taken in the airplane maintenance log in accordance with Part 43 of this chapter.

(b) Each certificate holder shall establish a procedure for keeping copies of the airplane maintenance log required by this section in the airplane for access by appropriate personnel and shall include that procedure in the manual required by § 125.249.

### § 125.409 Reports of defects or unairworthy conditions.

(a) Each certificate holder shall report the occurrence or detection of each failure, malfunction, or defect, in a form and manner prescribed by the Administrator.

(b) The report must be made within 72 hours to the FAA Flight Standards district office in whose area the certificate holder has its principal operations base. The procedures to be used in complying with this section must be made a part of the manual procedures required by § 125.73(f).

### § 125.411 Airworthiness release or maintenance record entry.

(a) No certificate holder may operate an airplane after maintenance, preventive maintenance, or alteration is performed on the airplane unless the person performing that maintenance, preventive maintenance, or alteration prepares or causes to be prepared—

(1) An airworthiness release; or

(2) An entry in the aircraft maintenance records in accordance with the certificate holder's manual.

(b) The airworthiness release or maintenance record entry required by paragraph (a) of this section must—

(1) Be prepared in accordance with the procedures set forth in the certificate holder's manual;

(2) Include a certification that—

(i) The work was performed in accordance with the requirements of the certificate holder's manual;

(ii) All items required to be inspected were inspected by an authorized person who determined that the work was satisfactorily completed;

(iii) No known condition exists that would make the airplane unairworthy; and

(iv) So far as the work performed is concerned, the airplane is in condition for safe operation; and

(3) Be signed by a person authorized in Part 43 of this chapter to perform maintenance, preventive maintenance, and alteration.

(c) When an airworthiness release form is prepared, the certificate holder must give a copy to the pilot in command and keep a record of it for at least 60 days.

(d) Instead of restating each of the conditions of the certification required by paragraph (b) of this section, the certificate holder may state in its manual that the signature of a person authorized in Part 43 of this chapter constitutes that certification.

**Appendix A—Additional Emergency Equipment**

(a) *Means for emergency evacuation.* Each passenger-carrying landplane emergency exit (other than over-the-wing) that is more that 6 feet from the ground with the airplane on the ground and the landing gear extended must have an approved means to assist the occupants in descending to the ground. The assisting means for a floor level emergency exit must meet the requirements of § 25.809(f)(1) of this chapter in effect on April 30, 1972, except that, for any airplane for which the application for the type certificate was filed after that date, it must meet the requirements under which the airplane was type certificated. An assisting means that deploys automatically must be armed during taxiing, takeoffs, and landings. However, if the Administrator finds that the design of the exit makes compliance impractical, the Administrator may grant a deviation from the requirement of automatic deployment if the assisting means automatically erects upon deployment and, with respect to required emergency exits, if an emergency evacuation demonstration is conducted in accordance with § 125.189. This paragraph does not apply to the rear window emergency exit of DC–3 airplanes operated with less than 36 occupants, including crewmembers, and less than five exits authorized for passenger use.

(b) *Interior emergency exit marking.* The following must be complied with for each passenger-carrying airplane:

(1) Each passenger emergency exit, its means of access, and means of opening must be conspicuously marked. The identity and location of each passenger emergency exit must be recognizable from a distance equal to the width of the cabin. The location of each passenger emergency exit must be indicated by a sign visible to occupants approaching along the main passenger aisle. There must be a locating sign—

(i) Above the aisle near each over-the-wing passenger emergency exit, or at another ceiling location if it is more practical because of low headroom;

(ii) Next to each floor level passenger emergency exit, except that one sign may serve two such exits if they both can be seen readily from that sign; and

(iii) On each bulkhead or divider that prevents fore and aft vision along the passenger cabin, to indicate emergency exits beyond and obscured by it, except that if this is not possible the sign may be placed at another appropriate location.

(2) Each passenger emergency exit marking and each locating sign must meet the following:

(i) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, each passenger emergency exit marking and each locating sign must be manufactured to meet the requirements of § 25.812(b) of this chapter in effect on April 30, 1972. On these airplanes, no sign may continue to be used if its luminescence (brightness) decreases to below 100 microlamberts. The colors may be reversed if it increases the emergency illumination of the passenger compartment. However, the Administrator may authorize deviation from the 2-inch background requirements if the Administrator finds that special circumstances exist that make compliance impractical and that the proposed deviation provides an equivalent level of safety.

(ii) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, each passenger emergency exit marking and each locating sign must be manufactured to meet the interior emergency exit marking requirements under which the airplane was type certificated. On these airplanes, no sign may continue to be used if its luminescence (brightness) decreases to below 250 microlamberts.

(c) *Lighting for interior emergency exit markings.* Each passenger-carrying airplane must have an emergency lighting system, independent of the main lighting system. However, sources of general cabin illumination may be common to both the emergency and the main lighting systems if the power supply to the emergency lighting system is independent of the power supply to the main lighting system. The emergency lighting system must—

(1) Illuminate each passenger exit marking and locating sign; and

(2) Provide enough general lighting in the passenger cabin so that the average illumination, when measured at 40-inch intervals at seat armrest height, on the centerline of the main passenger aisle, is at least 0.05 foot-candles.

(d) *Emergency light operation.* Except for lights forming part of emergency lighting subsystems provided in compliance with § 25.812(g) of this chapter (as prescribed in paragraph (h) of this section) that serve no more than one assist means, are independent of the airplane's main emergency lighting systems, and are automatically activated when the assist means is deployed, each light required by paragraphs (c) and (h) must comply with the following:

(1) Each light must be operable manually and must operate automatically from the independent lighting system—

(i) In a crash landing; or

(ii) Whenever the airplane's normal electric power to the light is interrupted.

(2) Each light must—

(i) Be operable manually from the flightcrew station and from a point in the passenger compartment that is readily accessible to a normal flight attendant seat;

(ii) Have a means to prevent inadvertent operation of the manual controls; and

(iii) When armed or turned on at either station, remain lighted or become lighted upon interruption of the airplane's normal electric power.

Each light must be armed or turned on during taxiing, takeoff, and landing. In showing compliance with this paragraph, a transverse vertical separation of the fuselage need not be considered.

(3) Each light must provide the required level of illumination for at least 10 minutes at the critical ambient conditions after emergency landing.

(e) *Emergency exit operating handles.*

(1) For a passenger-carrying airplane for which the application for the type certificate was filed prior to May 1, 1972, the location of each passenger emergency exit operating handle and instructions for opening the exit must be shown by a marking on or near the exit that is readable from a distance of 30 inches. In addition, for each Type I and Type II emergency exit with a locking mechanism released by rotary motion of the handle, the instructions for opening must be shown by—

(i) A red arrow with a shaft at least ¾ inch wide and a head twice the width of the shaft, extending along at least 70 degrees of arc at a radius approximately equal to ¾ of the handle length; and

(ii) The word "open" in red letters 1 inch high placed horizontally near the head of the arrow.

(2) For a passenger-carrying airplane for which the application for the type certificate was filed on or after May 1, 1972, the location of each passenger emergency exit operating handle and instructions for opening the exit must be shown in accordance with the requirements under which the airplane was type certificated. On these airplanes, no operating handle or operating handle cover may continue to be used if its luminescence (brightness) decreases to below 100 microlamberts.

(f) *Emergency exit access.* Access to emergency exits must be provided as follows for each passenger-carrying airplane:

(1) Each passageway between individual passenger areas, or leading to a Type I or Type II emergency exit, must be unobstructed and at least 20 inches wide.

(2) There must be enough space next to each Type I or Type II emergency exit to allow a crewmember to assist in the evacuation of passengers without reducing the unobstructed width of the passageway below that required in paragraph (f)(1) of this section. However, the Administrator may authorize deviation from this requirement for an airplane certificated under the provisions of Part 4b of the Civil Air Regulations in effect before December 20, 1951, if the Administrator finds that special circumstances exist that provide an equivalent level of safety.

(3) There must be access from the main aisle to each Type III and Type IV exit. The access from the aisle to these exits must not be obstructed by seats, berths, or other protrusions in a manner that would reduce the effectiveness of the exit. In addition—

(i) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, the access must meet the requirements of § 25.813(c) of this chapter in effect on April 30, 1972; and

(ii) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, the access must meet the emergency exit access requirements under which the airplane was certificated.

(4) If it is necessary to pass through a passageway between passenger compartments to reach any required emergency exit from any seat in the passenger cabin, the passageway must not be obstructed. However, curtains may be used if they allow free entry through the passageway.

(5) No door may be installed in any partition between passenger compartments.

(6) If it is necessary to pass through a doorway separating the passenger cabin from other areas to reach any required emergency exit from any passenger seat, the door must have a means to latch it in open position, and the door must be latched open during each takeoff and landing. The latching means must be able to withstand the loads imposed upon it when the door is subjected to the ultimate interia forces, relative to the surrounding structure, listed in § 25.561(b) of this chapter.

(g) *Exterior exit markings.* Each passenger emergency exit and the means of opening that exit from the outside must be marked on the outside of the airplane. There must be a 2-inch colored band outlining each passenger emergency exit on the side of the fuselage. Each outside marking, including the band, must be readily distinguishable from the surrounding fuselage area by contrast in color. The markings must comply with the following.

(1) If the reflectance of the darker color is 15 percent or less, the reflectance of the lighter color must be at least 45 percent. "Reflectance" is the ratio of the luminous flux reflected by a body to the luminous flux it receives.

(2) If the reflectance of the darker color is greater than 15 percent, at least a 30 percent difference between its reflectance and the reflectance of the lighter color must be provided.

(3) Exits that are not in the side of the fuselage must have the external means of opening and applicable instructions marked conspicuously in red or, if red is inconspicuous against the background color, in bright chrome yellow and, when the opening means for such an exit is located on only one side of the fuselage, a conspicuous marking to that effect must be provided on the other side.

(h) *Exterior emergency lighting and escape route.*

(1) Each passenger-carrying airplane must be equipped with exterior lighting that meets the following requirements:

(i) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, the requirements of § 25.812(f) and (g) of this chapter in effect on April 30, 1972.

(ii) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, the exterior emergency lighting requirements under which the airplane was type certificated.

(2) Each passenger-carrying airplane must be equipped with a slip-resistant escape route that meets the following requirements:

(i) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, the requirements of § 25.803(e) of this chapter in effect on April 30, 1972.

(ii) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, the slip-resistant escape route requirements under which the airplane was type certificated.

(i) *Floor level exists.* Each floor level door or exit in the side of the fuselage (other than those leading into a cargo or baggage compartment that is not accessible from the passenger cabin) that is 44 or more inches high and 20 or more inches wide, but not wider than 46 inches, each passenger ventral exist (except the ventral exits on M–404 and CV–240 airplanes) and each tail cone exit must meet the requirements of this section for floor level emergency exits. However, the Administrator may grant a deviation from this paragraph if the Administrator finds that circumstances make full compliance impractical and that an acceptable level of safety has been achieved.

(j) *Additional emergency exits.* Approved emergency exits in the passenger compartments that are in excess of the minimum number of required emergency exits must meet all of the applicable provisions of this section except paragraph (f), (1), (2), and (3) and must be readily accessible.

(k) On each large passenger-carrying turbojet powered airplane, each ventral exit and tailcone exit must be—

(1) Designed and constructed so that it cannot be opened during flight; and

(2) Marked with a placard readable from a distance of 30 inches and installed at a conspicuous location near the means of opening the exit, stating that the exit has been designed and constructed so that it cannot be opened during flight.

**Appendix B— Criteria for Demonstration of Emergency Evacuation Procedures Under § 125.189**

(a) *Aborted takeoff demonstration.*

(1) The demonstration must be conducted either during the dark of the night or during daylight with the dark of the night simulated. If the demonstration is conducted indoors during daylight hours, it must be conducted with each window covered and each door closed to minimize the daylight effect. Illumination on the floor or ground may be used, but it must be kept low and shielded against shining into the airplane's windows or doors.

(2) The airplane must be in a normal ground attitude with landing gear extended.

(3) Stands or ramps may be used for descent from the wing to the ground. Safety equipment such as mats or inverted life rafts may be placed on the ground to protect participants. No other equipment that is not part of the airplane's emergency evacuation equipment may be used to aid the participants in reaching the ground.

(4) The airplane's normal electric power sources must be deenergized.

(5) All emergency equipment for the type of passenger-carrying operation involved must be installed in accordance with the certificate holder's manual.

(6) Each external door and exit and each internal door or curtain must be in position to simulate a normal takeoff.

(7) A representative passenger load of persons in normal health must be used. At least 30 percent must be females. At least 5 percent must be over 60 years of age with a proportionate number of females. At least 5 percent, but not more than 10 percent, must be children under 12 years of age, prorated through that age group. Three life-size dolls, not included as part of the total passenger load, must be carried by passengers to simulate live infants 2 years old or younger. Crewmembers, mechanics, and training personnel who maintain or operate the airplane in the normal course of their duties may not be used as passengers.

(8) No passenger may be assigned a specific seat except as the Administrator may require. Except as required by item (12) of this paragraph, no employee of the certificate holder may be seated next to an emergency exit.

(9) Seat belts and shoulder harnesses (as required) must be fastened.

(10) Before the start of the demonstration, approximately one-half of the total average amount of carry-on baggage, blankets, pillows, and other similar articles must be distributed at several locations in the aisles and emergency exit access ways to create minor obstructions.

(11) The seating density and arrangement of the airplane must be representative of the highest capacity passenger version of that airplane the certificate holder operates or proposes to operate.

(12) Each crewmember must be a member of a regularly scheduled line crew, must be seated in that crewmember's normally assigned seat for takeoff, and must remain in that seat until the signal for commencement of the demonstration is received.

(13) No crewmember or passenger may be given prior knowledge of the emergency exits available for the demonstration.

(14) The certificate holder may not practice, rehearse, or describe the demonstration for the participants nor may any participant have taken part in this type of demonstration within the preceding 6 months.

