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Monday
February 11, 1980

Highlights

Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C.**, see announcement in the Reader Aids Section at the end of this issue.

8940, 8942 **Chrysler Corporation** Chrysler Corporation Loan Guarantee Board establishes functions and adopts interim rules regarding imposition of fees for specific services; effective 1–31–80, comments by 4–11–80 (2 documents)

9113 **Metric Education Program** HEW/OE extends closing date for applications

9114, 9116 **Child Welfare Services Training** HEW/HDSO announces acceptance of applications for teaching and traineeship grants; apply by 5–2–80 (2 documents)

9113 **Genetic Diseases** HEW/HSA announces availability of project grants for testing and counseling services, and sickle cell screening and education clinics; apply by 5–2–80

9141 **State-of-the-Art Highlights** Justice/NIJ announces solicitation for competitive research grants for each forensic science discipline and critical issues in forensic sciences; applications must be postmarked by 4–4–80

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Highlights

9241 **Education Contracts** Interior/BIA publishes rule on the distribution of supplemental funds under the Johnson O'Malley Act (Part III of this issue)

9244 **Bus Rehabilitation Program** DOT/UMTA proposes policies and guidelines for Federal grants to aid mass transit systems; comments by 3–27–80 (Part IV of this issue)

9248 **Toxic Substances Control** EPA announces availability of funds for fiscal year 1980; effective 2–11–80 (Part V of this issue)

8982 **Medicare-Medicaid Anti-Fraud** HEW/HCFA authorizes States to require applicants and recipients to assign rights of medical support to State; effective 5–12–80

9184 **Liquefied Natural Gas Facilities** DOT/MTB establishes comprehensive safety standards governing design and construction, and proposes standards for security, maintenance and protection; effective 3–15–80, comments by 5–9–80 (2 documents) (Part II of this issue)

8993 **Privacy Act** DOT/Sec'y publishes access regulations for systems of records; effective 2–11–80

8955 **Personal Security Guards** CAB amends rules to allow free transportation by U.S. and foreign air carriers; effective 3–12–80

9025 **Broadcast Promotions** FCC terminates rule making proceeding regarding announcement of financial interests of stations, their principals, and employees in certain services and commodities

9021 **Television Programming** FCC issues memorandum opinion and order regarding non-interconnected distribution to certain foreign stations

9122 **Royalty Oil** Interior/GS agrees to accept an interim determination by the Economic Regulatory Administration (ERA) as to new and/or expanded operable refinery capacity

9149 **Sunshine Act Meetings**

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9184 **Part II, DOT/MTB**
9241 **Part III, Interior/BIA**
9244 **Part IV, DOT/UMTA**
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL LABOR RELATIONS AUTHORITY

General Counsel of the Federal Labor Relations Authority

FEDERAL SERVICE IMPASSES PANEL

5 CFR Ch. XIV

Processing of Cases; Final Rules; Correction

AGENCY: Federal Labor Relations Authority (including the General Counsel of the Federal Labor Relations Authority) and Federal Service Impasses Panel.

ACTION: Final rules and regulations; correction.

SUMMARY: This notice corrects inadvertent errors in the text of the final rules and regulations of the Federal Labor Relations Authority (Authority), the General Counsel of the Federal Labor Relations Authority (General Counsel), and the Federal Service Impasses Panel (Panel) (45 FR 3482).

FOR FURTHER INFORMATION CONTACT:

Jerome P. Hardiman, Director, Office of Operations, Authority (202) 254–7362.
S. Jesse Reuben, Deputy General Counsel (202) 254–8305.
Howard W. Solomon, Executive Director, Panel (202) 653–7078.
David L. Feder, Deputy Assistant General Counsel (202) 254–8545.

SUPPLEMENTARY INFORMATION: On January 17, 1980, the Authority, the General Counsel, and the Panel issued final rules and regulations effective January 28, 1980 (45 FR 3482), to principally govern the processing of cases. These final rules and regulations contain several inadvertent errors which are hereby corrected as set forth below.

PART 2424—EXPEDITED REVIEW OF NEGOTIABILITY ISSUES

§ 2424.6 [Corrected]

In § *2424.6 Position of the agency; time limits for filing; service,* insert the phrase "including all attachments thereto" after the phrase "agency's statement of position" in § 2424.6(b) so that it reads as follows:

* * * * *

(b) A copy of the agency's statement of position including all attachments thereto shall be served on the exclusive representative.

§ 2424.7 [Corrected]

In § *2424.7 Response of the exclusive representative; time limits for filing; service,* insert the phrase "including all attachments thereto" after the phrase "response of the exclusive representative" in § 2424.7(c) so that it reads as follows:

* * * * *

(c) A copy of the response of the exclusive representative including all attachments thereto shall be served on the agency head and on the agency's representative of record in the proceeding before the Authority.

PART 2429—MISCELLANEOUS AND GENERAL REQUIREMENTS

§ 2429.1 [Amended]

In § *2429.1 Transfer of cases to the Authority,* substitute the word "may" for the word "shall" in the nineteenth line in § 2429.1(a) so that it reads as follows:

(a) In any representation case under Part 2422 of this subchapter in which the Regional Director determines, based upon a stipulation by the parties, that no material issue of fact exists, the Regional Director may transfer the case to the Authority; and the Authority may decide the case on the basis of the papers alone after having allowed twenty-five (25) days for the filing of briefs. In any unfair labor practice case under Part 2423 of this subchapter in which, after the issuance of a complaint, the Regional Director determines, based upon a stipulation by the parties, that no material issue of fact exists, the Regional Director may upon agreement of all parties transfer the case to the Authority; and the Authority may decide the case on the basis of the case papers alone after having allowed twenty-five (25) days for the filing of briefs. The Authority may remand any such case to the Regional Director if it determines that a material question of fact does exist. Orders of transfer and remand shall be served on all parties.

* * * * *

Appendix A to 5 CFR Ch. XIV—Current Addresses and Geographic Jurisdictions

Appendix A [Corrected]

Substitute Washington, D.C., Regional Office for New York Regional Office for the State of West Virginia in paragraph (f) so that it reads in pertinent part as follows:

State or Other Locality and Regional Office

West Virginia—Washington, D.C.

Dated: February 6, 1980.

Ronald W. Haughton,
Chairman, Federal Labor Relations Authority.
Henry B. Frazier III,
Member, Federal Labor Relations Authority.
Leon B. Applewhaite,
Member, Federal Labor Relations Authority.
H. Stephan Gordon,
General Counsel, Federal Labor Relations Authority.
Howard G. Gamser,
Chairman, Federal Service Impasses Panel.

[FR Doc. 80-4248 Filed 2-8-80; 8:45 am]
BILLING CODE 6325-19-M

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1900

Applicability of Federal Law

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration deletes a portion of a regulation from the Code of Federal Regulations. This action is taken as a result of a comment from another Federal Department and is intended to eliminate any possibility of conflict with a public law and avoid duplication with another FmHA regulation.

EFFECTIVE DATE: February 11, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Kenneth Latcholia, Deputy Administrator for Rural Development, Farmers Home Administration, Room 5022 South Agriculture Building, 14th and Independence Avenue S.W.,

Washington, D.C. 20250. Phone: 202–447–3213.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration deletes §§ 1900.101(a) and 1900.103 and amends the title of Subpart C, Part 1900, Chapter XVIII, Title 7 in the Code of Federal Regulations. The information contained in these sections is not necessary and removal will prevent any misinterpretation of the regulation which could constitute a violation of the Equal Credit Opportunity Act.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This deletion, however, is not published for proposed rulemaking since the change will have no detrimental effect on the public and could potentially be beneficial. This determination has been made by Mr. Kenneth Latcholia, Deputy Administrator for Rural Development, phone: 202–447–3213.

Therefore, the title of Subpart C is amended, § 1900.101(a) is deleted, § 1900.101(b) and (c) are renumbered to (a) and (b) and § 1900.103 of Subpart C, Part 1900 is hereby deleted from the Code of Federal Regulations as follows:

Subpart C—Applicability of Federal Law

§ 1900.101 General. * * *

(a) (Deleted from the CFR)

(b) (Renumbered to (a) without change)

(c) (Renumbered to (b) without change)

* * * * *

§ 1900.103 [Deleted]

§ 1900.103–1900.150 [Reserved]

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Depatment of Agriculture, Room 6346 South Agriculture Building, Washington, D.C. 20250.

This document has been reviewed in accordance with FmHA Instruction 1901–G "Environmental Impact Statements." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

(7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: February 4, 1980.

James E. Thornton,

Associate Administrator, Farmers Home Administration.

[FR Doc. 80–4298 Filed 2–8–80; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 1

Eligibility of Securities for Purchase, Dealing in Underwriting and Holding by National banks; Rulings Issued by the Comptroller

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Notice of rulings.

SUMMARY: The Comptroller is publishing those investment securities rulings issued during the year beginning in December, 1978, that are considered to be of significant public interest. The rulings were issued to advise banks on the application of federal banking law and regulations to securities which the bank holds, or desires to purchase, deal in or underwrite.

EFFECTIVE DATE: The rulings became effective when originally issued in letter form. The date of issuance is indicated in parentheses at the end of each ruling.

FOR FURTHER INFORMATION CONTACT: Raija H. Bettauer, Attorney, Comptroller of the Currency, Washington, D.C. 20219, (202) 447–1880.

SUPPLEMENTARY INFORMATION: Recently, the Comptroller discontinued the codification of individual investment securities rulings in 12 CFR Part 1, 44 FR 76263 (December 26, 1979). However, the Comptroller has determined that certain individual rulings issued during the year beginning in December, 1978, are sufficiently significant to warrant their publication. The rulings in question were issued in response to specific requests from banks or bank counsel made in accordance with 12 CFR 1.9 regarding the applicability of federal banking law and regulations to securities which the bank holds, or desires to purchase, deal in, or underwrite.