(15) The pretakeoff passenger briefing required by § 125.327 may be given in accordance with the certificate holder's manual. The passengers may also be warned to follow directions of crewmembers, but may not be instructed on the procedures to be followed in the demonstration.

(16) If safety equipment as allowed by item (3) of this section is provided, either all passenger and cockpit windows must be blacked out or all of the emergency exits must have safety equipment to prevent disclosure of the available emergency exits.

(17) Not more than 50 percent of the emergency exits in the sides of the fuselage of an airplane that meet all of the requirements applicable to the required emergency exits for that airplane may be used for the demonstration. Exits that are not to be used in the demonstration must have the exit handle deactivated or must be indicated by red lights, red tape or other acceptable means, placed outside the exits to indicate fire or other reason that they are unusable. The exits to be used must be representative of all of the emergency exits on the airplane and must be designated by the certificate

holder, subject to approval by the Administrator. At least one floor level exit must be used.

(18) All evacuees, except those using an over-the-wing exit, must leave the airplane by a means provided as part of the airplane's equipment.

(19) The certificate holder's approved procedures and all of the emergency equipment that is normally available, including slides, ropes, lights, and megaphones, must be fully utilized during the demonstration.

(20) The evacuation time period is completed when the last occupant has evacuated the airplane and is on the ground. Evacuees using stands or ramps allowed by item (3) above are considered to be on the ground when they are on the stand or ramp: *Provided,* That the acceptance rate of the stand or ramp is no greater than the acceptance rate of the means available on the airplane for descent from the wing during an actual crash situation.

(b) *Ditching demonstration.* The demonstration must assume that daylight hours exist outside the airplane and that all required crewmembers are available for the demonstration.

(1) If the certificate holder's manual requires the use of passengers to assist in the launching of liferafts, the needed passengers must be aboard the airplane and participate in the demonstration according to the manual.

(2) A stand must be placed at each emergency exit and wing with the top of the platform at a height simulating the water level of the airplane following a ditching.

(3) After the ditching signal has been received, each evacuee must don a life vest according to the certificate holder's manual.

(4) Each liferaft must be launched and inflated according to the certificate holder's manual and all other required emergency equipment must be placed in rafts.

(5) Each evacuee must enter a liferaft and the crewmembers assigned to each liferaft must indicate the location of emergency equipment aboard the raft and describe its use.

(6) Either the airplane, a mockup of the airplane, or a floating device simulating a passenger compartment must be used.

(i) If a mockup of the airplane is used, it must be a life-size mockup of the interior and representative of the airplane currently used by or proposed to be used by the certificate holder and must contain adequate seats for use of the evacuees. Operation of the emergency exits and the doors must closely simulate that on the airplane. Sufficient wing area must be installed outside the over-the-wing exits to demonstrate the evacuation.

(ii) If a floating device simulating a passenger compartment is used, it must be representative, to the extent possible, of the passenger compartment of the airplane used in operations. Operation of the emergency exists and the doors must closely simulate operation on that airplane. Sufficient wing area must be installed outside the over-the-wing exits to demonstrate the evacuation. The device must be equipped with the same survival equipment as is installed on the airplane, to accommodate all persons participating in the demonstration.

**Appendix C—Ice Protection**

If certification with ice protection provisions is desired, compliance with the following must be shown:

(a) The recommended procedures for the use of the ice protection equipment must be set forth in the Airplane Flight Manual.

(b) An analysis must be performed to establish, on the basis of the airplane's operational needs, the adequacy of the ice protection system for the various components of the airplane. In addition, tests of the ice protection system must be conducted to demonstrate that the airplane is capable of operating safely in continuous maximum and intermittent maximum icing conditions as described in Appendix C of Part 25 of this chapter.

(c) Compliance with all or portions of this section may be accomplished by reference, where applicable because of similarity of the designs, to analyses and tests performed by the applicant for a type certificated model.

(Secs. 313, 601 through 610, and 1102, Federal Aviation Act of 1958, as amended [49 U.S.C. 1354, 1421–1430 and 1502]; sec. 6(c), Department of Transportation Act [49 U.S.C. 1655(c)])

**Note.**—The FAA has determined that this document involves a regulation which is significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "For Further Information Contact."

Issued in Washington, D.C., on October 2, 1980.

**Langhorne Bond,**

*Administrator.*

[FR Doc. 80-31297 Filed 10-2-80; 4:38 pm]

BILLING CODE 4910-13-M

---

## 14 CFR Part 91

**[Docket No. 20813; Amendment No. 91-170]**

## Aircraft Operating Noise Limits for Airplanes Operating Under New Part 125

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** These amendments make necessary changes to apply to new Part 125 operators the aircraft operating noise limits rules of Part 91, Subpart E. Part 125 establishes a uniform set of operating certification and operation rules for U.S. registered, large airplanes having a seating capacity of 20 or more passengers or a maximum payload capacity of 6,000 pounds or more when used for any purpose other than common carriage. The operation of some of those airplanes prior to the effective date of Part 125 is governed by the noise limit rules applicable to their operation under Parts 91, 121, 123, 129, or 135. The Part 125 notice proposed not to change the applicability of the noise rules to the operation of the affected airplanes after they become subject to Part 125. It stated that necessary editorial changes would be made to the noise rules on the basis of the Part 125 proposal. These amendments are part of the implementation of new Part 125 and are necessary to ensure that the noise control and abatement benefits of Part 91, Subpart E, are not reduced or lost through the adoption of new Part 125.

**EFFECTIVE DATE:** February 1, 1981.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard N. Tedrick, Noise Policy and Regulatory Branch (AEE-110), Noise Abatement Division, Office of Environment and Energy, 800 Independence Ave., SW., Washington, D.C. 20591; Telephone: (202) 755-9027.

**SUPPLEMENTARY INFORMATION:**

### Background of this Rulemaking Proceeding

These amendments result from a notice of proposed rulemaking (Notice No. 79-19: 44 FR 66324; November 19, 1979). That notice proposed a new Part 125 to provide a uniform set of operating certification and operation rules for all U.S. registered large airplanes certificated to carry 20 or more passengers or a maximum payload of more than 5,000 pounds other than when engaged in common carriage or agricultural aviation operations. In response to comments, the proposed 5,000 pound payload applicability base has been revised to 6,000 pounds, as discussed in the amendment adopting new Part 125. A full statement of the need for new Part 125 is contained in Notice No. 79-19 and also in the amendment adopting new part 125 which is issued simultaneously with these amendments to Part 91, Subpart E.

In short, new Part 125 substantially upgrades the level of safety formerly applicable to the affected airplanes under Part 91. It also achieves regulatory simplification and ease of enforcement by applying a single set of regulations to the specified size of airplanes without regard to how they are used, except that common carriage operations are not covered. It is intended that new Part 125 will eliminate difficulties in regulatory interpretation which have been experienced by members of the public, operators, and FAA inspectors, particularly with respect to application of the "compensation or hire" test which is eliminated by new Part 125 with

respect to airplanes subject to its provisions. The adoption of new Part 125 is the final step in a regulatory upgrade and modernization program recommended by the Secretary of Transportation.

**Relationship of Subpart E to Part 125**

Part 91, Subpart E prescribes among other things, aircraft operating noise limits rules applicable to certain civil subsonic turbojet powered airplanes with maximum weights over 75,000 pounds and to certain civil supersonic airplanes that are operated in air commerce in the United States. Some of the airplanes subject to new Part 125 are airplanes covered by Subpart E. However, the applicability of Subpart E is keyed, in part, to that part of the Federal Aviation Regulations under which the airplane is operated, that is, Parts 91, 121, 123, 129, and 135. Some airplanes previously operated under those parts are subject to Part 125 on its effective date in accordance with compliance dates which it establishes.

Notice No. 79-19 proposed not to alter applicable operating noise limits rules for airplanes proposed to be covered under new Part 125. That notice stated that ". . . necessary editorial changes will be made to Subpart E on the basis of the [Part 125] proposal." One person commented on the noise aspects of the Part 125 proposal and concurred that the final rule should accomplish the result quoted above from the notice.

**Description of Amendments**

Necessary amendments are made to Part 91, Subpart E, to specify its applicability to operations of affected airplanes under Part 125. These airplanes are governed by a new § 91.302 which designates the applicable regulations. Airplanes already subject to requirements in Parts 91, 121, 123, 129, and 135 before November 1, 1980, remain subject to those requirements, including phased compliance for subsonic airplanes operated under Part 121 and 135. Subsonic airplanes not operating in the United States under either of those parts before November 1, 1980, are subject to the same requirements as those previously applicable to Part 91 and 123 operators, including the timely submission of compliance plans under § 91.308. Phased compliance requirements do not apply to those airplanes. Supersonic airplanes operated under Part 125 must comply with the provisions of §§ 91.309 and 91.311.

November 1, 1980, is the operative for designation of applicable regulations under Subpart E of Part 91 in order to preclude changes in operations between that date and the Part 125 effective date which would have the effect of evading the specified requirements.

Notwithstanding the provisions of Part 125 permitting the approval of deviations from the other requirements of that part, the noise requirements applicable to the operation of affected airplanes would not be changed by that approval. It should be noted that some of the amendments to Subpart E, which will implement the Aviation Safety Noise Abatement Act of 1979, apply to all aircraft, when adopted, regardless of the part under which they are operated.

**Adoption of the Amendment**

Accordingly, Part 91, Subpart E, is amended as follows effective February 1, 1981:

**§ 91.301 [Amended]**

1. By amending § 91.301(a) of subpart E as follows:

a. By amending paragraphs (a)(1) and (a)(3) in each case after the first word "Sections" by adding the word "91.302" followed by a comma and in the last sentence by deleting the words "Parts 121, 123, 129, and 135 of this chapter" and substituting for them the words "Parts 121, 123, 125, 129, and 135 of this chapter."

b. By amending paragraph (a)(2) by deleting the words "Parts 121, 123, and 135" and substituting for them the words "Parts 121, 123, 125, and 135."

2. By adding a new § 91.302 to Subpart E to read as follows:

**§ 91.302 Part 125 operators: designation of applicable regulations.**

For airplanes covered by this subpart and operated under Part 125, the following regulations apply as specified:

(a) For each airplane operation to which requirements prescribed under this subpart applied before November 1, 1980, those requirements of this subpart continue to apply.

(b) For each subsonic airplane operation to which requirements prescribed under this subpart did not apply before November 1, 1980, because the airplane was not operated in the United States under this part or Part 121, 123, 129 or 135, the requirements prescribed under §§ 91.303, 91.306, 91.307, and 91.308 of this subpart apply.

(c) For each supersonic airplane operation to which requirements prescribed under this subpart did not apply before November 1, 1980, because the airplane was not operated in the United States under this part or Part 121, 123, 129, or 135, the requirements of §§ 91.309 and 91.311 of this subpart apply.

(d) For each airplane required to operate under Part 125 for which a deviation under that Part is approved to operate, in whole or in part, under this part or Parts 121, 123, 129, or 135, notwithstanding the approval, the requirements prescribed under paragraphs (a), (b), and (c) of this section continue to apply.

3. By amending § 91.305 of Subpart E as follows:

a. By revising the heading to read as follows:

**§ 91.305 Phased compliance under Parts 121, 125, and 135: subsonic airplanes.**

b. By amending paragraph (a) after the words "under Parts 121 or 135 of this chapter" by inserting the words "or under Part 125 of this chapter, as prescribed under § 91.302 of this subpart."

(Secs. 307, 313(a), 601, 603, 604, and 611, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, 1423, 1424 and 1431)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Title III, Aviation Safety and Noise Abatement Act of 1979 (94 Stat. 50)

**Note.**—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above, under the caption "For Further Information Contact."

Issued in Washington, D.C., on October 2, 1980.

**Langhorne Bond,**

*Administrator.*

[FR Doc. 80-31473 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-13-M

federal register

Thursday
October 9, 1980

Part III

# Department of Health and Human Services

## Office of the Secretary

## Debarment and Suspension From Eligibility for Financial Assistance

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### 45 CFR Part 76

### Debarment and Suspension From Eligibility for Financial Assistance

**AGENCY:** Department of Health and Human Services.

**ACTION:** Final rule.

**SUMMARY:** HHS hereby amends Title 45 by adding a new Part 76 authorizing debarment and suspension of individuals and institutions from eligibility to receive grants or other forms of financial assistance under HHS discretionary programs. These regulations are necessary because there have been instances of fraud or abuse by persons who are responsible for Federal funds, and the effect of the regulations will be to establish a procedure, with due process safeguards, to render these persons ineligible to receive HHS financial assistance for reasonable periods of time.

**EFFECTIVE DATE:** November 10, 1980.

**ADDRESS:** Requests for information or a copy of the regulations may be addressed to the Legal Advisor, NIH, Office of the General Counsel, Room 2B–50, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

**FOR FURTHER INFORMATION CONTACT:** William G. Ketterer, Senior Attorney, NIH. Address: Same as above; telephone (301) 496–6043.

**SUPPLEMENTARY INFORMATION:** On March 19, 1979, the Secretary of Health, Education, and Welfare (now the Secretary of Health and Human Services) published in the **Federal Register** (44 FR 16444) a notice proposing regulations governing the debarment and suspension of individuals and institutions from financial assistance for specified causes and subject to due process safeguards.

The notice provided 60 days opportunity for written comment from interested members of the public. Although some comments were received after the expiration date, all comments have been considered in preparation of the final regulations.

#### Overview of the Comments

Thirty-two letters of comment were received from the following sources: 3 local school districts, 5 State government agencies, 13 universities or colleges, 9 other educational organizations, and 2 concerned individuals. Although many comments were flatly opposed to any regulations on debarment (generally because they felt that existing procedures were adequate), some letters generally supported the adoption of *some* form of debarment procedure, but offered specific comments for clarification and improvement. All the comments have been carefully considered in adopting the final regulations.