Although the rulings will not be codified and thus not allocated CFR numbers, the Comptroller has determined to continue the numbering of the published rulings in order to facilitate future references to these rulings. It appeared most expedient to number the rulings in sequence to those published earlier (leaving out the 12 CFR 1-reference) in the following manner:

Sec.

481 New Jersey Sports and Exposition Authority, Sports Complex Refunding Bonds—Guaranteed by the State of New Jersey.

482 Dormitory Authority of the State of New York GNMA Collateralized Hospital Bonds (United Hospital Project), Series A.

483 New Jersey Health Care Facilities Financing Authority Revenue Bonds, Middlesex General Hospital Issue, Series A.

484 North Dakota Municipal Bond Bank 1979, Series A Bonds.

485 Rhode Island Public Buildings Authority State Public Projects Revenue Bonds 1979, Series A.

486 Michigan State Building Authority, 1979 Revenue Bonds, Series I.

487 Butler Sewer Authority, Butler County, Pennsylvania, Construction Notes, Series of 1979.

§ 481 New Jersey Sports and Exposition Authority, Sports Complex Refunding Bonds—Guaranteed by the State of New Jersey

(a) *Request.* Ruling on the eligibility of the $303,650,000 New Jersey Sports and Exposition Authority, Sports Complex Refunding Bonds—Guaranteed by the State of New Jersey, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The New Jersey Sports and Exposition Authority, a public body corporate and politic, was created in 1971 by an Act of the New Jersey State Legislature. Pursuant to powers granted to it, the Authority is in the process of constructing and developing various facilities constituting a sports complex in the Hackensack Meadowlands. The initial project was financed by bonds issued in 1974 which were the subject of the Comptroller's ruling of December 19, 1973 (12 CFR 1.387).

(2) The refunding bonds are being issued to refinance the presently outstanding bonds of the Authority. The refunding bonds are secured by a pledge which is subordinate to a pledge securing the Authority's senior lien revenue bond issue of approximately $73,265,000. The senior lien revenue bonds will be issued concurrently with the refunding bonds and will fund

construction of a multi-purpose indoor arena and additional facilities at the Meadowlands Racetrack.

(3) As provided in the New Jersey Sports and Exposition Authority Refunding Bond Guaranty Act (approved by the voters on November 7, 1978), the State of New Jersey will unconditionally guarantee the punctual payment of principal of and interest on the refunding bonds and will pledge the State's full faith and credit for such payment.

(c) *Ruling.* It is our conclusion that the $303,650,000 New Jersey Sports and Exposition Authority, Sports Complex Refunding Bonds—Guaranteed by the State of New Jersey, are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated December 21, 1978.)

§ 482 Dormitory Authority of the State of New York GNMA Collateralized Hospital Bonds (United Hospital Project), Series A

(a) *Request.* Ruling on the eligibility of the $19,585,000 Dormitory Authority of the State of New York GNMA Collateralized Hospital Bonds (United Hospital Project), Series A, for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Authority is issuing these bonds to finance the construction of United Hospital in Port Chester, New York. The financing will be accomplished as follows: The Hospital will request monthly advances from the mortgage banker to pay the cost of constructing the Project. The advances will be represented by a note or notes which will be secured by a mortgage and insured by the Federal Housing Administration. After making each monthly advance the mortgage banker will apply to GNMA for a Construction Loan Certificate which the mortgage banker will sell to the Trustee of the bond proceeds.

(2) The process will be repeated on a monthly basis until the Project is completed at which time it is estimated that the entire amount of the bond proceeds will have been used to acquire an equal amount of GNMA securities. The CLC's will then be exchanged for a Permanent Loan Certificate. Both the CLC's and the PLC are fully modified pass through mortgage backed securities guaranteed by GNMA which guarantee is supported by the full faith and credit of the United States.

(3) Bond proceeds not invested in the loan certificates described in the second and third paragraphs of this letter must be invested in direct obligations of the United States or obligations the principal of and interest on which are guaranteed by the United States and repurchase agreements with respect to obligations mentioned above: *Provided,* That (a) the market value of the obligations covered by any such repurchase agreement is at all times at least equal to the principal amount of the repurchase agreement and (b) such obligations are segregated in a bank acceptable to the Authority which is other than the bank or institution entering into the repurchase agreement with the Authority.

(4) We have been advised that the Authority and bond counsel understand the words "obligations the principal of and the interest on which are guaranteed by the United States" to be limited to marketable securities and that the trustee's portfolio now consists of GNMA securities and repurchase agreements with respect to United States Treasury obligations and other GNMA securities.

(c) *Ruling.* In these circumstances, it is our conclusion that the $19,585,000 Dormitory Authority of the State of New York GNMA Collateralized Hospital Bonds (United Hospital Project), Series A, are indirect obligations of the United States and are therefore eligible for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24. (Letter dated April 30, 1979.)

§ 483 New Jersey Health Care Facilities Financing Authority Revenue Bonds, Middlesex General Hospital Issue, Series A

(a) *Request.* Ruling on the eligibility of the $42,490,000 New Jersey Health Care Facilities Financing Authority Revenue Bonds, Middlesex General Hospital Issue, Series A, for purchase, dealing in, underwriting and holding by national banks subject to the ten percent limitation of paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) New Jersey Health Care Facilities Financing Authority is a public body corporate and politic and a political subdivision of the State established as an instrumentality exercising public and essential government functions by the New Jersey Health Care Facilities Financing Authority Law. The Authority is authorized by law to issue bonds to finance the construction of hospital facilities.

(2) The Authority is issuing these bonds to finance the cost of converting Middlesex General Hospital into a university teaching hospital facility for use by the College of Medicine and Dentistry of New Jersey—Rutgers Medical School.

(3) Pursuant to an exclusive affiliation agreement dated November 23, 1977, the College has designated Middlesex General Hospital as the primary teaching facility for its Rutgers Medical School and has agreed to cooperate in the joint planning of the construction of an addition to, and the renovation of, the Hospital's existing facilities to meet the needs of the College for a teaching hospital facility. The affiliation agreement provides for a close relationship between the College and the Hospital, including the representation of the Dean of the College on the Board of Deans of the Hospital, the appointment of the President of the Hospital with consent of the Dean of the College and the appointment by the College of all Chiefs of Service at the Hospital. The Hospital, however, will retain its character as an independent self-governing hospital. The affiliation agreement also provides that the College will reimburse the Hospital for the new incremental costs of operating the Hospital which are attributable to its activities, to the extent that such costs are not reimbursed by any other party.

(4) The project will include the construction of a new acute care services wing, the renovation and expansion of certain patient care areas in the Hospital's existing facilities, the construction of a new ambulatory care facility, material distribution center, a new central power plant and a multi-level parking garage, the acquisition of certain movable and fixed equipment and the refinancing of certain existing mortgage indebtedness of the Hospital.

(5) In conjunction with the project, the College is scheduled to construct a teaching and research building, within air rights leased by the college from the Hospital, which will rest on the roof of the hospital's underground parking facility to be constructed as a part of the project. The teaching and research building will be financed with funds provided by the State of New Jersey and not with the proceeds of the bonds.

(6) The bonds are supported by an agreement and mortgage under the terms of which the Hospital agrees that it will make mortgage payments to the Authority in aggregate amounts sufficient to pay, when due, principal, sinking fund installments and interest on the bonds and certain other required payments.

(c) *Ruling.* It is our conclusion that the New Jersey Health Care Facilities Financing Authority Revenue Bonds, Middlesex General Hospital Issue,

Series A, are issued by an agency of the State of New Jersey for university purposes and are eligible under paragraph Seventh of 12 U.S.C. 24 for purchase, dealing in, underwriting and holding by national banks within the ten percent limitation with respect to aggregate holdings of obligations issued by the New Jersey Health Care Facilities Financing Authority. (Letter dated May 23, 1979.)

§ 484 North Dakota municipal bond bank 1979, series A bonds.

(a) *Request.* Ruling on the eligibility of the approximately $16,000,000 North Dakota Municipal Bond Bank 1979, Series A Bonds for purchase, dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The North Dakota Municipal Bond Bank was established in 1975 within the Bank of North Dakota by the North Dakota Municipal Bond Bank Act and constituted as an instrumentality of the State exercising public and governmental functions. The Act provides that the exercise by the Bond Bank of the powers conferred by the Act are deemed to be an essential governmental function of the State. The principal function of the Bank is to lend money to political subdivisions of the State through the purchases of their municipal securities (payable from taxes, rates, charges or assessments) and to issue its own bonds to provide funds for such purposes.

(2) These bonds will be secured by a portfolio of the municipal securities purchased. The municipal securities purchased with the proceeds of these bonds are required by the bond resolution to be general obligations of the political subdivisions. Under the laws of North Dakota improvement bonds and warrants will meet this requirement.

(3) The bonds will also be secured by a debt service reserve fund which will be established in an amount not less than the maximum amount of principal maturing and interest becoming due in any succeeding calendar year on the bonds. In order to assure the maintenance of the required debt service reserve in the reserve fund, the Act provides for the annual appropriation and payment from State funds for deposit in the reserve fund of such sum as is certified to be necessary to restore the fund to an amount equal to the required debt service reserve. The State, which possesses general powers of taxation, has thus committed its faith and credit in support of the bonds.

(c) *Ruling.* It is our conclusion that the approximately $16,000,000 North Dakota Municipal Bond Bank 1979, Series A Bonds are general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are eligible for purchase, dealing in, underwriting and unlimited holding by national banks. (Letter dated June 4, 1979.)

§ 485 Rhode Island public buildings authority State public projects revenue bonds 1979, series A.

(a) *Request.* Ruling on the eligibility of $29,025,000 Rhode Island Public Buildings Authority State Public Projects Revenue Bonds 1979, Series A for dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) Rhode Island Public Building Authority is a body corporate and politic created by the Rhode Island Public Buildings Authority Act. The Authority is authorized and empowered under the Act to finance the acquisition and construction of public facilities by the issuance of revenue bonds, payable solely from the revenues of such facilities.