A discussion of the comments received and the Secretary's action with respect to them follows:

(1) *Sufficiency of 5 U.S. Code § 301 as authority.* Several comments questioned whether the authority cited for the regulations, 5 U.S. Code § 301, is legally sufficient. Section 301 authorizes the heads of executive agencies to ". . . prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property." While this authority is general in nature, the Secretary believes that establishment of reasonable debarment and suspension procedures to protect limited public funds for financial assistance is in furtherance of the performance of HHS's "business" of administering financial assistance programs authorized by Congress. The alternative would be to restate separately each statutory authority for every affected program, which is impractical.

(2) *Are the Regulations Necessary?* Numerous comments questioned whether the regulations are necessary and whether they merely duplicate other HHS regulations and procedures which are presently available to correct fraud and abuse in the assistance area (for example, normal audit procedures, and procedures for termination of ongoing grant awards under 45 CFR Part 74, Subpart M). These procedures deal with fraud and abuse after they have occurred and the Secretary believes that, in order to provide the maximum protection of Federal funds, there should be an across-the-board mechanism for the *prevention* of fraud and abuse. By excluding irresponsible applicants from the award process, the Secretary believes that limited public funds for assistance purposes will be available where they will be used properly.

With regard to overlapping debarment procedures under particular programs (for example, termination of eligibility of postsecondary institutions for student financial assistance under 45 CFR Part 168), the Secretary agrees that the regulations should take into account and, in response to a comment, § 76.10(g) [renumbered 76.10(f)] has been revised to include a prior outstanding debarment from financial assistance by a Government agency (including an agency within HHS) as cause for instituting a Department-wide debarment. Conforming changes have also been made to § 76.12(b). As in the case of prior contract debarment, the period of debarment would run concurrently with the period of debarment under the particular program concerned. The Secretary believes that it makes little sense for a person debarred from Government contract awards or financial assistance under one program, to continue to be eligible for financial assistance under the other numerous discretionary programs administered by HHS.

(3) *Failure to list these regulations in HHS's Semiannual Agenda of Regulations.* Two comments pointed out that the debarment regulations were not listed in HHS's Semiannual Agenda of Regulations published in the **Federal Register** for January 19, 1979 (44 FR 176), which is now required by Executive Order 12044. The Secretary regrets this omission which was entirely inadvertent and due to inadequate "tracking" of the regulations in the course of development. However, the public was not harmed by this omission because the notice provided full 60 days opportunity to comment, as required by the Executive Order and, although numerous comments were received after the expiration of the comment period, *all* comments received in response to the notice have in fact been considered.

In this connection, also, one commenter requested a hearing on the issues prior to publishing regulations in the area. The Secretary believes that the 60 day comment period has provided opportunity for public participation, and that such a hearing would only serve to further delay publication of regulations; the request is therefore denied.

(4) *§ 76.10(d) and (e) "unsatisfactory performance" and "serious" violations of statutes, regulations, terms and conditions as causes to debar.* There were several objections to § 76.10(e) authorizing debarment on the basis of "unsatisfactory performance" on a previous award as being ambiguous and subjective. In response, the criterion "as determined under the terms and conditions or specifications the prior awards" has been added to the provision, and, of course, a respondent will be afforded opportunity at a hearing to challenge a proposed debarment for unsatisfactory performance.

In response to a staff comment on paragraph (e), the provision has also been expanded to cover awards of contracts and subcontracts.

Objections on grounds of ambiguity were also raised with regard to the use of the word "serious" at several places in § 76.10. Although clarifying changes have been made, the term has been retained. Because of the numerous programs covered by these regulations, the term was chosen to leave room for administrative discretion, but requires an affirmative finding of seriousness before debarment action may be initiated.

The use of the term "serious" is intended to limit debarment to causes involving matters of importance, or which have important or dangerous possible consequences. The following examples, which are not exhaustive, are given to illustrate this meaning: (1) the misappropriation of grant funds for personal benefit, such as financing personal trips unrelated to the purpose for which the funds were awarded, (2) willful failure to comply with record retention and access requirements of regulations in order to frustrate examination or audit by the Government, including destruction of relevant documents, and (3) intentional falsification of research reports in order to meet deadlines, comply with the terms of awards, or secure personal or professional advantage.

It is believed that the standard thus affords a measure of protection to persons because insubstantial and minor violations would *not* be basis to debar, and even material violations must be determined to be sufficiently serious in nature to justify debarment action.

(5) § *76.10(f) Discriminatory practices.* Most comments objected to the ground "discriminatory practices," as introducing a new mechanism and procedures for enforcing civil rights laws, which already have their own specific regulations and procedures for determining discrimination (see, for example, 45 CFR Parts 80 and 81 relating to nondiscrimination under Title VI of the Civil Rights Act of 1964). Others felt that this ground was not consistent with the primary purpose of the regulations, which is to eliminate fraud and fiscal abuses.

Although it would be possible to modify the provisions relating to unlawful discrimination to limit debarment on those grounds to the terms and scope of a previous court or administrative order, this would not constitute a general debarment which is the intention of the regulations, and might lead to confusion. Accordingly, proposed § 76.10(f) and related provisions of the regulations have been deleted, and debarment for discriminatory practices under the statutes listed below or under Executive Order 11246 is outside the scope of these regulations:

(a) Title VI of the Civil Rights Act of 1964 (42 U.S. Code § 2000d et seq.);

(b) Title IX of the Education Amendments of 1972 (20 U.S. Code § 1681 et seq.);

(c) Title VII and VIII of the Public Health Service Act (42 U.S. Code §§ 292, 296);

(d) Age Discrimination Act of 1975 (42 U.S. Code § 6101); and

(e) Discrimination on the basis of handicap (section 504 of the Rehabilitation Act of 1973; 29 U.S. Code § 794).

Debarment from eligibility for financial assistance under the above listed statutes and Executive Order 11246 will be in accordance with the terms of any order issued pursuant to those statutes or Executive Order 11246.

(6) § *76.10(h) [renumbered § 76.10(g)] "Catch-all" lacks criteria.* Many commenters objected to the "catch-all" provision as being ambiguous and encouraging abuse of discretion. The Department does not agree. While the provision is indeed broad, because of the variety of programs covered by these regulations and the myriad of situations which may arise, it is essential to be able to handle unpredictable circumstances.

(7) *Should the regulations include a detailed implementing administrative structure, including points of contact?* This is viewed as an internal administrative matter which is not appropriate to include in the regulations. *All* normal channels for receiving and investigating complaints of fraud or abuse in grants would be available, for example, the relevant program office, the Office of the Inspector General, and the Office of the General Counsel. In addition, HHS reserves the right to undertake appropriate investigations of financial assistance programs upon its own initiative.

(8) *Are the regulations a penalty or punishment?* While the Secretary agrees that the regulations are stringent, the Secretary does not agree that they constitute a penalty or punishment because they are intended and will be used (1) solely to protect the interests of the United States and (2) they apply only to "discretionary programs" which are specifically defined to exclude programs under which an applicant is entitled to assistance as a matter of law. The courts have recognized the nonpunitive nature of debarment actions as follows in *Gonzalez* v. *Freeman*, 334 F. 2d 570 at 576, 577 (1964):

> The question presented is whether Commodity Credit is powerless to terminate business relations with irresponsible, defaulting or dishonest contractors. *Notwithstanding its severe impact upon a contractor, debarment is not intended to punish* but it is a necessary "means for accomplishing the congressional purpose" of Commodity Credit to "aid in the development of foreign markets for agricultural commodities." (emphasis added).

(9) § *76.13 Imputing conduct of individuals to their institution.* It was suggested that § 76.13(b) (relating to conduct within the scope of one's employment) and (c) (relating to debarrable conduct of individuals) should include the express requirement that the individual be *knowingly* involved. The comment is accepted with respect to paragraph (c) which deals with circumstances under which an individual may be *personally* debarred for participating in conduct for which the institution employing that individual may be debarred. Paragraph (b), however, deals solely with the issue of imputing conduct of an individual performed within the scope of employment, to his or her employer, and the key factor here is whether the employer knew or should have known of the conduct in question. To clarify this the word "or" in the sixth line of paragraph (b) has been changed to "and," so as to read "* * * where such conduct was accomplished within the scope of authority or employment *and* under circumstances in which responsible officials of the institution knew or should have known of the conduct."

Pursuant to another comment, the terminology of paragraph (b) has been improved to read "scope of authority or employment" (in lieu of "course of his or her official duty"). Parallel changes have also been made to § 76.21 relating to suspensions.

Other comments questioned the fundamental fairness of charging an institution with the errant conduct of its employees. Holding an employer responsible for the actions of its employees, committed within the scope of employment, has long been accepted for purposes of liability under the general law of agency and this appears *all the more applicable* where, as is the case with financial assistance, the institution often stands to benefit financially from the dishonest acts of its employees. Indeed, it is the institution which is in the best position to take corrective measures and, in response to a comment in this regard, paragraph (b) has been amended to require that remedial action by responsible officials of the institution be taken into account

in determining whether institutional debarment is warranted. Also, under § 76.12(c), change of ownership or management, or correction of the underlying grounds for which debarment was imposed, are grounds to terminate a debarment. Reference to (change of) "responsible personnel" has been added to the provision to make it explicit that this too would constitute a basis to terminate debarment.

(10) *Applicability to State and local government agencies.* Several comments objected to applicability of the regulations to public institutions, i.e., State and local government agencies, although most comments felt they should be treated the same as private organizations. The Secretary recognizes the serious implications of rendering a State agency subject to debarment for the wrongful conduct of its employees. But in light of the fact that the regulations are limited to *discretionary* awards, which are awarded solely on the basis of merit or program need, and do not affect nondiscretionary awards, there is no apparent reason why such agencies should not have to compete on an equal basis with, and be subject to the same constraints as, the private sector for the limited Federal dollars available. Also, as previously noted, where the affected individuals are removed from positions of authority, this would be a basis for terminating debarment under § 76.12(c).

A related question was also raised whether violation of the terms and conditions of a mandatory formula grant (i.e., an entitlement) would theoretically serve as a basis to debar from *discretionary* awards under § 76.10(d). The answer is yes, in light of the broad definition of "financial assistance" (which includes all grants), but this again would *not* affect the debarred institution's continued eligibility for awards to which it may be entitled as a matter of law.

Also, § 76.13 has been expanded to make it clear that, when an institution is the subject of a debarment action, the Secretary would normally limit the debarment just to those components of the institution which were involved in or actually responsible for the conduct leading to debarment.

(11) *§ 76.17 and § 76.24 Publication in Federal Register of the results of debarment and suspension actions.* Several commenters objected to publication in the **Federal Register** of the results of debarment and suspension actions, especially publication of the names of persons debarred and suspended. Several felt that this rendered debarment and suspension actions punitive in nature contrary to § 76.1(a); on the other hand, others expressed the view that *additional* information should be so published, including details concerning hearings, periodic lists of names of *formerly* debarred persons, and the amount of any monies involved. Several comments questioned the need for any public notice concerning debarment and suspension actions.

The purpose of publishing this information in the **Federal Register** is (1) to inform the public of a significant action taken to protect the public interest, and (2) to provide constructive notice to grantees and others responsible for administering HHS funds so that they can implement the restrictions set forth in §§ 76.16(c) and 76.23(c) barring participation by debarred and suspended individuals under financial assistance programs.

One comment supporting **Federal Register** publication noted: "* * * secrecy in government is a tool which is all too often abused. In all likelihood, most cases of debarment are the final result of at least one public hearing." The Secretary agrees that the public has a right to know, through publication in the **Federal Register**, the results of proper governmental actions taken to protect the public interest. Additionally, § 76.17(c) and § 17.24(c) provide for the maintenance of a current consolidated list of debarred institutions and individuals for purposes of administering affected discretionary programs.

(12) *§ 76.22(f) Suspensions—hearings.* Several commenters felt that the regulations failed to provide due process hearings in cases of suspensions. Indeed, one comment stated that there could be a suspension for up to 18 months in cases of criminal indictment without opportunity for a hearing. Post-suspension hearings are guaranteed for *all* suspensions upon request of the suspended party under § 76.22(f) and such hearings are required to be conducted, to the extent practical, in accordance with the debarment procedures set forth in §§ 76.14 and 76.15. Furthermore, although the courts have expressly upheld summary suspensions for cause for up to one month without any opportunity for a hearing (see *Horne Brothers, Inc.* v. *Laird*, 463 F2d 1268 (1972)), the regulations exceed this standard by affording a prompt hearing to suspended persons. However, as proposed, § 76.21(a) may give the impression that the period and scope of suspensions are determined without reference to the results of any hearing held pursuant to § 76.22(f), and this has been corrected in the final regulations.

(13) *Applicability to persons involved in criminal activity not involving Federal funds; application to affiliates.* It was felt by several commenters that the regulations should not apply, as they do, to persons convicted of criminal activity not involving Federal funds (for example, conviction of fraud in connection with attempting to obtain a *private* contract in § 76.10(a)).

The Secretary believes that any fraudulent criminal activity in connection with contracts clearly demonstrates a lack of business integrity and therefore may warrant debarment from stewardship over public funds which, in the final analysis, is a public trust. Of course, it should be noted that under the regulations debarment and suspension only preclude future awards during the specific period of debarment or suspension, after which the person would again be eligible to apply for and receive financial assistance. In response to a comment, this point has been clarified in § 76.1(c).

The suggestion that the regulations set forth required minimum periods of debarment for particular offenses is not accepted, because the Secretary believes the regulations should be as flexible as possible in this regard.

Another comment questioned the fairness of including affiliates at all: but it should be noted that, as defined, affiliates are institutions which *control or are controlled* by another institution or individual and they are guaranteed the same notice and opportunity for hearing under § 76.13(a). Similarly, the decision to initiate debarment, which is a drastic remedy, is left to sound discretion of the Secretary in § 76.10, and the suggestion that the Secretary "must" debar all individuals and institutions for the enumerated causes in § 76.10 is rejected as impractical and unnecessarily harsh. For the same reason, other suggestions which would severely limit the discretion of the Secretary to *decline* action, or unduly restrict the Secretary's choices within the regulatory framework have been rejected.