(2) The Authority is issuing these bonds to finance the construction of a State judicial complex in Providence County, the acquisition of a State judicial complex in Kent County and a State office complex in Washington County.

(3) A public facility for the State may be initiated by the Authority only upon the request of either the General Assembly or the Governor. The State Director of Administration is specifically authorized to enter into a contract of lease with the Authority for the leasing of such facilities upon such terms and conditions as shall be agreed upon by the Director and the Authority.

(4) The Supreme Court of Rhode Island in an advisory opinion has ruled that a long term lease with an option to purchase does not give rise to an indebtedness either for the optional purchase price or for the aggregate of all the rentals for the entire term within the meaning of state constitutional limitations. The Court went on to explain that while the lease payments contemplated under the Act do not create a debt against the state in the constitutional sense, they are nevertheless recurring obligations payable out of current revenues.

(5) In reaching its conclusion the court reviewed lease rental decisions in other States. It referred particularly to a decision of the Supreme Court of Pennsylvania in which the Pennsylvania court pointed out that the undertaking of the State was a lease, that on the payment of each annual rental there was a "present benefit to the State," and that the bonds were being paid out of the revenues of the authority. The Rhode Island court then stated that it was in full accord with the view of the Pennsylvania court as expressed in the following paragraph:

> In considering the question of constitutionality, due regard must be had to the commonwealth's position, the projects to be undertaken, the character of the contract and the parties with whom it is made. To enforce a harsh, literal interpretation of the Constitution when considering the legality of the leases of the projects herein mentioned, which are essential to the life of the State and the comfort, health or security of its people, a construction opposed to all business concepts, would violate all rules of interpretation and cause loss of the respect necessary to the life of that document.

(6) It appears from the foregoing that the recurring obligations referred to by the court are the usual obligations of the tenant under a long term lease to provide for the payment of the annual lease rentals. The making of the necessary appropriations by the General Assembly fulfills these obligations. The failure to appropriate does not extinguish the obligations.

(c) *Ruling.* It is our conclusion that the Rhode Island Public Buildings Authority State Public Revenue Bonds 1979 are general obligations of a State and are eligible for dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24. (Letter dated August 15, 1979.)

§ 486 Michigan State Building authority, 1979 revenue bonds, series I.

(a) *Request.* Ruling on the eligibility of $89,450,000 Michigan State Building Authority, 1979 Revenue Bonds, Series I for dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The State Building Authority is a body corporate separate and distinct from the State created by a Public Act of the State of Michigan. The Authority is authorized under the Act to finance the acquisition and construction of public facilities by the issuance of revenue bonds, payable from rentals to be paid by the State.

(2) The Authority is issuing these bonds to finance the construction of a correctional facility at Ypsilanti and University projects at seven locations in the State.

(3) The Act provides that a State lease for public purposes shall be approved by a resolution of the legislature concurred in by a majority of the members of each house, that the State shall pay to the Authority the true rental specified in the lease and that the Governor is required

to include in each annual executive budget of the State amounts sufficient to make the required payments. These provisions are also applicable to State institutions of higher education.

(4) The Supreme Court of Michigan in an advisory opinion has ruled that the State may lease property from the Authority under the provisions of the Act and validly contract therein to pay the true rental value of the leased premises at fixed times over a period of years and that future legislatures will be contractually bound to appropriate the necessary public funds to meet the State's rental obligation.

(c) *Ruling.* It is our conclusion that the $89,450,000 Michigan State Building Authority, 1979 Revenue Bonds, Series I are general obligations of a State and are eligible for dealing in, underwriting and unlimited holding by national banks under paragraph Seventh of 12 U.S.C. 24. (Letter dated September 4, 1979.)

§ 487 Butler sewer authority, Butler County, Pa., construction notes, series of 1979.

(a) *Request.* Ruling on the eligibility of the $28,680,000 Butler Sewer Authority, Butler County, Pennsylvania, Construction Notes, Series of 1979.

(b) *Opinion.* (1) The Authority is a body corporate and politic, organized under the Municipality Authorities Act of 1945. The Authority is issuing the Notes to provide a portion of construction monies necessary to construct additions to the Authority's sewage collection and conveyance system.

(2) The Notes are payable as to principal from a grant to be made by the United States Environmental Protection Agency in the amount $24,813,050 and from other funds of the Authority. The Authority will also capitalize, out of the proceeds of the Notes, sufficient monies which, with interest to be earned thereon, will pay all interest on the Notes through maturity.

(3) The official statement indicates that the payment of the EPA grant could be delayed or abated for a number of reasons which would have an adverse effect on the Authority's ability to pay the Notes when due. Because of the conditional nature of the EPA grant and the fact that the grant only covers principal, we cannot conclude that the Notes are obligations guaranteed by the United States.

(c) *Ruling.* Accordingly, it is our conclusion that the $28,680,000 Butler Area Sewer Authority, Construction Notes, Series of 1979, are not obligations of the United States, nor general obligations of a State or a political subdivision thereof under paragraph Seventh of 12 U.S.C. 24 and are, therefore, not eligible for dealing in, underwriting or unlimited holding by national banks. However, such Notes are eligible for purchase by national banks subject to the 10% limitation. (Letter dated September 12, 1979.)

Dated: February 5, 1980.

John G. Heimann,

Comptroller of the Currency.

[FR Doc. 80-4343 Filed 2-8-80; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

Interest on Deposits; Exempt Unsecured, Short-Term Commercial Paper Issued by Mutual Savings Banks in Minimum Denominations of $100,000 or More

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The FDIC has decided to adopt a significant amendment to its regulations governing the advertising and payment of interest on deposits. The amendment will exempt certain unsecured, short-term commercial paper issued by mutual savings banks in minimum amounts of $100,000 or more from restrictions which apply to deposits. Nondeposit obligations (including commercial paper) of $100,000 or more are not subject to interest rate ceilings. The same thing is true for deposits of $100,000 or more. However, all such obligations are subject to other restrictions governing the advertising and payment of interest. FDIC's Board of Directors has determined that many of these restrictions are not appropriate restraints on obligations such as commercial paper issues and that they might unnecessarily interfere with the marketability of such issues. Elimination of these unnecessary restrictions will allow insured nonmember mutual savings banks to reduce their borrowing costs and tap new sources of funds by selling commercial paper to institutional lenders in the commercial paper and short-term securities markets.

EFFECTIVE DATE: March 3, 1980.

FOR FURTHER INFORMATION CONTACT: Daniel Wm. Persinger, Assistant General Counsel, Federal Deposit Insurance Corporation, 550 17th Street, NW., Wahington, D.C. 20429 (202-389-4387).

SUPPLEMENTARY INFORMATION: FDIC's regulations governing the advertising and payment of interest on deposits (12 CFR Part 329, referred to herein as "Part 329") apply not only to deposits but also to "obligations other than deposits that are issued or undertaken by insured nonmember banks for the purpose of obtaining funds to be used in the banking business. 12 CFR 329.10(a). This is to insure that comparable undertakings such as promissory notes, acknowledgments of advance, due bills, repurchase agreements, and the like are subject to the same interest rate ceilings and other restrictions as apply to deposits. There are exceptions for interbank borrowings, sales of U.S. Government or agency securities subject to repurchase, obligations in the nature of subordinated debt which have been approved by FDIC as an addition to the issuing bank's capital structure, and funds borrowed on an overnight basis from securities dealers. There are, however, no exceptions for obligations such as commercial paper, even those issued in denominations of $100,000 or more. These obligations, like large denomination certificates of deposit of $100,000 or more, are not subject to interest rate ceilings but are subject to other restrictive provisions that apply to deposits, for example, a 30-day minimum maturity requirement.

Certain of the restrictions in Part 329 make it difficult to market large denomination commercial paper issues because they potentially interfere with the remedies ordinarily available to creditors in the event of default on the part of the issuer (or because they are simply inappropriate constraints on commercial paper issues). These restrictions were discussed in detail in a notice of proposed rulemaking adopted by FDIC on September 17, 1979 which would make it easier for insured nonmember mutual savings banks ("MSB's") to sell unsecured, short-term commercial paper in denominations of $100,000 or more (usually referred to in this Supplementary Information section as simply "commercial paper"). The proposal (published at 44 FR 54722-24, 9/21/79) would exempt commercial paper issued by an MSB (but not an insured nonmember commercial bank) from the restrictions in Part 329 which apply to deposits.

Under the proposal, an MSB would be permitted to issue commercial paper, without regard to the restrictions in Part 329, if the issuer meets certain criteria. (For details see 44 FR 54724.) Chief among the criteria listed in the proposal are that the obligations issued be (1) in writing, (2) unsecured, and (3) in a face amount of $100,000 or more. The obligation must also have an original

maturity of not more than nine months, provide that it will not bear interest after maturity (except where the issuer has failed to pay at maturity), and clearly state that it is not insured by the FDIC. In addition, the issuing MSB must use the proceeds of the issue for "current transactions", comply with State and Federal laws governing the offering and sale of its nondeposit obligations, comply with FDIC regulations barring inaccurate or misleading advertising, and avoid selling or authorizing anyone else to sell an interest in the obligation to the general public.

Interested persons were given until October 26, 1979 to comment on the proposal.

Comments on the Proposal

The FDIC received relatively few (15) comments. Two commercial banks, one bank holding company and FDIC's Regional Director in Philadelphia felt that the exemption from Part 329 should be extended to insured nonmember commercial banks. One of the commercial banks (Continental Bank, Philadelphia) argued that the exemption should be afforded commercial banks that are not part of a holding company, particularly in areas where mutual saving bank competition is intense. The importance of this comment is that it goes to one of the reasons for limiting the exemption to MSB's, namely, that commercial banks have comparable access to the commerical paper market through their parent holding companies. In a similar vein, the American Bankers Association commented that the FDIC proposal would encourage speculative banking practices on the one hand and would unfairly disadvantage commercial banks on the other.