(14) *Hearing procedures.* Numerous suggestions have been made to modify the hearing procedures, chiefly to the benefit of the respondent institution or individual. For example: that HHS should bear the *full* costs of hearings to respondents (including costs of travel expenses and legal counsel, and provision of transcripts without charge), that respondent should choose the place of hearing or that it should always be at the site of the affected institution, that

there be more than one hearing examiner, that there be more specific time intervals stated, that there be an appeal as a matter of right to the Secretary and beyond the Secretary. Although § 76.15(b) has been modified to assure respondents a right of appeal to the Secretary, most of these other suggestions are rejected as not necessary to assure due process. In addition, as the result of staff comment, the Secretary has revised the final rule to provide that hearings shall be conducted by a hearing officer (who shall be an officer or employee of HHS not previously involved in the matter), and the notice provisions have been modified to authorize notice by personal service, as well as by registered or certified mail.

(15) *Clarifying, technical and editorial changes.* In response to a staff comment, the definition of "financial assistance" in § 76.2 has been clarified to explicitly cover assistance in the form of property and services, as well as awards of funds.

We have also added clarifying language to § 76.11(d) to remove an apparent inconsistency with § 76.15(c). While debarment may be based solely on proof of debarment from contracting by another government agency (which is a matter of public record), § 76.11(d) would permit HHS to develop any additional facts it deems appropriate at the HHS debarment hearing. The fact of prior debarment (as well as any other facts proferred by HHS) will be fully subject to rebuttal by the affected parties at the HHS hearing. The affected parties could also introduce evidence and offer argument on whether the reasons for the prior debarment by another agency warrant debarment under this regulation. Section 76.23(a), setting forth general restrictions during suspensions, has been revised in response to a staff comment to conform more closely to the parallel provision § 76.16(a) governing general restrictions during debarments.

In addition, several other clarifying, technical and editorial suggestions were offered. These have been accepted where possible and are reflected in the final rule.

Title 45 Code of Federal Regulations is therefore amended by adding a new Part 76, as set forth below:

Dated: August 21, 1980.

**Patricia Roberts Harris,**

*Secretary.*

## PART 76—DEBARMENT AND SUSPENSION FROM ELIGIBILITY FOR FINANCIAL ASSISTANCE

### Subpart A—General

Sec.

76.1 The scope and purpose of these regulations.
76.2 Definitions.

### Subpart B—Debarment

76.10 Causes for debarment.
76.11 Conditions for debarment.
76.12 Period of debarment.
76.13 Scope of debarment.
76.14 Procedures—Hearings.
76.15 Procedures—Determination of hearing officers; review by Secretary.
76.16 Restrictions on debarred institutions and individuals.
76.17 Publication of notice in **Federal Register** of results of debarment actions.

### Subpart C—Suspension

76.20 Causes for suspension.
76.21 Period and scope of suspension.
76.22 Notice of suspension.
76.23 Restrictions during period of suspension
76.24 Publication of notice in **Federal Register** of results of suspension actions.

**Authority:** 5 U.S.C. 301.

### Subpart A—General

#### § 76.1 The scope and purpose of these regulations.

(a) *Debarment.* Subpart B prescribes policies and procedures relating to debarment for cause of public and private institutions or individuals (and their affiliates) from eligibility under discretionary programs of financial assistance which are awarded or administered by HHS. Debarment is invoked to exclude institutions and individuals from participation in HHS discretionary programs of financial assistance to protect the interests of the Government, and is not intended to be a penalty or punishment. This measure shall be instituted only for as long as necessary to protect the interests of the Government and financial assistance is precluded only during the period of debarment.

(b) *Suspension.* Subpart C sets forth the procedures for temporary suspension of institutions or individuals (and their affiliates) from eligibility under HHS discretionary programs of financial assistance. Because it is a drastic step taken upon what may be incomplete information, it shall be used cautiously and only when the Secretary believes that grounds for debarment exist (or there is an outstanding indictment for a criminal offense which is grounds for debarment) and there are compelling reasons why immediate action must be taken before debarment proceedings can be completed. In assessing whether adequate evidence exists for invoking suspension, consideration shall be given to the evidence available, to the existence or absence of corroboration as to allegations, as well as to the inferences which may properly be drawn from the existence or absence of facts and the irreparable nature of the harm caused by continuing the institution's or individual's eligibility pending debarment proceedings. This assessment shall include an examination of basic documents, such as contracts, grants, inspection reports, and correspondence. A suspension may be terminated or modified whenever it is determined to be in the interest of the Government to do so.

(c) *Relationship to other program responsibilities.* The regulations of this part deal solely with the debarment and suspension of individuals and organizations for future awards and do not limit the discretion of agency officials to take into account the fiscal and administrative capabilities of applicants in connection with particular applications for financial assistance. Termination and suspension for cause of ongoing grants are separate matters which are governed by HHS's grant administration regulations, 45 CFR Part 74, Subpart M. However, debarment and suspension under this part precludes all future awards during the period of debarment or suspension, including competitive and noncompetitive renewal, supplemental, and continuation awards, of financial assistance for a previously supported activity.

#### § 76.2 Definitions.

As used in this part:

"Affiliate" means an institution which controls, or is controlled by, or is under common control with, another institution or individual. For example, a university foundation and the "parent" university are affiliates if one has the power to control the other with respect to the conduct for which debarment or suspension is sought.

"Discretionary program" means a program of financial assistance which is awarded on the basis of merit or program need and to which an applicant is not entitled as a matter of law.

"Debarment" and "debarred" mean the exclusion from eligibility for financial assistance awarded or

administered by HHS under discretionary programs for a reasonable, specified period of time, commensurate with the seriousness of the cause resulting in the debarment.

"Financial assistance" means grants and awards of funds, services, or property (including fellowships, traineeships and National Research Service Awards), cooperative agreements, loans, loan guarantees, and interest subsidies, including competitive and noncompetitive renewal, supplemental, and continuation awards for any of the foregoing.

"HHS" means the Department of Health and Human Services and its operating agencies and component organizations.

"Individual" means a natural person.

"Institution" means any public or private corporation, agency, organization, or institution, which would otherwise be eligible to receive financial assistance under HHS discretionary programs.

"Respondent" means an institution, individual or affiliate who is the subject of a debarment action under §§ 76.14 and 76.15.

"Secretary" means the Secretary of Health and Human Services and any officer or employee of HHS to whom the authority involved has been delegated.

"Suspension", unless the context otherwise requires, means an immediate exclusion from eligibility for financial assistance under discretionary programs without prior hearing pending completion of debarment or other proceedings, as applicable.

## Subpart B—Debarment

### § 76.10 Causes for debarment.

Subject to the conditions set forth in § 76.11 and the procedural requirements set forth in §§ 76.14 and 76.15, the Secretary may debar an institution or individual, and any affiliate thereof, in the public interest for any of the following causes:

(a) Conviction for any criminal offense committed as an incident to obtaining or attempting to obtain a public or private contract or any form of financial assistance (or subcontract or subgrant thereunder), or as an incident to performance of any contract, or any form of financial assistance (or any subcontract or subgrant thereunder);

(b) Conviction under the Organized Crime Control Act of 1970, or conviction for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the question of present responsibility to account for or administer Federal funds;

(c) Conviction under the Federal Antitrust Statutes arising out of the submission of bids, applications or proposals;

(d) Serious violation of the applicable statute, regulations, or other terms and conditions of a previous award of financial assistance;

(e) A record of serious unsatisfactory performance (or failure to perform) under one or more prior awards of financial assistance, contracts or subcontracts, as determined under the terms and conditions or specifications of the prior awards, except that unsatisfactory performance (or failure to perform) caused by acts beyond the control of the institution or individual shall not be considered a basis for debarment;

(f) Debarment from Government contracting, subcontracting, or financial assistance, by a Government agency (including an agency within HHS);

(g) Any other cause significantly affecting responsibility as a recipient or participant under a Federal program of sufficiently serious nature as determined by the Secretary to warrant debarment.

### § 76.11 Conditions for debarment.

(a) *General.* Unless otherwise required by law, the existence of any of the causes set forth in § 76.10 does not effectuate a debarment or necessarily require that an institution or individual be debarred. In each instance, a decision to debar shall be made within the discretion of the Secretary and shall be rendered solely in the best interest of the Government. In addition, mitigating factors, such as the degree of seriousness of the offense, violation, failure, or inadequacy of performance, will be considered in deciding whether debarment is warranted.

(b) The existence of a cause set forth in § 76.10(a), (b), and (c) (relating to conviction of criminal offenses) shall be established by proof of judgment of criminal conviction by a court of competent jurisdiction. In the event that an appeal taken from such conviction results in a reversal, debarment shall be removed on the Secretary's own motion or upon the written request of the institution or individual concerned (unless other cause for debarment exists).

(c) The existence of causes set forth in § 76.10(d), (e), and (g) (relating to violation of grant terms and conditions, performance, and other causes) shall be established by evidence which the Secretary determines to be clear and convincing in nature.

(d) Debarment on the cause set forth in § 76.10(f) (relating to debarment from Government contracting, subcontracting, or financial assistance) may be based entirely on the determination of debarment by the initial debarring agency, or upon a combination of this determination and additional facts.

### § 76.12 Period of debarment.

(a) *General.* Debarment for causes other than debarment from contracting, subcontracting or financial assistance under § 76.10(f) shall be for a reasonable, definite period of time commensurate with the seriousness of the offense, violation, or failure or inadequacy of performance, as necessary to protect the interests of the Government.

(b) *Contract and other prior debarments.* Where debarment is based upon prior debarment from contracts, subcontracts or financial assistance, the period of debarment shall run concurrently with the period of the prior debarment.

(c) *Termination or reduction of period.* Except where prohibited by statute, debarment may be terminated, or the period thereof may be reduced, by the Secretary, on the Secretary's own initiative or upon the submission of an application, supported by documentary evidence, setting forth appropriate grounds for the granting of relief, such as newly discovered material evidence, reversal of conviction, bona fide change of ownership, management, or responsible personnel, or the elimination or correction of the underlying grounds for which the debarment was imposed or other mitigating circumstances. The Secretary may require, as a condition to termination of the debarment period, restitution to HHS by the debarred party for losses sustained by HHS.

(d) *Reinstitution of debarment.* Except where debarment is based upon conviction of a criminal offense, at the end of the termination period the Secretary may reinstitute debarment, through the debarment procedures set forth in this subpart, if the causes have not been corrected or adequate assurance given that the practices will not be repeated.

### § 76.13 Scope of debarment.

(a) *Institutions.* When an institution is the subject of a debarment action, the Secretary may limit the debarment just to those components of the institution which were involved in the conduct leading to debarment.

(b) *Affiliates.* A debarment may include affiliates of an institution or individual which have had notice and opportunity for a hearing in accordance with §§ 76.14 and 76.15. Each decision to include a known affiliate within the scope of a proposed debarment is to be

made on a case-by-case basis, after giving due regard to all the relevant facts and circumstances.

(c) *Imputing conduct to institution.* Conduct of an individual may be imputed to the institution, or responsible component of the institution, with which he or she is associated by employment or otherwise, where such conduct was accomplished within the scope of authority or employment and under circumstances in which responsible officials of the institution knew or should have known of the conduct. However, remedial action taken by responsible officials of the institution shall be taken into account in determining whether debarment of the institution is warranted. The institution shall be entitled to notice and opportunity for a hearing in accordance with §§ 76.14 and 76.15.

(d) *Individuals involved in debarable activities.* Where an institution is involved in conduct justifying debarment under this part, any individual who was knowingly involved in the commission of the conduct in question may also be debarred. The individual shall be entitled to notice and opportunity for hearing in accordance with §§ 76.14 and 76.15.

**§ 76.14 Procedures—Hearings.**

(a) *Initiation of action.* When the Secretary seeks to debar an institution or individual, or any affiliate thereof (called "respondent" for purposes of §§ 76.14 and 76.15), respondents shall be served with written notice from the Secretary by personal service or registered or certified mail, return receipt requested. The notice shall:

(1) State that debarment is being considered;

(2) Set forth the reasons for the proposed debarment and the proposed length of time; and

(3) Indicate that the respondent will be accorded an opportunity for a hearing if the respondent so requests and the request is received within 30 days after the date of mailing or service of the notice to the respondent's last know address.

(b) *Hearing.*—(1) *Request for hearing.* Any respondent that has been notified of a proposed action is entitled to request an opportunity to be heard and to be represented by counsel. A hearing request shall be made in writing addressed to the Secretary or other official proposing the action. If at the end of the 30 day period referred to in paragraph (a)(3) of this section, no request has been received, it may be assumed that an opportunity to be heard is not desired, and the Secretary shall proceed to make a final determination and so notify the respondent.

(2) *Notice of hearing.* Upon receipt of a request for an opportunity to be heard, the Secretary shall appoint a hearing officer and the hearing officer shall arrange a prompt and timely hearing. Notice of the time and place of such hearing shall be in writing, transmitted by personal service or registered or certified mail, return receipt requested, and shall include a statement indicating the nature of the proceedings and their purpose. The hearing officer shall determine the place for the hearing. In determining the hearing place, the hearing officer shall consider the convenience of the parties and the public interest.

(c) *Hearing procedures.* (1) Hearings shall be conducted by the hearing officer, who shall be an officer or employee of HHS not previously involved in the matter.

(2) HHS shall be represented by the General Counsel or designee.

(3) A transcribed record shall be made of the proceedings and a copy shall be made available to the respondent upon request, upon payment of any appropriate fee prescribed under the HHS Freedom of Information Act regulations (45 CFR Part 5).

(4) Formal rules of evidence and procedures applicable to proceedings in a court of law will not be applied.

(d) *Scope of hearing; sufficiency of evidence.* The scope of the hearing and sufficiency of evidence shall be governed by the applicable provisions of § 76.11.