The FDIC is of the view that adoption of the proposal will have little if any effect on the competitive status of commercial banks vis-a-vis MSB's. There are several reasons for this, the main one being that the only obligations affected are those in amounts of $100,000 or more. Since deposit and nondeposit obligations of $100,000 or more are not subject to interest rate ceilings and since they are, for the most part, sold only to institutional investors,[1] the exemption should have virtually no impact on the flow of funds between institutions whether below, at, or above the $100,000 level. Similarly, the fact that the exemption will not apply to secured obligations limits its usefulness to those few large, soundly-financed institutions that would probably have little difficulty competing for funds in its absence.

While the MSB's that commented generally favor adoption of the proposal, a number complained about its failure to include secured obligations, particularly mortgaged-backed bonds. While not an MSB, Salomon Brothers neatly summed up this view in its comments: Without the ability to issue secured commercial paper, a substantial number of large MSB's and most small ones won't be able to obtain the highest investment ratings. There is a significant difference in borrowing cost between paper rated A–1/P–1 and paper rated A–2/P–2. More important, issuers may not be able to sell lower rated paper at all during the periods of illiquidity that accompany peak interest rates. While recognizing that this argument has merit, the FDIC is not planning to extend the exemption to secured paper. This question was fully aired before the FDIC adopted its proposal and the decision was made to limit it to unsecured commercial paper. This decision was based mainly on the fact that use of a bank's assets to secure unrelated borrowings raises questions of safety and soundness. Since these questions do not arise in the context of unsecured borrowing, FDIC decided to take them up separately. Nothing in the comments suggests that this decision was in error. Accordingly, FDIC reserves consideration of an exemption from Part 329 for secured debt to some more appropriate context.

Several persons objected to one or more of the criteria listed in the proposal as necessary qualifying conditions for securing an exemption from Part 329. The main objection was to the requirement that the issuer comply with certain criteria which, by their very nature, create verification problems for the holder of the paper. By way of illustration, the holder would have no way of knowning for certain whether the proceeds of the issue would be used for "current transactions" other than through the issuer's assurance that this was the case. Rather than subject the holder to unreasonable verification requirements, the final regulation limits the criteria for exemption to those where compliance may be determined by reference to the instrument evidencing the obligation (such as amount, original maturity, etc.). The remaining criteria (such as use of the proceeds of the issue for current transactions) are referred to in the following section as standards with which the issuer must comply in order to avoid formal corrective action by FDIC as well as possible restrictions on its ability to issue exempt commercial paper in the future. Finally, two criteria were deleted altogether because they are by no means limited to commercial paper issues. That is, regardless of the nature of the issuer's obligation and any exemption from Part 329, the issuer will be expected to comply with FDIC's advertising regulations [2] (see, e.g., § 329.8(f)) as well as all State and Federal laws governing the offering, issuance, or sale of such obligations.

Finally, there were several objections to the requirement that the proceeds of an issue be used for "current transactions". This, coupled with the nine-month limit on maturity, was designed to insure that the issuer's undertaking would be short-term in nature. One person argued that it was inappropriate to import a concept from the Securities Act of 1933 into a banking regulation and noted that there is no case law or SEC interpretations of the phrase as it applies to securities issued by banks. While these arguments are well taken, the FDIC had decided to retain the reference to "current transactions", at least in the form of a guideline to be followed by the issuer. However, the FDIC will follow SEC staff interpretations of the phrase as it applied to institutional lenders and other entities whose operations are similar to those of MSB's. The SEC staff has not raised a question where a lender, in the usual course of business, invests the proceeds of commercial paper in construction loans, interim financing loans, short-term loans, consumer loans, short-term commercial loans, accounts receivable financing, factor loans and certificates of deposit. However, it has questioned the investment of proceeds in loans for the acquistion of land and the installation of improvements, and in real estate acquired upon foreclosure of otherwise. This seems to be a reasonable distinction and one which does not unduly restrict an MSB's use of funds acquired through the sale of commercial paper.

FDIC's Regional Director in Philadelphia raised a related issue,

[1] FDIC regulations do permit individual depositors to pool their funds, either directly or through some separate investment medium, in order to make up the necessary minimum amount. However, funds pooled in this manner would normally be invested in certificates of deposit to take advantage of deposit insurance coverage. There would be no advantage to be gained by investing in uninsured commercial paper except for the single depositor who has substantially more than the maximum insured amount. This depositor would presumably be more concerned with investment risk, as reflected by the issuer's commercial paper rating, than in the availability of deposit insurance coverage.

[2] This includes any regulations adopted by the Board of Governors of the Federal Reserve System under the Federal Trade Commission Improvements Act. 15 U.S.C. 57a(f)(1).

namely, the difficulty involved in tracing the proceeds from the sale of commercial paper to current transactions. Again, following the lead of the SEC staff, no actual "tracing" would be required. The SEC staff has not objected to transactions where a borrower has represented that its current transactions at the time of issuance of the commercial paper are in excess of the amount of commercial paper that will be outstanding when the issue is completed. The FDIC is of the same view.

Significant Changes in the Proposal

As noted in the "Comment" section, FDIC set out a series of criteria in its proposal with which an issuer would have to comply in order to secure an exemption. Certain of the criteria relate to the essential characteristics of exempt commercial paper (unsecured, short-term obligations in minimum amounts of $100,000 or more). Other criteria relate to the circumstances under which an MSB will be allowed to issue exempt commercial paper. As noted in several comments, these latter criteria are such that they cannot be readily verified by the holder of the paper. It would be unfair, so the argument runs, to place the risk of losing the exemption on the holder where it is applied mainly for the holder's benefit but the loss is occasioned by action (or failure to act) on the part of the issuer. The FDIC believes this argument has merit. It has, therefore, divided the criteria in the proposal into those which are necessary conditions for exemption from Part 329 and those with which the issuer will be expected to comply but noncompliance will not destroy the exemption.

A. Conditions for Exemption

FDIC has decided to amend Part 329 so as to exempt from its provisions commercial paper issued by MSB's if the paper meets certain criteria. The criteria are as follows:

(1) The obligation must be in writing.

(2) It must be unsecured.

(3) It must have an original maturity of not more than nine months.

(4) It must be in a face amount of $100,000 or more but no restrictions will be placed on its sale at a discount. Upon partial repayment, the remainder of an obligation which was originally in an amount of $100,000 or more may be evidenced by a certificate, note, etc. for less than that amount as long as the original maturity of the obligation is not extended.

(5) It must expressly state that it will not bear interest after maturity except where the issuer has defaulted (*i.e.*, failed to pay at maturity).

(6) It must expressly state that it is not insured by the FDIC.

(7) It must expressly state that no interest in the obligation may be offered or sold to the public by the issuer or anyone acting on the issuer's behalf.

B. Other Conditions

In addition to the above, any MSB which proposes to issue exempt commercial paper must comply with the following:

(1) The proceeds of the issue must be used for "current transactions." In this case, the term "current transactions" has the same meaning as in section 3(a)(3) of the Securities Act of 1933 and interpretations of the Securities and Exchange Commission thereunder.

(2) In accordance with its statement to that effect, the MSB will not offer or sell, or authorize anyone else to offer or sell, any part of an obligation (*i.e.*, a participation amounting to less than $100,000) to the general public.

(3) The issuer will not enter into any form of arrangement or understanding with prospective purchasers whereby the issuer undertakes to pay its obligations before the original maturity stated therein.

Should the issuer fail to comply with one or more of the above conditions, FDIC reserves the right both to initiate formal corrective measures to secure compliance and to restrict the issuer's authority to issue exempt commercial paper in the future.

Cost-Benefit Analysis and Small Bank Impact

Adoption of the proposal is expected to have a favorable impact on the cost of funds for some MSB's. As Salomon Brothers pointed out in its comments, there is a significant difference in borrowing cost between paper rated A–1/P–1 and paper rated A–2/P–2. To the extent that the exemption enables an MSB to secure the higher rating, the effect on its costs will be both immediate and favorable, and should more than offset any additional administrative costs involved in complying with criteria established by the FDIC (such administrative costs are expected to be slight).

Even where the exemption will not effect an MSB's commercial paper rating, it may be cost beneficial because it will give the MSB access to funds at a lower cost than that associated with the issuance of certificates of deposit. Previous applicants for the exemption have submitted cost data showing that for certain periods in 1978 and 1979, borrowing costs were lower for the highest rated short-term commercial paper than for certificates of deposit with comparable maturities.

The exemption is not expected to have any impact on MSB's which are not in a position to market unsecured commercial paper. This probably includes the overwhelming majority of small MSB's (those with assets of $25 million or less). Similarly, the exemption is not expected to have any indirect adverse effect on small commercial banks as its impact on competition is likely to be very slight. Accordingly, no small bank impact statement was prepared.

Pursuant to its authority under Sections 9 and 18 of the Federal Deposit Insurance Act (12 U.S.C. 1819 and 1828), FDIC is amending 12 CFR Part 329 by adding a new paragraph (b)(5) to § 329.10 to read as follows:

§ 329.10 Obligations other than deposits.

* * * * *

(b) *Exceptions.* * * *

* * * * *

(5) Is issued by an insured nonmember mutual savings bank[18a] so long as the issue meets all of the following criteria:[18b]

(i) The obligation is in writing;

(ii) It is unsecured;

(iii) It has an original maturity of not more than nine months (or 270 days);

(iv) The amount of the obligation is at least $100,0000;[18c]

(v) It expressly states that it will not bear interest after maturity except where the issuer fails to pay the

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[18a] The term "mutual savings bank" is as defined in § 329.7(a) of this Part.