**§ 76.15 Procedures—Determination of hearing officers; review by Secretary.**

(a) After completion of the hearing, the hearing officer shall make a written determination on the evidence presented, including where appropriate the extent to which the determination applies to affiliates named in the action. The hearing officer's determination shall be transmitted to the Secretary, and to all respondents by personal service or registered or certified mail, return receipt requested.

(b) The hearing officer's determination shall be final unless within 60 days the respondent requests the Secretary, or the Secretary decides on the Secretary's own motion or at the request of the General Counsel, to review the findings of the hearing officer.

(c) Where a review is granted, the determination by the Secretary shall be final and shall be based solely on the record of the hearing. It shall fully recite the evidentiary grounds upon which the Secretary's determination is made.

(d) Each determination shall become part of the record.

(e) Notice of the Secretary's decision to review the hearing determination and subsequent determination by the Secretary, shall be given in writing to all respondents by personal service or registered or certified mail, return receipt requested.

**§ 76.16 Restrictions on debarred institutions and individuals.**

(a) *General restrictions.* Institutions and individuals (and their affiliates) debarred under this subpart shall be ineligible during the period of debarment to receive any form of financial assistance under any discretionary program awarded or administered by HHS; applications or requests for financial assistance received under any discretionary program shall not be considered and shall be returned with a statement of the reasons. However, when it is determined essential in the public interest by the Secretary, an exception may be made to permit an institution or individual to apply for and receive support under a particular program on the same basis as other eligible applicants under the program concerned. In addition, where grounds exist, the Secretary may also proceed to terminate or suspend for cause ongoing funded grants awarded to a debarred grantee, as authorized by 45 CFR Part 74, Subpart M.

(b) *Subcontracting and subgranting.* Debarred institutions and individuals shall be ineligible to receive contracts, subcontracts and subgrants under any form of financial assistance awarded or administered by HHS, and the responsible HHS official and recipients of financial assistance, as applicable, shall decline to approve contracting, subcontracting, or subgranting with that institution or individual, unless it is determined by the Secretary to be essential in the best interests of the Government to grant such approval.

(c) *Individuals.* Debarred individuals shall be ineligible to serve or participate under any form of financial assistance awarded or administered by HHS under discretionary programs including service or participation in the conduct or performance of those awards or in the administration of Federal funds. Recipients of financial assistance shall be responsible for compliance with this provision, which constitutes a condition of all awards of financial assistance. Applications for financial assistance proposing debarred individuals to serve as principal investigators, project directors, or those responsible for the administration of Federal funds, or in

any other capacity, shall not be considered and shall be returned to the applicant with a statement of the reason therefor.

**§ 76.17 Publication of notice in Federal Register of results of debarment actions.**

(a) *Contents.* When an institution, individual, or affiliate is debarred under this subpart, HHS shall publish a notice in the **Federal Register** containing as a minimum the following information:

(1) The names of the debarred institutions, individuals, and affiliates, and their addresses;

(2) The authority under which the action was taken and a brief statement of the reasons for the action;

(3) The extent of restrictions imposed, including effective dates; and

(4) The termination date.

(b) A notice shall also be published in the **Federal Register** when a debarment is ended prior to its specified termination date.

(c) The Secretary shall also establish and maintain a current, consolidated list of debarred institutions and individuals for purposes of administering affected discretionary programs.

## Subpart C—Suspension

**§ 76.20 Causes for suspension.**

(1) Whenever the Secretary believes that grounds for debarment exist (or there is an outstanding indictment for a criminal offense which is grounds for debarment under § 76.10), and, in order to protect the interests of the United States, immediate action is necessary, the Secretary may suspend an institution, individual, and any affiliate thereof, in accordance with the applicable procedures of this part. This action shall be taken by the Secretary only where there are compelling reasons why the interests of the United States would be jeopardized by waiting for completion of debarment proceedings under Subpart B.

**§ 76.21 Period and scope of suspension.**

(a) A suspension shall be for a temporary period pending the completion of an investigation or hearing, and any administrative or legal proceedings as may result. Unless earlier terminated as the result of a hearing held pursuant to § 76.22(f), the period and scope of suspension shall be as follows:

(1) Except where suspension is based on criminal indictment, debarment proceedings shall be initiated within 6 months after notice of suspension, in accordance with Subpart B, or the suspension shall be terminated automatically. When the debarment proceedings are initiated within the 6-month period, the suspension shall continue in effect pending the completion of debarment proceedings or for a period not to exceed 12 months after the date of the notice of proposed debarment, whichever first occurs.

(2) When suspension is based upon criminal indictment, it may continue until completion of the criminal proceedings, or for 18 months, whichever first occurs.

(b) Suspension may include all known affiliates of an institution or individual who have received notice and opportunity for hearing as set forth in § 76.22.

(c) A decision to include affiliates in a proposed supsension is a separate determination which shall be made on a case-by-case basis.

(d) The conduct of an individual may be imputed to the institution, or responsible component of the institution, with which he or she is associated by employment or otherwise when the conduct involved was performed within the scope of authority or employment and under circumstances in which responsible officials of the institution knew or should have known of the conduct. However, remedial action taken by responsible officials of the institution shall be taken into account in determining whether suspension of the institution is warranted. The institution shall be entitled to notice and opportunity for a hearing in accordance with § 76.22.

(e) *Individuals involved in activities resulting in suspension.* Where an institution is involved in conduct justifying suspension under this part, any individual who was knowingly involved in the commission of the conduct in question may also be suspended. The individual shall be entitled to notice and opportunity for a hearing in accordance with § 76.22.

**§ 76.22 Notice of suspension.**

When an institution or individual or any affiliate thereof is suspended, the Secretary shall furnish all the affected parties immediately with a notice of the suspension by personal service or registered or certified mail, return receipt requested. The notice of suspension shall state that:

(a) The suspension is based on (1) an outstanding indictment for a criminal offense which is grounds for debarment under § 76.10 or (2) reasonable evidence that the institution or individual has committed irregularities of a serious nature which would be grounds for debarment under § 76.10 (the notice shall identify the indictment or describe the nature of the irregularities, in general terms, without disclosing the Government's evidence);

(b) The suspension is for a temporary period pending the completion of debarment or other proceedings, as applicable;

(c) Bids, proposals, and applications for financial assistance will not be solicited or accepted from the institution or individual and, if received, will not be considered, and awards of any form of financial assistance under HHS discretionary programs may not be made unless it is determined by the Secretary to be in the best interest of the Government;

(d) The institution or individual will not be eligible for the award of a subcontract or subgrant. Whenever the institution or individual is proposed as a subcontract or subgrantee, the responsible HHS official will decline to approve subcontracting or subgranting with that institution or individual in any instance in which consent is required of the Government before the subcontract or subgrant is made, unless it is determined by the Secretary to be in the best interest of the Government to grant approval;

(e) The suspension is effective throughout HHS, and

(f) A hearing as to whether the suspension should be continued will be provided upon request of the institution or individual or any affected affiliate. The hearing shall be conducted, to the extent practical in accordance with the procedures set forth in §§ 76.14 and 76.15.

**§ 76.23 Restrictions during period of suspension.**

During a period of suspension of an institution or individual and any affiliate, the following policies and procedures shall be applicable:

(a) *General restrictions.* Institutions and individuals (and their affiliates) suspended under this subpart shall be ineligible during the period of suspension to receive any form of financial assistance under any discretionary program awarded or administered by HHS; applications or requests for financial assistance received under any discretionary program shall not be considered and shall be returned with a statement of the reasons. However, when it is determined essential in the public interest by the Secretary, and exception may be made to permit an institution or individual to apply for and receive support under a particular program on the same basis as other eligible applicants under the program concerned. In addition, where grounds exist, the Secretary may also proceed to

terminate or suspend for cause ongoing funded grants awarded to a suspended grantee, as authorized by 45 CFR Part 74, Subpart M.

(b) *Subcontracting and subgranting.* Suspended institutions and individuals shall be ineligible to receive contracts, subcontracts and subgrants under any form of financial assistance awarded or administered by HHS, and the responsible HHS official and recipients of financial assistance, as applicable, shall decline to approve contracting, subcontracting or subgranting with that institution or individual, unless it is determined by the Secretary to be essential in the best interests of the Government to grant such approval.

(c) *Individuals.* Suspended individuals shall be ineligible to serve or participate under any form of financial assistance awarded or administered by HHS under discretionary programs, including service or participation in the conduct or performance of those awards, or in the administration of Federal funds. Recipients of financial assistance shall be responsible for compliance with this provision, which constitutes a condition of all awards of financial assistance. Applications for financial assistance proposing suspended individuals to serve as principal investigators, project directors, or those responsible for administration of Federal funds, or in any other capacity, shall not be considered and shall be returned to the applicant with a statement of the reason therefor.

**§ 76.24 Publication of notice in Federal Register of results of suspension actions.**

(a) When an institution or individual is suspended under this subpart, HHS shall publish a notice in the **Federal Register** containing as a minimum the following information:

(1) The names of the suspended institutions and individuals, and any affiliates, and their addresses;

(2) The authority under which the action was taken and a brief statement of the reasons for the action;

(3) The extent of restrictions imposed, including effective date; and

(4) Statement that the suspension is for a temporary period of time, pending the completion of debarment or other proceedings, as applicable.

(b) A notice shall also be published in the **Federal Register** when a suspension is ended.

(c) The Secretary shall also establish and maintain a current, consolidated list of suspended institutions and individuals for purposes of administering affected discretionary programs.

[FR Doc. 80-26916 Filed 10-8-80; 8:45 am]

BILLING CODE 4110-12-M

federal register

Thursday
October 9, 1980

Part IV

# Department of Transportation

Federal Highway Administration

# Interstate Commerce Commission

## Interstate Motor Carrier Study; Study Approach and Meeting Announcement

**DEPARTMENT OF TRANSPORTATION**

**Federal Highway Administration**

**INTERSTATE COMMERCE COMMISSION**

## Interstate Motor Carrier Study; Study Approach and Meeting Announcement

**AGENCIES:** Federal Highway Administration (FHWA), DOT, Interstate Commerce Commission.

**ACTION:** Notice.

**SUMMARY:** Section 19 of the Motor Carrier Act of 1980 directs the Secretary of Transportation and the Interstate Commerce Commission to conduct a study of the individual State regulations and requirements imposed on interstate motor carriers. The purpose of this notice is to outline the study approach and announce eight public meetings which are to be held.

**FOR FURTHER INFORMATION CONTACT:** FHWA: Mr. James R. Link, Chief, Intermodal Studies Team, 202/426–0570; or Mrs. Kathleen S. Markman, Trial Attorney, Office of the Chief Counsel, 202/426–0346, Federal Highway Administration, 400 Seventh Street, SW, Washington, D.C. 20590. Office hours are Monday through Friday, 7:45 a.m. to 4:15., ET. ICC: Mr. Lee Gardner, Chief, Motor Competition Branch, 202–275–0818, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, D.C. 20423. Office hours are Monday through Friday, 9:00 a.m. to 5:30 p.m., ET.

**SUPPLEMENTARY INFORMATION:**

### Background

The need for this study is evidenced by Section 19 of the Motor Carrier Act of 1980. The text of this section reads as follows:

### Uniform State Regulation

Sec. 19. Congress hereby declares and finds that the individual state regulations and requirements imposed upon interstate motor carriers regarding licensing, registration, and filings are in many instances confusing, lacking in uniformity, unnecessarily duplicative, and burdensome and that it is in the national interest to minimize the burdens of such regulations while at the same time preserving the legitimate interests of the state in such regulation. Therefore, the Congress directs the Secretary of Transportation and the Interstate Commerce Commission, in consultation with the states and the various state agencies which administer such requirements and regulations and with the motor carrier industry, including both the regulated and unregulated segments, to develop legislative or other recommendations to provide a more efficient and equitable system of state regulations for interstate motor carriers. Such recommendations shall be made to the Congress not later than 18 months after the date of enactment of this Act.

### Study Need

Interstate motor carriers are subject to a wide array of safety, taxing, licensing, and filing regulations and requirements of both the Federal Government and the States in which they operate. Obtaining and maintaining the necessary certificates and information required for legal operation is often time consuming and burdensome. Each State generally requires two or more items of clearance for legal operation; these items vary from State to State and are revised periodically. The motor vehicle must be registered in each State in which it operates and while many States grant reciprocity of some type to vehicles registered in other States, reciprocity is less than universal. Fuel taxes must be paid in each State usually based upon the amount of highway use. Reciprocity requirements and administration of the tax differs in each State. Furthermore, some States require the payment of additional taxes, referred to as third-structure taxes. Special permits are used by each State to grant carriers the right to travel through the State on an infrequent basis. The terms of these permits and requirement for obtaining them vary widely.

There is a lack of uniformity in both fee structures and requirements for legal operation. The multiplicity of these conditions made it difficult for the motor carrier industry to comply with State needs, thus increasing overall operating costs, which are passed on to the consumer.

Over the past several years, repeated requests for uniformity have been made. Although there has been some progress to date, the goal of uniformity has not been achieved. Congress, concerned that this situation of inconsistent, burdensome and overlapping State regulations will continue, has mandated a thorough review of such procedures, with the intent that they be reduced. To foster a more efficient motor carrier industry, it is necessary to define these conditions and investigate the depth and pervasiveness of the problems they present. Alternatives for their solution are to be devised that are consistent with the States' legitimate interest in the regulation of carriers. The Department of Transportation and the Interstate Commerce Commission will, as mandated, review such procedures and make recommendations to Congress.

### Scope

Public meetings will be held throughout the country to better define the issues and their solutions. The main study effort will involve the evaluation of the following topics: obtaining operating authority, registration, fuel taxes, third-structure taxes, temporary travel permits, and issues in State administration. Outlined below is the type of information that will be collected and evaluated in this study.

1. *Economic Regulation: Certification or Permitting Procedures.* The study will review such items as State regulations dealing with the issues of entry, exit, rates, insurance, and exemption provisions for intrastate operations on both a permanent and temporary basis; the impact of such regulations on the movement of interstate freight and passengers; the degree to which Public Law 89–170, 49 CFR Parts 1022 and 1023, are accomplishing their intended objectives of uniformity the extent to which both State and Federal regulations are being enforced by State agencies; and an analysis of any new motor carrier regulatory initiatives underway or being considered by the States either individually or collectively.