[18b] While not necessary conditions precedent to securing or retaining the exemption afforded by subsection (b)(5) of this Section, the following conditions apply to any insured nonmember mutual savings bank that is seeking the benefit of the exemption and FDIC reserves the right to curtail the bank's authority to issue additional exempt obligations if it does not adhere to these conditions: (1) The proceeds of all exempt obligations shall be used only for "current transactions". The term "current transactions" has the same meaning as in Section 3(a)(3) of the Securities Act of 1933 (15 U.S.C. 77c(a)(3)) and interpretations of the Securities and Exchange Commission thereunder. (2) The issuing bank will not offer or sell, or authorize anyone else to offer or sell, any part of an exempt obligation (*i.e.*, a participation amounting to less than $100,000) to the public. (3) The issuing bank will not enter into any form of arrangement or understanding with prospective purchasers whereby the issuing bank undertakes to pay its exempt obligations before the original maturity stated therein (other than following an event of default so long as all such events of default are spelled out in the exempt obligation).

[18c] The face amount of the obligation may be as low as $100,000 even though it is to be sold at a discount. Upon partial payment, a certificate for the amount of the obligation still outstanding may be issued in substitution for the original obligation so long as the original maturity of the obligation is not extended.

obligation at maturity (including accelerated maturity following default) in accordance with its terms;

(vi) It includes the following statement which must be presented in a clear and conspicuous manner: "This obligation is not a deposit and is not insured, in whole or in part, by the Federal Deposit Insurance Corporation";

(vii) It includes the following statement: "No fractional interest in this obligation, in contrast to the entire obligation, may be offered or sold to the public by the issuer or anyone authorized by the issuer to act on its behalf." [18d]

Dated: February 5, 1980.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 80-4299 Filed 2-8-80; 8:45 am]

BILLING CODE 6714-01-M

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12 CFR Parts 304 and 349

Implementation of Reporting Requirements of the Financial Institutions Regulatory and Interest Rate Control Act of 1978; Technical Corrections

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Technical corrections to final regulations.

SUMMARY: On December 18, 1979 (at 44 FR 74801) FDIC issued final regulations entitled "Part 304—Forms, Instructions and Reports [and] Part 349—Reports on Indebtedness of Executive Officers and Principal Shareholders to Correspondent Banks", to implement the reporting requirements of Titles VIII and IX of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 ("FIRIRCA"). Title VIII of FIRIRICA requires the principal shareholders and executive officers of federally-insured banks to file confidential reports with the bank's board of directors. Title VIII also requires each insured bank to file with the appropriate Federal banking agency annual reports listing each executive officer or principal shareholder who filed reports of indebtedness with the board of directors. Title IX of FIRIRCA requires the banks to file annual reports listing the principal shareholders and executive officers who borrowed money from the bank during the year, all executive officers, principal shareholders and their related business interests who filed a report of borrowing from one or more of the bank's correspondent banks, and the aggregate amount of the indebtedness. FDIC is making certain technical corrections to that document.

FOR FURTHER INFORMATION CONTACT: Daniel Wm. Persinger, Assistant General Counsel (202-389-4387), or Barbara I. Gersten, Attorney (202-389-4261) FDIC.

SUPPLEMENTARY INFORMATION: In FR Doc. 79-38787 appearing at page 74801 in the **Federal Register** for December 18, 1979 make the following corrections:

On page 74806—

§ 304.4(a)(2) [Corrected]

1. Second column, line 4 of § 304.4(a)(2) insert after "calendar year who borrowed" the words "or whose related interest borrowed".

§ 304.4(b)(1) [Corrected]

2. Second column, lines 3 and 4 of § 304.4(b)(1) insert after "§ 215.2" the words "and 215.3".

§ 304.4(b)(2) [Corrected]

3. Second column, line 12 of § 304.4(b)(2) insert after "215.2" the following "§ 215.3".

§ 349.2(b) [Corrected]

4(a). Third column, lines 5 and 7 of § 349.2(b) insert after "§ 215.2" the words "and § 215.3"

(b). On page 74807, column 1, line 1 in § 349.2(b) insert after "§ 215.2" the following "and § 215.3"

The technical corrections to the regulations are effective immediately. This action is taken under the authority granted in section 553(d)(3) of the Administrative Procedure Act (5 U.S.C. 553(d)(3)) to dispense with publication not less than 30 days before the effective date of the rule. The Board of Directors of the Federal Deposit Insurance Corporation has determined it is not in the public interest to delay the effective date for 30 days, in view of the technical nature of the corrections to the regulations.

By order of the Board of Directors, February 5, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 80-4439 Filed 2-8-80; 8:45 am]

BILLING CODE 6714-01-M

[18d] In the case of negotiable obligations, the issuer is not required to place a restrictive legend on the obligation so long as the issuer complies with the restriction and provides FDIC with satisfactory assurances that those acting for it or on its behalf will do so as well (see footnote 18b).

CHRYSLER CORPORATION LOAN GUARANTEE BOARD

13 CFR Part 400

Rules of Procedure, and Functions and Organizational Structure

AGENCY: Chrysler Corporation Loan Guarantee Board.

ACTION: Final rule.

SUMMARY: The Board has adopted regulations, in final form, describing the Board's functions and organizational structure, the means and rules by which the Board takes action, and the procedure by which members of the public may gain access to information of the Board.

EFFECTIVE DATE: These regulations are effective January 31, 1980.

FOR FURTHER INFORMATION CONTACT: Brian M. Freeman, Executive Director and Secretary, Chrysler Corporation Loan Guarantee Board, 15th Street and Pennsylvania Avenue, NW., Washington, D.C. 20220. Telephone Number: 202/566-5888.

SUPPLEMENTARY INFORMATION: On January 7, 1980, the President signed into law the Chrysler Corporation Loan Guarantee Act of 1979, Pub. L. 96-185 (the "Act"), establishing the Board. Under the Act, the Board is authorized, on terms and conditions it deems appropriate, to make commitments to guarantee loans and to issue guarantees for the repayment of principal and interest of loans for the benefit of the Chrysler Corporation. The Act requires the Board to make certain determinations, which are specified in the Act, prior to making such commitments or guarantees. The Act also requires the Board to make certain reports to Congress.

These regulations describe the Board's organization, rules of procedure and procedures for public access to Board records. The Board has determined that the provisions of Section 553 of Title 5 of the United States Code, relating to notice and public participation and to deferred effective dates, are not necessary in connection with this action, because the rules involved are procedural in nature and, accordingly, do not constitute substantive rules subject to the requirements of such section.

Title 13 of the Code of Federal Regulations is amended by adding a new Chapter IV, Chrysler Corporation Loan Guarantee Board, to include Part 400 to read as follows:

CHAPTER IV—CHRYSLER CORPORATION LOAN GUARANTEE BOARD

PART 400—RULES OF PROCEDURE

Sec.

400.1 Authority, purpose and scope.
400.2 Composition of the Board.
400.3 Functions of the Board.
400.4 Offices.
400.5 Meetings and actions of the Board.
400.6 Staff.
400.7 Access to records.
400.8 Amendment of rules of procedure.

Authority: 5 U.S.C. 552.

§ 400.1 Authority, purpose and scope.

This part is issued by the Chrysler Corporation Loan Guarantee Board ("Board") pursuant to the requirements of Section 552 of Title 5 of the United States Code. This part describes the Board's functions and organizational structure, the means and rules by which the Board takes action, and the methods by which members of the public may gain access to information of the Board.

§ 400.2 Composition of the Board.

The Board consists of the Secretary of the Treasury, who acts as chairperson of the Board, the Chairman of the Board of Governors of the Federal Reserve System, and the Comptroller General of the United States. The Secretary of Labor and the Secretary of Transportation are *ex officio*, non-voting members of the Board. A person who is serving as Secretary of the Treasury, Chairman of the Board of Governors of the Federal Reserve System, Comptroller General, Secretary of Labor or Secretary of Transportation in an acting capacity or who has been duly authorized to serve in such capacity, serves as a member of the Board with the same authority as the designated member.

§ 400.3 Functions of the Board.

Pursuant to the provisions of the Chrysler Corporation Loan Guarantee Act of 1979 ("Act"), the Board is authorized to issue commitments to guarantee, to issue guarantees, to make the determinations authorized by the Act, to issue the required reports and to do the other acts necessary to carry out its functions as specified in the Act.

§ 400.4 Offices.

The principal offices of the Board are in the Main Treasury Building, 15th Street and Pennsylvania Avenue, Washington, D.C. 20220. The Board also maintains an office at 12000 Lynn Townsend Drive, Highland Park, Michigan 48288.

§ 400.5 Meetings and actions of the Board.

(a) *Place and Frequency.* The Board meets, on the call of the chairperson, at such times and at such places as any voting member deems necessary in order to consider matters requiring action by the Board.

(b) *Quorum and Voting.* Two voting members of the Board constitute a quorum for the transaction of business. All decisions and determinations of the Board shall be made by a majority vote of the voting members. All votes on determinations of the Board required by the Act shall be recorded in the minutes. A Board member may request that any vote be recorded according to individual Board members.

(c) *Attendance at Meetings.* Attendance at Board meetings shall be limited to Board members, the Executive Director, the Secretary and the General Counsel. In addition, Board members may invite other persons to attend Board meetings. The Board may limit attendance for certain Board meetings or portions thereof to only members of the Board.

(d) *Agenda of Meetings.* To the extent practicable, an agenda for each meeting shall be distributed to members of the Board at least two days in advance of the date of the meeting, together with copies of material relevant to the agenda items.

(e) *Minutes.* The secretary shall keep minutes of each Board meeting and of action taken without a meeting, a draft of which is to be distributed to each member of the Board as soon as practicable after each meeting or action. To the extent practicable, the minutes of a Board meeting shall be corrected and approved at the next meeting of the Board.

(f) *Use of Conference Call Communications Equipment.* Any member may participate in a meeting of the Board through the use of conference call telephone or similar communications equipment by means of which all persons participating in the meeting can simultaneously speak to and hear each other. Actions taken by the Board at meetings conducted through the use of such equipment, including the votes of each member, shall be recorded in the usual manner in the minutes of the meetings.