2. *Registration.* Two major issues in registration are uniformity and fees. Inquiries into the following associated activities will be required: formal and informal reciprocity agreements, compacts between groups of States, the method of fee collection, credit and refund practices, enforcement and penalties, exemptions, frequency of filings, reporting requirements, the cost of compliance, State revenues and disposition of funds, and the administration of registration activities by State governments. The fees, limitations, exemptions, enforcement and penalties will be considered with respect to these issues.

3. *Issues in State Administration.* Recognizing that the States have a legitimate interest in the regulation of carriers, relevant administrative issues will require consideration. These issues may include revenues and their uses, cost in administration and enforcement, and the administration of regulation through separate agencies.

To highlight the operational problems experienced by both the carrier and the State in the administration and compliance procedures, pertinent examples will be used.

4. *Fuel Taxes.* Filings, fuel tax reporting and the method and timing of collection and fee differences between

States and significant issues in the area of fuel taxes. Questions of tax bonding, credit and refund practices, revenues, compliance costs, and the administration of the tax will also be addressed.

5. *Third Structure Taxes.* This type of tax is an attempt to adjust the liability associated with increased highway use beyond the traditional registration and fuel tax. The type of tax used and the equitable application of the liability are two fundamental problem areas. Other related areas that will need consideration are: the administration, collection and enforcement of the tax, reporting requirements, frequency of filings, revenues, and the cost to comply.

6. *Requirements for Temporary Travel Permits.* Short-term trip, fuel and hunter permits are requirements placed on carriers that must make unplanned or occasional trips into or through a State. Common to all three types of permits are the variation in requirements between States and their diverse compliance criteria. Activities associated with temporary permits such as fees, limitations, exemptions, bonding requirements, enforcement and penalties will be examined.

7. *Other Requirements.* Safety regulations, registration of operating authority, inspection procedures, other add-on taxes, and permitting regulations also may be imposed on carriers. Consideration will be given to review of these topics as well as those discussed above. In order to avoid duplication of research underway in the truck size and weight studies (mandated by Sections 123 and 161 of the Surface Transportation Assistance Act of 1978, Pub. L. 95–599), discussion of overweight and overdimensional permits will be limited to permit compliance aspects.

## Methodology

In conducting this study, the Department of Transportation and the Interstate Commerce Commission will review State laws pertaining to permitting, taxing, and licensing of motor carriers. Existing sources of information will be assembled. The States and their agencies, other representative organizations and individuals will be consulted to gain a thorough understanding of the issues involved, and their potential solutions. Public meetings will be held, at the outset, to draw interested parties into the public forum, and to solicit information and suggestions on the subject.

Subsequent to the public meetings, the information collected will be evaluated and synthesized. The issues and associated problems will be carefully considered in terms of their effects on motor carriers and the States. Comparisons between States, of their requirements and regulations, will be made to assess their uniformity and/or duplication. Based upon the results of this evaluation, alternatives to the present system of State licensing, permit and fee requirements will be developed and evaluated with the aim being to ease the burden of the trucking industry. A draft option paper will be produced, which will be held open for review and public comment before the completion of the final report to Congress.

## Public Meetings

Public meetings on this topic will be held on the date and at the locations listed below.

*Wednesday November 12, 1980*

Boston, Massachusetts
Location: J. F. Kennedy Library—6th Floor, Morrissey Blvd. Dorchester, Mass.
Time: 9:30 am to 12 noon, 1:30 pm to 5:00 pm.

*Monday November 17, 1980*

Denver, Colorado
Location: Quad Conference Center, Bldg. T–634 Fitzsimmons Medical Center, Aurora, Co.
Time: 1:00 pm to 5:00 pm, 7:00 to 9:00 pm.

*Wednesday, November 19, 1980*

Los Angeles, California
Location: Department of Water and Power—Auditorium, 111 N. Hope Street
Time: 9:00 am to 12 noon, 1:30 pm to 5:00 pm.

*Friday November 21, 1980*

Seattle, Washington
Location: Federal Building—North Auditorium, 915 2nd Avenue
Time: 9:00 am to 12 noon, 1:30 pm to 5:00 pm.

*Monday November 17, 1980*

Atlanta, Georgia
Location: Richard B. Russell Bldg.—17th Floor Conference Room, 75 Spring Street, S.W.
Time: 9:00 am to 12 noon, 1:30 pm to 5:00 pm.

*Wednesday November 19, 1980*

Fort Worth/Dallas, Texas
Location: Public Library—Lecture Hall, 300 Taylor Street
Time: 9:00 am to 12 noon, 1:30 pm to 5:00 pm.

*Friday November 21, 1980*

Chicago, Illinois
Location: Kluczyki Building—Room 3619, 230 S. Dearborn Street
Time: 9:00 am to 12 noon, 1:30 pm to 5:00 pm.

*Tuesday November 25, 1980*

Washington, D.C.
Location: Interstate Commerce Commission—Hearing Room B, 12th and Constitution Avenue, N.W.
Time: 9:00 am to 12 noon, 1:30 pm to 5:00 pm.

## Procedure

One-day meetings will be conducted in an informal manner under the supervision of representatives from each of the two agencies. Attendance at the meetings will enable participants to present their written statements and make oral summation for the record that should not exceed 10 minutes in duration. Speaking order will be established on a first-come, first-serve basis. Those wishing to speak must sign a roster upon entering the room. Oral presentations will be recorded and later transcribed. Written statements will be accepted by mail.

Issued on: October 3, 1980.

**Martin D. Zell,**

*Deputy Director, State/Community Affairs, Interstate Commerce Commission.*

**Alinda C. Burke,**

*Deputy Administrator, Federal Highway Administration.*

[FR Doc. 80–31351 Filed 10–6–80; 8:45 am]
BILLING CODE 4910–22–M

federal register

Thursday
October 9, 1980

Part V

# Department of Energy

## Federal Energy Regulatory Commission

**Interim Rule; Agricultural Uses Exemption; Incremental Pricing Regulations Under the Natural Gas Policy Act of 1978; Public Hearing**

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM80-75]

# Agricultural Uses Exemption; Interim Rule Amending Commission's Regulations Under the Natural Gas Policy Act of 1978

October 6, 1980.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Interim rule.

**SUMMARY:** This rule amends § 282.202(a)(1) of the Federal Energy Regulatory Commission's regulations implementing the Natural Gas Policy Act of 1978 (NGPA). The rule as currently in effect provides that the term "agricultural use" means, *inter alia*, any use of natural gas which is certified by the Secretary of Agriculture under 7 CFR 2900.3 as an "essential agricultural use" pursuant to section 401(c) of the NGPA. By this amendment, § 282.202(a)(1) provides that those categories of "essential agricultural uses" certified by the Secretary of Agriculture after October 15, 1979, for Title IV purposes shall be reviewed by the Commission in a rulemaking procedure to determine whether those uses are appropriate uses for Title II "agricultural use" exemptions.

**DATES:** Interim rule effective October 6, 1980. Comments due: November 7, 1980. Public Hearing: October 28, 1980. Requests to participate by: October 21, 1980.

**ADDRESSES:** All comments and requests to participate to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Public Hearing: Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

**FOR FURTHER INFORMATION CONTACT:** Fern McGovern, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8066.

The Federal Energy Regulatory Commission (Commission) hereby promulgates an interim rule clarifying the scope of § 282.202(a) of its incremental pricing regulations under Title II of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301-3432) (NGPA). The rule adopted in this docket amends § 282.202(a)(1) to provide that, for purposes of implementing the agricultural uses exemption from incremental pricing in section 206(b) of the NGPA:

(1) Those "essential agricultural uses" of natural gas that were certified by the Secretary of Agriculture (Secretary) on or before October 15, 1979, shall be considered "agricultural uses", and

(2) Any "essential agricultural uses" that are certified by the Secretary after October 15, 1979, shall be reviewed by the Commission in full rulemaking proceedings.

## I. Background

Title II of the NGPA establishes a program of incremental pricing involving certain industrial uses of natural gas. The major portion of the program was implemented by the Commission in Order No. 49 (Docket No. RM79-14) [1] and Orders Nos. 50, 51, and 81 (Docket No. RM79-21).[2]

Title II also provides that certain uses of natural gas that would otherwise be subject to incremental pricing are to be exempted. The rule amended today deals with the section 206(b) exemption for agricultural uses of natural gas. The rule is specifically concerned with that portion of section 206(b)(3) which provides:

> (3) Agricultural Use Defined.—For purposes of this subsection, the term "agricultural use", when used with respect to natural gas, means the use of natural gas to the extent such use is—
>
> (A) for agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, or crop drying; or
>
> (B) as a process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food.

Regulations governing the agricultural use exemption were originally promulgated in Order No. 49 in Docket No. RM79-14. In § 282.202(a)(1) the Commission provided that "agricultural use" for purposes of incremental pricing includes:

> any use of natural gas which is certified by the Secretary of Agriculture under 7 CFR 2900.3 as an essential agricultural use pursuant to section 401(c) of the NGPA.

Questions have been raised as to the effect on the incremental pricing program of the Secretary's amendments to 7 CFR Part 2900, *i.e.*, changes in the Secretary's list of "essential agricultural uses" which took effect subsequent to the effective date of § 282.202(a)(1) (October 15, 1979). For the reasons discussed below, the Commission amends § 282.202(a)(1), on an interim basis, to resolve this question.

## II. Discussion

When the Commission initially promulgated § 282.202(a)(1) in Order No. 49, it reviewed and accepted as "agricultural uses," for purposes of Title II, all categories then currently certified by the Secretary of Agriculture as "essential agricultural uses" for purposes of Title IV.[3]

Subsequent to the adoption of Order No. 49 the Secretary certified additional categories of essential agricultural uses for purposes of Title IV. This resulted in some confusion regarding the status of these additional categories for purposes of incremental pricing exemptions under Title II. In the "Order Denying Rehearing" of Order No. 49-A, issued February 21, 1980, *mimeo*, p. 4, the Commission noted that it would address at a later time this question of whether categories of natural gas use certified by the Secretary of Agriculture after October 15, 1979, would be automatically adopted by the Commission for incremental pricing purposes.

The Commission has received written comments in the context of Docket No. RM80-18 contending that uses of natural gas certified after October 15, 1979, by the Secretary under Title IV are automatically adopted by the Commission for incremental pricing purposes.[4] The Commission is acutely aware of its responsibility, as mandated by Congress, to oversee and implement Title II of the NGPA. The Conference Report directs the Commission to prescribe interim and permanent exemptions to the incremental pricing rules of sections 201 and 202 of the NGPA (NGPA Conf. Rept. No. 95-1126, 95th Cong. 2d. Sess., p. 101). Congress did not provide any direction to the Commission to delegate its responsibilities under Title II to the Secretary of Agriculture.[5] In view of this,

[1] Order No. 49 issued September 28, 1979, 44 FR 57726 (October 5, 1979). See also Order No. 49-A, issued December 27, 1979, 45 FR 767 (January 3, 1980); Order Denying Rehearing of Order No. 49-A, issued February 21, 1980, 45 FR 13068 (February 28, 1980).

[2] Orders Nos. 50 and 51, issued September 28, 1979, 44 FR 57754 (October 5, 1979); Order No. 81, issued May 7, 1980, 45 FR 31300 (May 13, 1980).

[3] Order No. 49, pp. 39-40.

[4] Notice of Opportunity to Comment on Whether a Rulemaking Proceeding Should be Established, Docket No. RM80-13, issued February 21, 1980, 45 FR 13122 (February 28, 1980).

[5] Section 401 defines "essential agricultural use" for purposes of natural gas curtailments (Title IV). The definitions of "agricultural use" and "essential agricultural use" in Titles II and IV respectively are nearly identical, but differ in several important respects. First, the Title IV definition requires the Secretary of Agriculture to determine "essential agricultural uses." Second, Title IV requires the Secretary, in certifying "essential agricultural uses" to determine those agricultural uses which are "necessary for full food and fiber production," while

Footnotes continued on next page

the Commission rejects the commenters' arguments, and now promulgates an interim rule to clarify that its reference in § 282.202(a)(1) to categories certified by the Secretary of Agriculture does not include categories certified subsequent to October 15, 1979, the effective date of § 282.202(a)(1).

The interim rule further provides that each category subsequently certified by the Secretary will be reviewed by the Commission in order to determine whether § 282.202(a)(1) should be amended to include that category in the list of agricultural uses exempted from incremental pricing under section 206(b). The Commission will review each use certified after the effective date of this rule in the context of a rulemaking and will issue a Notice for Public Comment within 60 days after the date of publication in the Federal Register of such certification by the Secretary of Agriculture. The Commission will, of course, accord appropriate consideration to the Secretary's justification for such certification when making its own decision.

### III. Summary of Additional Certifications Issued to Date

The Secretary of Agriculture has issued several amendments to 7 CFR 2900.2 and 2900.3 since October 15, 1979. Section 2900.2 is the definitional section; § 2900.3 lists for curtailment purposes those agricultural uses of natural gas which the Secretary has found to be "essential agricultural uses." As a result of these amendments, the following uses of natural gas have been certified as essential agricultural uses:

(1) The use of natural gas in sugar refining for the production of alcohol;

(2) The use of natural gas for agricultural production on set-aside acreage, such acreage being diverted from the production of a commodity and devoted to the production of any commodity for conversion into alcohol or hydrocarbons for use as motor fuel or other fuels;

(3) The use of natural gas in the distillation of fuel-grade alcohol from food grains or other biomass by facilities that were in existence on the date of the enactment of the Energy Security Act and that do not have the installed capability to burn coal (a 5-year exemption);

(4) The use of natural gas in the production of petroleum wax, synthetic wax and polyethylene wax (food grade only) as food containers;

(5) The use of natural gas to raise steam which in turn is used as an integral part of the manufacturing process of fertilizer, agricultural chemicals, animal feed, and food; [6]

(6) The use of natural gas in the manufacture of metal crowns and closures (food containers only) used as container caps; and

(7) The use of natural gas in the manufacture of metal shipping barrels, drums, kegs and pails (food containers only).

The adoption of this interim rule makes it clear that the Secretary of Agriculture's certification of the above-listed uses of natural gas as "essential agricultural uses" under Title IV did not result in automatic adoption of these uses for purposes of Title II, and that each use shall be considered by the Commission on a case-by-case basis to determine whether it should be adopted for incremental pricing purposes.[7]

Exemptions for the uses described above in paragraphs (3), (4) and (7) have already been separately proposed to the Commission and are currently under consideration in Docket Nos. RM80-64 [use (3)] and RM80-48 [uses (4) and (7)]. Uses (1), (2), and (6) will shortly be the subject of Notices of Proposed Rulemaking or Inquiry as appropriate.

The use of natural gas described in paragraph (5) has also been brought before the Commission in Docket No. RM80-18 and has resulted in a "Notice of Opportunity to Comment on Whether a Rulemaking Procedure Should be Established" (45 FR 13122, February 28, 1980). Written comments have already been received in this docket, but the Commission will afford an opportunity for interested persons to present oral testimony on this issue. A Notice of Public Hearing will be issued shortly.

### IV. Effective Date

As noted above, there has been a great deal of uncertainty regarding the effect of certifications by the Secretary of Agriculture after October 15, 1979. The Commission received, and has considered, written comments on the issue in the context of proceedings in Docket No. RM80-18.

The Commission believes that failure to resolve this uncertainty as quickly as possible would be contrary to the public interest. Accordingly, the Commission finds that good cause exists under 5 U.S.C. 553(b) and (d) to make the rule effective immediately. The Commission will, however, afford an opportunity for interested persons to present views and comments, as set forth below, before this rule is adopted in final form.

### V. Comment Procedure

#### *A. Written Comments*

Interested persons are invited to submit written comments, data, views, or arguments with respect to this interim rule. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426 and should reference Docket No. RM80-75. An original and 14 copies should be filed. All comments received on or before November 7, 1980, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection through the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., 20426, during regular business hours.

#### *B. Public Hearing*

A public hearing concerning this interim rule will be held on October 28, 1980, beginning at 9:00 a.m., at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at the hearing provided a written request to participate is received by the Secretary of the Commission on or before Tuesday, October 21, 1980.

Requests to participate in the hearing should include a reference to Docket No. RM80-75, the amount of time required for the oral presentation, as well as a concise summary of the proposed oral presentation and a telephone number where the person making the presentation may be reached. Persons participating in the public hearing should if possible, bring 15 copies of their testimony to the hearing. A list of the participants in the hearing will be available in the Commission's Division

---

Footnotes continued from last page

Title II places no such restriction on the Commission. Lastly, Titles II and IV have very different goals. *See*, 44 FR 28784, May 17, 1979, wherein the Secretary of Agriculture stated that his certification of "essential agricultural uses" under Title IV "should not be construed as any indication of what is or is not an 'agricultural use' for the purpose of their (the Commission's) section of the NGPA, notably section 206."

[6] The Secretary of Agriculture actually effected this certification by means of the addition to § 2900.2 of the regulations of a definition of "process fuel" to which certain of the uses he previously certified were limited. *See* Amendment of Certification of Essential Agricultural Uses and Requirements, Natural Gas Policy Act of 1978, 45 FR 27741 (April 24, 1980).

[7] It should be noted that, in the list of uses adopted by the Commission and published in § 282.202(a)(1)(i) of the interim rule, "process and feedstock uses" have been purposefully omitted. Those categories of uses would have been published in the listing only if Phase II of the incremental pricing program had been approved by Congress.

of Public Information three days before the hearing and will be available at the site of the hearing on the morning it is convened.

Members of the hearing panel will be designated by the Chairman of the Commission. The hearing will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearing. A transcript of the hearing will be available in the public files for this proceeding, Docket No. RM80–75, through the Commission's Division of Public Information.

(Natural Gas Policy Act of 1978, Pub. L. No. 95–621, 92 Stat. 3350, 15 U.S.C. 3301–3432 *et seq.*)

In consideration of the foregoing, Part 282 of Chapter I, Title 18, Code of Federal Regulations, is amended on an interim basis, as set forth below, effective October 6, 1980.

By the Commission.

**Lois D. Cashell,**

*Acting Secretary.*

Section 282.202 is amended by revising paragraph (a) to read as follows:

**§ 282.202 Definitions**

(a) (1) "Agricultural use" means:

(i) Any use of natural gas certified by the Secretary of Agriculture on or before October 15, 1979, under 7 CFR 2900.3 and listed below:

*Standard Industrial Classification No. and Industry Description*

**Food and Natural Fiber Production**

01 Agricultural Production—Crops
02 Agricultural Production—Livestock Excluding 0272—Horses and Other Equines, and Nonfood Portions of 0279—Animal Specialties, Not Elsewhere Classified.
0723 Crop Preparation Services for Market, Except Cotton Ginning (see fiber processing).
4971 Irrigation Systems.

**Food and Natural Fiber Processing—Food**

20 Food and Kindred Products Except 2047—Dog, Cat and Other Pet Food, and 2048—Prepared Feeds and Feed Ingredients for Animals and Fowls, Not Elsewhere Classified.

**Natural Fiber**

0724 Cotton Ginning.
2141 Tobacco Stemming and Redrying.
2299 Textile Goods, n.e.c. (wool tops, combing and converting).
3111 Leather Tanning and Finishing.

**Food Quality Maintenance—Food Packaging**

2641 Paper Coating and Glazing (food related only).
2643 Bags, Except Textile (food related only).
2645 Die Cut Paper and Paperboard (food related only).
2646 Pressed and Moulded Pulp Goods (food related only).
2649 Converted Paper Products (food related only).
2651 Folding Paperboard Boxes (food related only).
2653 Corrugated and Solid Fiber Boxes (food related only).
2654 Sanitary Food Containers.
2655 Fiber Cans, Tubes, Drums, and Similar Products (food related only).
3079 Miscellaneous Plastic Products (food related only).
3221 Glass Containers (food related only).
3411 Metal Cans (food related only).
3497 Metal Foil and Leaf (food related only).

**Marketing and Distribution**

4221 Farm Product Warehousing and Storage.
4222 Refrigerated Warehousing.
514 Groceries and Related Products.
5153 Farm Product Raw Materials-Grain.
54 Food Stores.

(ii) Any use of natural gas certified by the Secretary of Agriculture after October 15, 1979, if the Commission issues an order adopting such certification pursuant to the provisions of subparagraph (2) of this paragraph and lists such use below: [reserved]

(iii) Any use of natural gas in the following manufacturing operations as set forth in the *Standard Industrial Classification Manual—1972; Provided,* That, the use of such natural gas in the textile operations is limited as set forth below to the production or processing of natural fiber:

*Industry SIC No. and Industry Description*

221 Broad Woven Fabric Mills, Cotton.
222 Broad Woven Fabric Mills, Man-made Fiber and Silk (natural fiber processing only).
223 Broad Woven Fabric Mills, Wool (Including Dyeing and Finishing).
224 Narrow Fabrics and Other Smallwares Mills: Cotton, Wool, Silk, and Man-made Fiber (natural processing only).
2257 Circular Knit Fabric Mills (natural fiber processing only).
2258 Warp Knit Fabric Mills (natural fiber processing only).
226 Dyeing and Finishing Textiles, Except Wool Fabrics and Knit Goods (natural fiber processing only).
228 Yarn and Thread Mills (natural fiber processing only).
2291 Felt Goods, Except Woven Felts and Hats (natural fiber processing only).
2293 Paddings and Upholstery Filling (natural fiber processing).
2294 Processed Waste and Recovered Fibers and Flock (natural fiber processing only).
2295 Coated Fabric, Not Rubberized (natural fiber processing only).
2297 Nonwoven Fabrics (natural fiber processing only).
2299 Textile Goods, Not Elsewhere Classified (natural fiber processing only).
2421 Sawmills and Planing Mills, General.
2435 Hardwood Veneer and Plywood.
2436 Software Veneer and Plywood.
2492 Particleboard.
2611 Pulp Mills.
2621 Paper Mills, Except Building Paper Mills.
2631 Paperboard Mills.
2661 Building Paper and Building Board Mills.

(2) On or before 60 days (or as soon as practicable thereafter) from the date of publication in the **Federal Register** of any certification by the Secretary of Agriculture under 7 CFR Part 2900, the Commission shall issue a Notice of Public Comment with respect to the applicability of such certification to the definition of "agricultural use" in section 206(b) of the NGPA.

* * * * *

[FR Doc. 80-31518 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM80-18]]

## Incremental Pricing; Opportunity to Comment on Whether a Rulemaking Proceeding Should Be Established; Public Hearing

October 6, 1980.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of public hearing.

**SUMMARY:** On October 6, 1980, the Commission issued an interim rule amending § 282.202(a)(1) of its regulations under Title II of the Natural Gas Policy Act of 1978 in Docket No. RM80-75 (45 FR ——). In that rule the Commission stated that it intended to hold a public hearing to determine whether it should adopt a related rule in Docket No. RM80-18 exempting from incremental pricing the use of natural gas to raise steam which is in turn used as an integral part of the manufacturing process of fertilizer, agricultural chemicals, animal feed, and food.

**DATES:** Public hearing, October 28, 1980, beginning at 1:30 p.m. Requests to participate in the hearing by: October 20, 1980. Requests should reference Docket No. RM80-18 and should indicate the amount of time required for the oral presentation, a concise summary of the presentation, and a telephone number at which the person making the presentation may be reached.

**ADDRESS:** Requests to participate should be directed to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

The hearing will also be held at the above address:

**FOR FURTHER INFORMATION CONTACT:** Barabara Christin, Staff Attorney, 202-357-8446.

**SUPPLEMENTARY INFORMATION:** Persons participating in the public hearing should, if possible, bring 15 copies of their testimony to the hearing. A list of the participants in the hearing will be available in the Commission's Division of Public Information three days before the hearing and will be available at the site of the hearing on the morning it is convened.

Members of the hearing panel will be designated by the Chairman of the Commission. The hearing will not be a judicial or evidentiary-type hearing, and there will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearing. A transcript of the hearing will be available in the public file for this proceeding, Docket No. RM80-18, through the Commission's Division of Public Information.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 80-31519 Filed 10-8-80; 8:45 am]

BILLING CODE 6450-85-M

federal register

Thursday
October 9, 1980

Part VI

# Department of Transportation

## Federal Aviation Administration

## Flight Crewmember Flight and Duty Time Limitations and Rest Requirements; Extension of Comment Period

14 CFR Parts 121 and 135

[Docket No. 17669; Notice No. 78-3C]

## Operations Review Program Notice No. 7; Flight Crewmember Flight and Duty Time Limitations and Rest Requirements

**AGENCY:** Federal Aviation (FAA), DOT.

**ACTION:** Notice of extension of comment period.

**SUMMARY:** This notice extends the period for submission of public comments relating to Notice No. 78–3B. This action is in response to petitions indicating that persons who may be affected by the proposed regulations and need additional time in which to prepare and submit their comments.

**DATES:** Initial comment period extended until December 10, 1980.

Reply comment period extended until January 10, 1981.

**ADDRESSES:** Comments on the proposals may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC–24), Docket No. 17669, 800 Independence Avenue, SW., Washington, D.C. 20591 or deliver in duplicate to: Room 916, 800 Independence Avenue, SW, Washington, D.C. 20591. Comments delivered must be marked: Docket No. 17669. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Mr. Norman C. Miller, Regulatory Review Branch (AVS–22), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591; Telephone (202) 755–8714.

**SUPPLEMENTARY INFORMATION:** In Notice No. 78–3B, published in the **Federal Register** on August 11, 1980, the FAA proposed changes to Parts 121 and 135 and included a discussion of comments received in response to Notices 78–3 and 77–17 pertaining to flight and duty time limitations.

The Commuter Airline Association of America (CAAA), the National Air Transportation Association (NATA), and the Alaska Air Carriers Association (AACA), have petitioned for an extension of the time for comments on Notice 78–3B. A 60-day extension was requested by AACA, while CAAA and NATA requested 30-day extensions.

The petitions state, in pertinent part, that the additional time is required in order to provide the statistical and activity data requested and determine the economic impact of the proposed changes.

The FAA has reviewed these requests and has determined that extending of the comment period will afford the public an additional opportunity to furnish comments that should be considered in the development of the final regulation. This action is consistent with Executive Order 12044, Improving Government Regulations, and the FAA's desire to assure full public participation in its regulatory actions. The FAA concludes that the public interest would be served by granting additional time for submission or written comments.

Accordingly, the initial comment period for NPRM 78–3B is extended to close on December 10, 1980. Reply comments are due on or before January 10, 1981.

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

Issued in Washington, D.C., on October 3, 1980.