(g) *Actions Between Meetings.* When, in the judgment of the chairperson circumstances occur making it desirable for the Board to consider action when it is not feasible to call a meeting, the relevant information and recommendations for action may be transmitted to the members by the Secretary of the Board and the voting members may communicate their votes to the chairperson in writing, or by telegram, or orally, including telephone communication. Any action taken under this paragraph has the same effect as an action taken at a meeting. Any such action shall be recorded in the minutes.

(h) *Delegations of Authority.* The Board may delegate, subject to such terms and conditions as the Board deems appropriate, to the Executive Director, the General Counsel or the Secretary of the Board authority to take certain actions not required by the Act to be taken by the Board. All delegations shall be made pursuant to resolutions of the Board and recorded in writing, whether in the minutes of a meeting or otherwise. Any action taken pursuant to delegated authority has the effect of an action taken by the Board.

§ 400.6 Staff.

(a) *Executive Director.* The Executive Director of the Board advises and assists the Board in carrying out its responsibilities under the Act, provides general direction with respect to the administration of the Board's actions, directs the activities of the staff, and performs such other duties as the Board may require.

(b) *General Counsel.* The General Counsel of the Board provides legal advice relating to the responsibilities of the Board under the Act and performs such other duties as the Board may require.

(c) *Secretary.* The Secretary of the Board sends notice of all meetings, prepares minutes of all meetings, maintains a complete record of all votes and actions taken by the Board, has custody of all records of the Board and performs such other duties as the Board may require.

(d) *Others.* Members of the staffs of the Department of the Treasury, the Board of Governors of the Federal Reserve System (including Federal Reserve Banks), the General Accounting Office, the Department of Labor and the Department of Transportation, designated by the heads of those agencies to serve on the staff of the Board, shall perform such services under the direction of the Executive Director as may be appropriate in assisting the Board in the discharge of its responsibilities.

§ 400.7 Access to records.

(a) *General Rule.* All records of the Board shall be made available to any person, upon request, for inspection and copying in accordance with the provisions of Section 552 of Title 5 of the United States Code and this part. All records relating to applications for

assistance or compliance under the Act received by any member of the Board or its staff or any agent shall be considered records of the Board for purposes of this section.

(b) *Obtaining Access to Records.* Records of the Board subject to this section are available by appointment for public inspection or copying during regular business hours on regular business days at the Office of the Secretary of the Board. Every request for access to such records, shall be submitted in writing to the Secretary of the Chrysler Corporation Loan Guarantee Board, c/o the Department of the Treasury, Washington, D.C. 20220. Such request shall state the name and address of the person requesting such access, and shall describe such records in a manner reasonably sufficient to permit identification without undue difficulty.

(c) *Actions on Requests.* The Secretary of the Board shall, within 10 working days after receipt of a request for records, either comply with or deny such request unless for sound reasons such time period is extended pursuant to paragraph (f) of this section, in which event the Secretary shall acknowledge receipt of the request within the 10-day period and indicate the reason for such delay and the date on which it is expected that a determination as to disclosure will be dispatched. A response denying a request for a record shall be in writing signed by the Secretary and shall specify the reason for such denial and include a statement informing the requester that the denial may be appealed as provided in paragraph (e) of this section.

(d)(1) *Exemptions from Disclosure.* Except as otherwise provided in this part or as may be specifically authorized by the Board, information in the records of the Board that is exempted from required disclosure by the provisions of Section 552(b) of Title 5 of the United States Code is not available for inspection and copying, unless it is otherwise determined to be in the public interest to make such information available.

(2) *Deletion of identifying details.* Before any records are made available under paragraph (a) of this section, any identifying details the disclosure of which would be an unwarranted invasion of personal privacy will be deleted by the Secretary of the Board and justification therefor will be made in writing.

(3) *Prohibition against disclosure.* Except as provided in this section, or otherwise authorized by the Board, or law, no member of the Board or its staff, or agent of the Board, shall disclose or permit the disclosure of any exempt information, of the Board to any one other than a member of the Board, its staff, an agent of the Board or to other members of the staff of an agency represented on the Board or assisting the members of the Board in the performance of their duties, whether by giving out or furnishing such information or a copy thereof or by allowing any person to inspect or copy such information or copy thereof, or otherwise.

(e)(1) *Appeal of denied access to records.* Any person denied access to records requested under paragraph (d) of this section may within 30 days after notification of such denial, file an appeal to the General Counsel of the Board. Such an appeal shall be in writing addressed to the General Counsel of the Chrysler Corporation Loan Guarantee Board, c/o The Department of the Treasury, Washington, D.C. 20220. The appeal shall provide the name and address of the appellant, the identification of the record denied, and the dates of the original request and its denial.

(2) The General Counsel of the Board will act upon any such appeal within 20 working days of its receipt unless for sound reasons such period is extended pursuant to paragraph (f) of this section, in which event the General Counsel shall notify the requester of the reasons for such extension and the date on which it is expected that a final reply will be forthcoming. The granting or denial of a request upon appeal shall constitute final agency action.

(f) *Extension of time to act upon requests.* In unusual circumstances as provided in 5 U.S.C. section 552(a)(6)(b), the time limitations imposed upon the Secretary of the Board or the General Counsel of the Board in paragraph (c) of this section may be extended by written notice to the requesting party for a period of time not to exceed a total of ten working days. § 400.8 Amendment of Rules of Procedure—These rules may be supplemented or amended by the Board.

Dated: February 7, 1980.

Brian M. Freeman,

Secretary, Chrysler Corporation Loan Guarantee Board.

[FR Doc. 80-4543 Filed 2-8-80; 8:45 am]

BILLING CODE 4810-27-M

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13 CFR Part 400

Rules of Procedure; Fees

AGENCY: Chrysler Corporation Loan Guarantee Board.

ACTION: Interim Rule and Opportunity for Public Comment.

SUMMARY: The Board has adopted an interim regulation for the imposition of fees, including a schedule of fees for specific services, in connection with providing persons with access to and copies of particular records of the Board. Interested persons are invited to submit written comments with respect to this regulation and all such comments will be considered before a final rule becomes effective.

DATES: This interim rule is effective January 31, 1980. All comments should be received by April 11, 1980.

ADDRESS: All comments should be addressed to Brian M. Freeman, Executive Director and Secretary, Chrysler Corporation Loan Guarantee Board, Room 3208 Main Treasury Building, 15th Street and Pennsylvania Avenue, NW., Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: Brian M. Freeman, Executive Director and Secretary, Chrysler Corporation Loan Guarantee Board, Room 3208 Main Treasury Building, 15th Street and Pennsylvania Avenue, NW., Washington, D.C. 20220. Telephone Number: 202/566–5888.

SUPPLEMENTARY INFORMATION: Under Section 552 of Title 5 of the United States Code, an agency may charge reasonable fees for providing a person with access to and copies of particular documents. This interim rule establishes procedures for imposing such fees and sets forth a fee schedule for duplication of documents and other records, search time for locating requested documents and travel and transportation. The regulation also specifies circumstances under which no fees are to be charged.

The Board is a new agency and, as such, has no existing procedures for the imposition of fees in connection with providing persons with access to and copies of Board records.

Accordingly, the Board has determined that the provisions of Section 553 of Title 5 of the United States Code, relating to notice and public participation and to deferred effective dates, are not being followed in connection with the adoption of this interim rule, because it is necessary to have procedures under which the Board may function with respect to providing information to the public until a final rule may be adopted. Notwithstanding the foregoing, the public is invited to submit comments on this interim rule, as if it were a proposed rule, and all such comments shall be considered before a final rule becomes effective.

Part 400 of Title 13 of the Code of Federal Regulations is amended by adding a new paragraph (g) to § 400.7 to read as follows:

Part 400—RULES OF PROCEDURE

§ 400.7 Access to records.

* * * * *

(g) *Fees for Services*—(1) *General.* A person requesting access to or copies of particular records shall pay the costs of searching for and copying such records. The fees indicated in this section shall be charged only for search and duplication and no fee shall be charged for determining whether an exemption can or should be asserted, deleting exempt matter being withheld from records, or monitoring a person's inspection of records.

(2) *Documents available through Government Printing Office.* While certain relevant publications are available for sale through the Government Printing Office and are made available for inspection by the Secretary of the Board, such publications are not available for sale at the offices of the Board. Persons desiring to purchase such publications should contact the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. However, copies of pages of such publications may be obtained in accordance with the schedule of fees set forth in this section.

(3) *Form of Payment.* Payment of fees shall be made by check or money order payable to the Chrysler Corporation Loan Guarantee Board.

(4) *Waiver or Reduction of Fees.* In accordance with section 552(a)(4)(A) of Title 5 of the United States Code, documents may be furnished without charge or at a reduced charge where the Secretary of the Board determines that waiver or reduction of the fees in the public interest because furnishing the information can be considered as primarily benefiting the general public. Any request for waiver or reduction of fees shall be submitted as part of the initial request for the information involved. An appeal from denial of a request for waiver or reduction of fees shall be determined in accordance with the procedures set forth in paragraph (e) of this section

(5) *Avoidance of Unexpected Fees.* In order to protect a person from unexpected fees, all requests for records shall state the agreement of the person to pay the fees determined in accordance with this section or state the maximum amount of fees that the person is willing to pay in connection with the request. When the fees for processing the request are estimated to exceed that limit, or when the request does not state a limit and the costs are estimated to exceed $50 and the Secretary of the Board has not then determined to waive or reduce the fees, a notice shall be sent to the person. This notice shall:

(i) Inform the person of the estimated costs;

(ii) Extend an offer to the person to confer with Board personnel in an attempt to reformulate the request in a manner that will reduce the fees and still meet the person's needs; and

(iii) Inform the person that the running of the time period, within which the Board is obliged to make a determination on the request, shall be tolled pending a reformulation of the request or the receipt of advance payment or an agreement from the person to bear the estimated costs.

(6) *Fee Schedule*—(i) *Duplication.* Fees for photocopies of material shall be charged at the rate of 10 cents for each page up to a size of 8½" by 14", except that no charge shall be imposed for copying 10 or less pages. Fees for duplicating other materials, including photographs or films, shall be charged on the basis of actual cost.

(ii) *Search Services.* Fees for the services of personnel to locate records shall be charged at the rate of $5 per hour and each portion of an hour, except that no charge shall be imposed for the first hour of search time involved for a request.

(iii) *Computer Records.* Where, because of the nature of the records requested and the manner in which records are stored, a computer search is involved, fees for such services shall be charged at a rate of $5 for each hour (and each portion of an hour) of personnel time associated with the search plus an amount that reflects the actual costs of extracting the stored information in the format in which it is normally produced, based on computer time and supplies necessary to comply with the request.

(iv) *Searches Requiring Travel or Transportation.* Fees for shipping records from one location to another, or for the transportation of personnel to the site of requested records when it is necessary to locate rather than examine the records, shall be charged at the rate of the actual cost of such shipping or transportation.

(5 U.S.C. 552)

Dated: February 7, 1980.

Brian M. Freeman,

Secretary, Chrysler Corp. Loan Guarantee Board.

[FR Doc. 80-4544 Filed 2-8-80; 8:45 am]

BILLING CODE 4810-27-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-CE-5-AD; Amdt. 39-3694]

Beech Models 60, A60, and B60 Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to Beech Models 60, A60 and B60 airplanes and codifies the corresponding emergency AD dated November 30, 1979, into the **Federal Register.** In order to prevent in-flight separation of an outer wing panel from the airplane, components in the lower forward wing attachments must be replaced, and any damaged fittings at the same location must be repaired. Need for the above action stems from recent reports of failures of nuts and damaged fittings in the lower forward wing attachments.

EFFECTIVE DATE: February 16, 1980 to all persons except those to whom it has already been made effective by airmail letter from the FAA dated November 30, 1979.

COMPLIANCE: Prior to the next flight after the effective date of this AD unless accomplished in accordance with the corresponding emergency AD dated November 30, 1979.

ADDRESSES: Beech Aircraft Corporation's Executive Service Communique Number 46 dated November 27, 1979, and Beechcraft Service Instruction No. 1100, applicable to this AD, may be obtained from local Beechcraft Aviation and Aero Centers or Beech Aircraft Corporation, Commercial Service Department, 9709 East Central, Wichita, Kansas 67201. Copies of the above Service Material are contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Ross R. Spencer, Aerospace Engineer, Wichita Engineering and Manufacturing

District Office, Room 238, Terminal Building, Mid-Continent Airport, Wichita, Kansas 67209, telephone (316) 942–4219).

SUPPLEMENTARY INFORMATION: Failure of a nut in the lower forward wing attachment on a Beech Model A60 airplane was reported in 1976, which occasioned issuance of AD 76–25–04 requiring inspection of this nut. Despite reported compliance with AD 76–25–04, essentially identical failures on Beech Models 60 and A60 airplanes were reported in 1979. In all three instances, the wall of the nut fractured radially and axially, and fractured surfaces separated so as to form a gap parallel to the longitudinal axis of the nut. From metallurgical examination of the three failed nuts it was concluded that: the cause was hydrogen embrittlement in each instance; cracking in the latter two instances occurred in service and was followed by a fracture so quickly that inspection of the nuts could not have precluded flight after the fracture occurred; and all of the original nuts are susceptible to such failure. Laboratory tests showed that, after the fracture occurs, in-flight separation of an outer wing panel from the airplane is likely to occur. Preventative action consists of immediate replacement of the suspect nuts, and either simultaneous or subsequent incorporation of preload indicating washers together with an anti-seize compound. One airplane, during investigation of the above problem, was found to have fittings at the lower forward wing attachment points damaged by improperly positioned washers and spacers. Such damage can lead to dangerous cracking of the fittings, and such damage can exist in other airplanes. Corrective action consists of obtaining and following the manufacturer's instructions for repair of damaged fittings.

The FAA determined that susceptibility to nut failure and to damaged wing attachment fittings constitute unsafe conditions that may exist in other Beech Model 60, A60 and B60 airplanes of the same type design. It was also determined that an emergency condition existed, that immediate corrective action was required, and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners affected by this AD by airmail letter dated November 30, 1979. The AD became effective as to these individuals upon receipt of that letter. Since the unsafe condition described herein may still exist on other Beech Models 60, A60, B60 airplanes, the AD is being published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR, Part 39) to make it effective to all persons who did not receive the letter notification.

Differences between the **Federal Register** AD (FRAD) and the corresponding emergency AD dated November 30, 1979 (EAD), are:

Compliance section of FRAD refers to EAD for clarifications.

Paragraphs A.2.c. and A.2.d. of FRAD specify placing the airplane on jacks while tightening nuts. This is in accordance with the manufacturer's service instructions.

Paragraph C of FRAD adds a sentence about failure to comply with reporting requirements because noncompliance has been encountered.

Paragraph E of FRAD shows that a different office (from that in Paragraph E of EAD) is to approve equivalent method of compliance. This reflects a recent change in internal FAA procedures.

Following Paragraph E, the FRAD adds a reference to Beechcraft Service Instructions 1100 which were not yet available when the EAD was written. Thereafter, in the next paragraph supersedure of obsolete AD 76–25–04 is evidenced even though this supersedure was not mentioned by the EAD.

Since these changes are primarily clarifying in nature, notice and public procedure herein are impractical and contrary to the public interest.

Adoption of the Amendment

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

Beech: Applies to the following airplanes certified in all categories:

Model and Serial No.

60—P–4 through P–122 and P–124 through P–126
A60—P–123, P–127 through P–246
B60—P–247 through P–519, P–521 and P–522

Compliance: Required as indicated unless already accomplished in accordance with the corresponding emergency AD dated November 30, 1979.

To assure structural integrity of the attachment of the left and right outboard wing panel to the wing center section, even though AD76–25–04 and the emergency AD dated November 24, 1979, both on this same subject, have already been complied with, accomplish the following:

(A) Prior to the next flight: 1. On airplanes having Serial Numbers P–486 through P–519, P–521 and P–522:

a. Remove, and prior to approving the airplane for return to service reinstall, the wing attach fitting cover plates located on the bottom of the left and right wing at the front spar inboard of the engine nacelles.

b. Using a light and mirror, visually inspect the Part Number 42FLW–1414 nut, located in the left and right outer wing panel to wing center section attach fittings on the wing front spar lower cap, for splitting or cracking. Replace any cracked or split nuts, in accordance with instructions in Paragraph A.2. of this Airworthiness Directive (AD), with new Part Number FN22M–1414, FN22–1414 or 72789–1414 nuts obtainable from Beech Aircraft Corporation or accomplish Paragraph A.2.a., b., c. and d. below.

Note.—A crack, if existing, will most likely be orientated parallel to the nut wrenching serrations.

c. Review the airplane maintenance records and, if there is any entry showing that the left or right outboard wing panel has been removed or replaced, or that the Part Number 42FLW–1414 nuts have been loosened, replace the nuts in accordance with Paragraph A.2a., b., c., and d. of this AD.

d. Unless accomplished during compliance with Paragraphs A.1.b. or A.1.c. above, within (1) 200 hours time-in-service or, (2) 6 months after the date of the issuance of this AD, whichever occurs first:

Comply with Paragraphs A.2.a., b., c. and d. of this AD as set forth below.

2. On airplanes having Serial Numbers P–4 through P–485:

a. Remove, and prior to approving the airplane for return to service reinstall, the wing attach fitting cover plates located on the bottom of left and right wing at the front spar inboard of the engine nacelles.

b. Assure that the radii on the outer circumference of the washers, next (adjacent) to the wing attachment fitting in the outer wing panel and in the wing center section, are facing (adjacent) to the radius in the end of the wing fitting recess. If a radius is not orientated as shown in Figure 1 of this AD, contact Beech Service Department at telephone number (316) 681–7601 or 681–8495 for rework disposition. If oriented properly, proceed to Paragraph A.2.c.

c. Remove the 42FLW–1414 nut, 60–100019 washer, and 60–100024 spacer and return to Beech Aircraft Corporation with airplane identification. Inspect the surface of the outboard wing attach fitting for condition in the washer seat area. If any scoring or coining of the fitting is noted, contact Beech Aircraft Corporation Service Department (316) 681–7601 or 681–8495 for rework disposition. If the condition of the fitting is satisfactory, clean and lubricate the bolt threads with General Electric G322L Silicone Lubricant or Locktite Corporation Anti-Seize Compound per MIL–A–907 and install torque indicating washer assembly P/N 61475–14–43.5, and nut P/N FN22–1414, FN22M–1414, or 72789–1414 per Figure 1. While the airplane is on jacks, tighten the nut until the inner center ring washer compresses so that the center outer ring washer will no longer turn with finger pressure. Torque wrench reading not necessary.

Caution: Lubrication of threads not permitted at any other wing to fuselage attachments.

d. Between 95 and 105 hours' time-in-service after nuts are installed in accordance with Paragraph A.2.c of this AD, check the center outer ring of the washer with finger pressure. If the ring turns, place the airplane on jacks and tighten the nut until the ring no

longer turns. Bolts and nuts are thereafter reusable, but do not reuse the P/N 61475–14–43.5 washer assembly after being loaded.

(B) Any affected airplanes which complied with Emergency Airworthiness Directive Letter dated November 24, 1979, by (1) satisfactory completion of inspections required by Paragraphs A.2.a and A.2.b of that AD without installation of new nuts or, (2) installation of new Part Number FN22M–1414, FN22–1414 or 72789–1414 nuts without installation of the P/N 61475–14.43.5 preload indicating torque washer assembly and anti-seize compound must comply with Paragraph A.2.a., b., c. and d. of this AD within the next 200 hours in service, or 6 months after the date of issuance of this AD, whichever occurs first.

Any new Part Number FN22M–1414, FN22–1414 or 72789–1414 nuts, installed during compliance with the November 24, 1979, emergency AD on this same subject may be reused when complying with this paragraph of this AD.