**Richard L. Collie,**

*Acting, Director of Flight Operations.*

[FR Doc. 80-31488 Filed 10-8-80; 8:45 am]

BILLING CODE 4910-13-M

# Reader Aids

Federal Register

Vol. 45, No. 198

Thursday, October 9, 1980

## INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

**Federal Register,** Daily Issue:

| | |
|---|---|
| 202-783-3238 | Subscription orders and problems (GPO) |
| | "Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue): |
| 202-523-5022 | Washington, D.C. |
| 312-663-0884 | Chicago, Ill. |
| 213-688-6694 | Los Angeles, Calif. |
| 202-523-3187 | Scheduling of documents for publication |
| 523-5240 | Photo copies of documents appearing in the Federal Register |
| 523-5237 | Corrections |
| 633-6930 | Public Inspection Desk |
| 523-5227 | Index and Finding Aids |
| 523-5235 | Public Briefings: "How To Use the Federal Register." |

**Code of Federal Regulations (CFR):**

| | |
|---|---|
| 523-3419 | |
| 523-3517 | |
| 523-5227 | Index and Finding Aids |

**Presidential Documents:**

| | |
|---|---|
| 523-5233 | Executive Orders and Proclamations |
| 523-5235 | Public Papers of the Presidents, and Weekly Compilation of Presidential Documents |

**Public Laws:**

| | |
|---|---|
| 523-5266 -5282 | Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index |
| 275-3030 | Slip Law Orders (GPO) |

**Other Publications and Services:**

| | |
|---|---|
| 523-5239 | TTY for the Deaf |
| 523-5230 | U.S. Government Manual |
| 523-3408 | Automation |
| 523-4534 | Special Projects |
| 523-3517 | Privacy Act Compilation |

## FEDERAL REGISTER PAGES AND DATES, OCTOBER

64879-65172.....1
65173-65492.....2
65493-65992.....3
65993-66438.....6
66439-66768.....7
66769-67040.....8
67041-67284.....9

## CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

**3 CFR**

**Executive Orders:**
11157.....66439
12137 (Amended by 12245).....66769
12241.....64879
12242.....65175
12243.....66439
12244.....66443
12245.....66769

**Proclamations:**
4797.....65173
4798.....66441

**Administrative Orders:**

**Memorandum:**
October 1, 1980.....65177

**Presidential Determination:**
80-24 of August 7, 1980 (Amended by 80-27 of September 21, 1980).....65993
80-27 of September 21, 1980.....65993

**5 CFR**

330.....65493
351.....66445
530.....65493
531.....65493
540.....65493

**Proposed Rules:**
733.....65603

**6 CFR**

705.....65995
706.....65502
707.....65502

**7 CFR**

2.....66445
29.....65179
210.....66446
230.....66446
246.....66447
282.....66448
301.....65510, 65511
413.....67041
632.....65180, 67047
905.....67047
908.....65181
910.....65511
944.....67047
982.....65512
989.....65512
999.....65513
1007.....65514
1011.....65514
1030.....65514
1032.....65514
1046.....65514
1049.....65514
1050.....65514
1062.....65514
1064.....65514
1065.....65514
1068.....65514
1071.....65514
1073.....65514
1076.....65514
1079.....65514
1094.....65514
1096.....65514
1097.....65514
1098.....65514
1099.....65514
1102.....65514
1104.....65514
1106.....65514
1108.....65514
1120.....65514
1126.....65514
1131.....65514
1132.....65514
1133.....67049
1138.....65514
1492.....64881
1493.....64894
1942.....66771
1945.....65996
1980.....65996
2853.....65515

**Proposed Rules:**
271.....65932
275.....65932
277.....65932
282.....66463
622.....65603
729.....66469
1421.....66471
1701.....66472
1990.....67099

**8 CFR**

100.....66451
215.....65515

**Proposed Rules:**
Ch. I.....66173

**9 CFR**

78.....64901
82.....65182, 65519, 66451, 67050-67052
94.....65519
106.....65183
307.....65520
350.....65520
351.....65520
354.....65520
355.....65520
362.....65520
381.....65520

**10 CFR**

30.....65521
40.....65521
70.....65521
150.....65521
205.....66772
799.....67022, 67038

**Proposed Rules:**

2.....66754
20.....67118
50.....65247, 65466, 67099
70.....66472
150.....66473
430.....65604, 65605
436.....66620, 66631
456.....66960
457.....66970

**12 CFR**

201.....67055
205.....66346
206.....65184
207.....66779
211.....67056
220.....66779
221.....66779
526.....66781
545.....66781, 67059
563.....66781

**Proposed Rules:**

205.....66348, 66349
545.....66798, 66801

**13 CFR**

302.....67062
303.....67062
305.....65997, 67062
309.....67062

**Proposed Rules:**

111.....66807
120.....66174, 66807

**14 CFR**

21.....67064
36.....67064
39.....65193, 65997–65999, 67067–67070
43.....67214
71.....66002, 67070–67072
91.....67214, 67258
95.....67072
97.....65197
121.....67214
123.....67214
125.....67214
135.....67214
145.....67214
243.....66451
287.....64902
1212.....67079

**Proposed Rules:**

Ch. I.....67100
Ch. V.....66177
39.....66175
71.....67176, 67101
73.....67102
121.....67083, 67103
135.....67083
203.....66473
399.....66474

**15 CFR**

370.....65206
372.....65206
375.....65206
386.....65206
935.....65198

**Proposed Rules:**

30.....65250

**16 CFR**

13.....66784
1201.....66002
1700.....65538

**Proposed Rules:**

13.....65252, 65255
441.....66809
444.....66474
455.....66810

**17 CFR**

230.....67079
239.....67079
271.....67082
274.....67079

**Proposed Rules:**

4.....65257

**18 CFR**

1.....65170
154.....67083
270.....67083
282.....65170, 65207, 67276
284.....66784
292.....66787

**Proposed Rules:**

2.....66810
270.....66810
271.....65606–65608, 66810–66812
282.....67115

**19 CFR**

353.....64902, 64903

**20 CFR**

404.....65540
416.....65541

**21 CFR**

193.....64903, 65559
561.....64904

**22 CFR**

217.....66414

**Proposed Rules:**

213.....65258
357.....65609
358.....65609
444.....65618
801.....65619
899.....65619

**23 CFR**

260.....67091

**24 CFR**

115.....65560

**Proposed Rules:**

51.....65258

**25 CFR**

252.....64906

**Proposed Rules:**

233.....64960

**26 CFR**

1.....64906, 65560
48.....66452
301.....65561, 65564
404.....65561, 65564
420.....65564

**Proposed Rules:**

1.....65625
301.....65625

**27 CFR**

5.....66454
6.....66007

**28 CFR**

2.....66789

**Proposed Rules:**

Ch. I.....66813

**29 CFR**

32.....66706
1903.....65916
2610.....64907

**Proposed Rules:**

Ch. XII.....64960
452.....65926
1955.....65625
1956.....66475
2608.....65259

**30 CFR**

784.....64908
817.....64908

**Proposed Rules:**

732.....64961
761.....66178
884.....65626
886.....67107
931.....65626
935.....64962
950.....64971

**32 CFR**

199.....64909
706.....66007, 66008
800.....64909

**Proposed Rules:**

553.....66476

**33 CFR**

144.....65207
165.....66009

**Proposed Rules:**

117.....66178
150.....65480

**36 CFR**

28.....65575

**Proposed Rules:**

1228.....66179

**38 CFR**

3.....64909, 67091
21.....67092

**Proposed Rules:**

3.....66815

**39 CFR**

3000.....65575
3001.....65575

**40 CFR**

52.....65209, 66789–66792
60.....66742
80.....65581
81.....65585
86.....66952, 66984
125.....65942
180.....64910, 65209
205.....65594

**Proposed Rules:**

52.....65262, 65628, 65630
80.....66479–66483
81.....65630–65632
123.....65263, 65632
162.....66736
163.....65633
173.....65633
180.....66484
201.....66485
264.....66816
712.....66180
762.....66726

**41 CFR**

Ch. 18.....65210, 65213
Ch. 101.....65146
1–4.....66014
1–6.....66016
3–3.....64911
60–4.....65976

**Proposed Rules:**

101–11.....64978

**42 CFR**

405.....64913
421.....64912
442.....64913
447.....64913

**43 CFR**

**Proposed Rules:**

7.....66370
20.....66370

**Public Land Orders:**

5752.....67093
5756.....66455
5768.....67094

**44 CFR**

64.....66014, 66455
65.....66016
302.....64913

**45 CFR**

76.....67262
260.....66666
400.....64926
1000.....64926, 65220
1061.....64926, 65220, 66462, 67094
1062.....64936, 65229
1067.....64926, 64936, 64940, 65220, 65229, 65233
1068.....64940, 65233
1069.....64940, 65233

**Proposed Rules:**

1176.....65635
1300.....66180

**46 CFR**

Ch. I.....65242
385.....66167
522.....66795

**Proposed Rules:**

521.....66485

**47 CFR**

0.....64949

1 ..... 65595
21 ..... 65597
22 ..... 65597
73 ..... 64950-64951
94 ..... 67094

**Proposed Rules:**

73 ..... 64981-64951, 65637
81 ..... 65639

**48 CFR**

**Proposed Rules:**

4 ..... 65640
9 ..... 65640

**49 CFR**

531 ..... 67095
571 ..... 67095
830 ..... 65243
1011 ..... 64959
1033 ..... 64954-64958, 65243, 65601, 66459, 66796, 67096
1038 ..... 65601
1048 ..... 66460
1100 ..... 64958
1101 ..... 64959

**Proposed Rules:**

393 ..... 65264, 67107
531 ..... 67108
1039 ..... 65641
1201 ..... 65641
1241 ..... 65641

**50 CFR**

10 ..... 64952
13 ..... 64952
14 ..... 64952
17 ..... 64132
32 ..... 64953, 65244, 67097
227 ..... 66460
651 ..... 66461
653 ..... 65246

**Proposed Rules:**

17 ..... 66410
296 ..... 65264
611 ..... 64995, 65641, 65642
651 ..... 64996

## AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

| Monday | Tuesday | Wednesday | Thursday | Friday |
|---|---|---|---|---|
| DOT/SECRETARY | USDA/ASCS | | DOT/SECRETARY | USDA/ASCS |
| DOT/COAST GUARD | USDA/FNS | | DOT/COAST GUARD | USDA/FNS |
| DOT/FAA | USDA/FSQS | | DOT/FAA | USDA/FSQS |
| DOT/FHWA | USDA/REA | | DOT/FHWA | USDA/REA |
| DOT/FRA | MSPB/OPM | | DOT/FRA | MSPB/OPM |
| DOT/NHTSA | LABOR | | DOT/NHTSA | LABOR |
| DOT/RSPA | HHS/FDA | | DOT/RSPA | HHS/FDA |
| DOT/SLSDC | | | DOT/SLSDC | |
| DOT/UMTA | | | DOT/UMTA | |
| CSA | | | CSA | |

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

**NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.**

## REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

### Rules Going Into Effect Today

**ENVIRONMENTAL PROTECTION AGENCY**

59313 9–9–80 / State Implementation Plan; New Hampshire

**FEDERAL COMMUNICATIONS COMMISSION**

59887 9–11–80 / FM Broadcast Station in Chatham, Mass.; changes made in table of assignments

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

Fair Housing and Equal Opportunity Office—

59305 9–9–80 / Fair housing; recognition of substantially equivalent laws

Federal Housing Commissioner, Office of the Assistant Secretary for Housing—

59308 9–9–80 / Section 8 Housing Assistance Payments Program—Existing housing, elimination of rent reduction incentive

Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary—

59311 9–9–80 / Mobile Home Procedural and Enforcement Regulations; Primary inspection agencies

### List of Public Laws

**Last Listing October 8, 1980**

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

**H.R. 7511 / Pub. L. 96–385** Veterans' Disability Compensation and Housing Benefits Amendments of 1980 (Oct. 7, 1980; 94 Stat. 1528) Price $1.25.

## PRINCIPLES OF REGULATIONS WRITING SEMINAR

**WHAT:** The aim of the seminar is to improve the quality of Federal regulations by teaching how to design and draft clear regulations.
The Principles of Regulations Writing Seminar covers the following concepts:
**1.** How to prepare for drafting—adopt a style manual, know your audience.
**2.** How to draft a regulation—organize a regulation to make it easier for the reader, use consistent clear language, avoid jargon and legalese, and review and redraft systematically.
**3.** How to prepare a regulation to comply with **Federal Register** publication requirements—write an effective preamble, and explain how the regulation amends the Code of Federal Regulations.

**WHO:** Any Federal employee who drafts documents or who reviews documents for substance that are published in the **Federal Register.**

**WHEN:** October 22, 1980; November 19, 1980; January 21, 1981; February 25, 1981; May 13, 1981.

**HOW:** Register for the class by sending a training authorization form to us. After we receive your training authorization form, we will mail you a confirmation letter that will serve as an admission ticket to the class. Tuiflon will not be charged for an applicant who cancels a confirmed reservation five work days before the day of the class. Someone may substitute for the applicant if the agency training office approves.

**WHERE:** Send your training form to: Principles of Regulations Writing Seminar, Office of the Federal Register, NARS, Washington, D.C. 20408. The class will be held in Washington, D.C., at 100 L Street N.W. in Room 9407.

**COST:** $75 for each person.

**FOR MORE INFORMATION:** Phone the Viola Wilson (202) 523–5240.




*Advance Orders are now Being Accepted for Delivery in About 6 Weeks*

# Code of Federal Regulations

**Revised as of July 1, 1980**

| Quantity | Volume | Price | Amount |
|---|---|---|---|
| _____ | Title 29—Labor (Parts 1911 to 1919) | $5.50 | $_____ |
| _____ | Title 31—Money and Finance: Treasury (Parts 0 to 199) | 6.00 | _____ |
| _____ | Title 32—National Defense (Parts 1 to 39, Vols. I–III, Supplement) | 6.00 | _____ |
| | | **Total Order** | $_____ |

A Cumulative checklist of CFR issuances for 1980 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

*Please do not detach*

## Order Form

**Mail to:** Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed find $_____. Make check or money order payable to Superintendent of Documents. (Please do not send cash or stamps). Include an additional 25% for foreign mailing.

**Charge to my Deposit Account No.**

☐☐☐☐☐☐☐–☐

Order No._____

VISA

MasterCard

**Credit Card Orders Only**

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me the **Code of Federal Regulations** publications I have selected above.

Name—First, Last

Street address

Company name or additional address line

City State ZIP Code

(or Country)

**PLEASE PRINT OR TYPE**

**For Office Use Only.**

| | Quantity | Charges |
|---|---|---|
| Enclosed | | |
| To be mailed | | |
| Subscriptions | | |
| Postage | | |
| Foreign handling | | |
| MMOB | | |
| OPNR | | |
| UPNS | | |
| Discount | | |
| Refund | | |