(C) Within 24 hours after finding any cracking or splitting of a nut or any discrepancy concerning washer position, report same to Federal Aviation Administration (FAA) at telephone (316) 942–4219. Collect calls will be accepted for these reports. (Reporting approved by the Office of Management and Budget under OMB No. 04–R0174). Failure to comply with this paragraph subjects owners/operators to agency enforcement action.

(D) A special flight permit, in accordance with FAR 21.197, for one flight up to 5 hours duration is permitted provided the visual inspection set forth in Paragraph A.1.b. of this AD is accomplished prior to issuance of the permit.

(E) Any equivalent method of compliance with this AD must be approved by the Chief, Wichita Engineering and Manufacturing District Office, Federal Aviation Administration, Room 238, Terminal Building, Mid-Continent Airport, Wichita, Kansas 67209, telephone (316) 942–4285.

Beech Aircraft Corporation's Executive Airplane Service Communique Number 46 dated November 27, 1979, and Beechcraft Service Instructions No. 1100 pertain to this matter.

This AD supersedes AD 76–25–04, Amendment 39–2787.

This amendment becomes effective on Feb. 16, 1980, to all persons except those to whom it has already been made effective by an airmail letter from the FAA dated November 30, 1979.

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

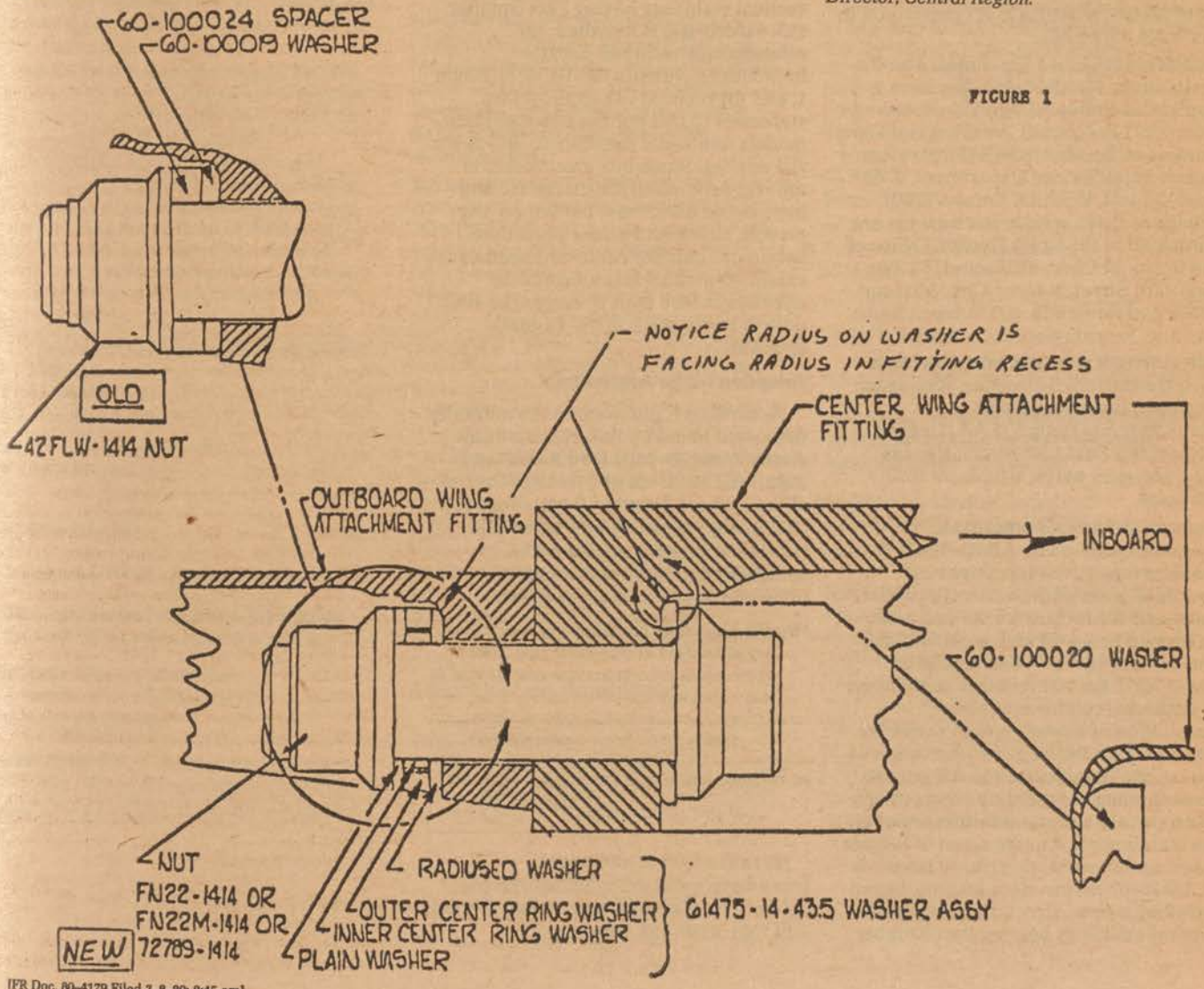
Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to FAA, Office of the Regional Counsel, Room 1558, Central Region, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri on January 31, 1980.

Paul J. Baker,

Director, Central Region.

FIGURE 1



[FR Doc. 80–4179 Filed 2–8–80; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 73-CE-1-AD; Amdt. 39-3695]

Beech Models 99, 99A, A99A and B99 Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, revision.

SUMMARY: This amendment revises Airworthiness Directive (AD) 73-03-04, Amendment 39-1592, applicable to certain Beech Models 99, 99A, A99A and B99 airplanes by adding installation of a new Part Number 115-640000-605 vertical stabilizer as an acceptable alternate means of complying with certain portions of the AD, citing a later revision of Beechcraft Service Instructions needed to accomplish the AD, and revising the applicability statement of the AD to clarify the AD's applicability.

EFFECTIVE DATE: January 31, 1980.

COMPLIANCE SCHEDULE: As prescribed in the body of the AD.

ADDRESSES: Class I Beechcraft Service Instructions No. 0530-134, Revision 1 applicable to this AD, may be obtained from local Beechcraft Aviation and Aero Centers or Beech Aircraft Corporation, Commercial Service Department, 9709 East Central, Wichita, Kansas 67201. Copies of these service instructions are contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and Room 916, 800 Independence Avenue, Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: William L. (Bud) Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374-3446.

SUPPLEMENTARY INFORMATION: Amendment 39-1592, AD 73-03-04 requires repetitive inspections of specified areas of the vertical stabilizer front spar for fatigue cracks and nicks on certain Beech Model 99, 99A, A99A and B99 airplanes. When cracks are discovered, the AD requires installation of structural reinforcements or installation of a new vertical stabilizer depending on the length and location of the cracks. In addition, the AD permits discontinuing the repetitive inspections when certain structural reinforcements are installed prior to the onset of fatigue cracking. Immediately prior to issuance of AD 73-03-04 the manufacturer began installing a new, structurally improved vertical stabilizer bearing Part Number 115-640000-605 on new production airplanes. Installation of this new structurally improved vertical stabilizer on earlier production airplanes eliminates the need for the repetitive inspections required by AD 73-03-04. The manufacturer has issued Revision 1 to Beechcraft Service Instructions Number 0530-134 which, in addition to the inspection and repair/reinforcement procedures originally included, announces eligibility of the new Part Number 115-640000-605 vertical stabilizer for installation on the earlier production airplanes. Finally, review of the applicability statement in Amendment 39-1592 shows that the words "99 series" are used. The current practice is to, when possible, call out the exact models and serial numbers affected for maximum clarity. Therefore, the agency is revising Amendment 39-1592 by (1) adding provisions to the AD which permit discontinuing the repetitive inspections when the new vertical stabilizer having Part Number 115-640000-605 is installed, (2) referencing Beechcraft Service Instructions Number 0530-134, Revision 1, and (3) revising the applicability statement to call out the exact airplane models and serial numbers to which the AD applies. Since this amendment is relieving and clarifying in nature and imposes no additional burden on any person, notice and public procedure herein are impracticable and good cause exists for making this amendment effective in less than 30 days after the date of publication in the **Federal Register.**

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Amendment 39-1592 (38 FR 3587 and 3588), AD 73-03-04 of § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended as follows: (1) Delete the existing applicability statement and in its place add the following applicability statement:

"**Beech:** Applies to the following model and serial number airplanes having 2,000 or more hours time-in-service certificated in any category:

Models	Serial numbers
99, 99A, A99A and B99	U-1 through U-145, U-147, U-146, U-148 through U-151."

(2) In the lead in statement immediately preceding Paragraph (A) delete "No. 0530-134" and in lieu thereof add "No. 0530-134, Revision 1".

(3) In Paragraph (A), delete "No. 0530–134" and in lieu thereof add "No. 0530–134, Revision 1".

(4) In Paragraphs (B) and (D) delete "No. 0350–134" and in lieu thereof add "No. 0530–134, Revision 1".

(5) Delete the existing Paragraph (C) and in lieu thereof add the following new Paragraph (C):

(C) If during any inspection required herein a crack is found in both the spar flange and angle doubler flange on the same side, or if a crack exceeds 0.25 inch in length, replace the vertical stabilizer assembly with a Part Number 115–640000–605 vertical stabilizer. The inspection requirements of this AD are no longer applicable when the Part Number 115–640000–605 vertical stabilizer is installed.

This amendment becomes effective January 31, 1980.

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

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri on January 31, 1980.

Paul J. Baker,

Director, Central Region.

[FR Doc. 80-4180 Filed 2-8-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 76-GL-13; Amdt. 39-3690]

General Electric Co., CF6-50 Engine Models; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) applicable to CF6–50 engine models by clarifying the applicability of the AD. The amendment is needed because the FAA has determined that the protective covering applied to certain fuel and oil lines required by the AD is not needed on engines that have steel compressor rotors and cases. The fire and burn-through problem associated with engines that have titanium rotors and cases does not exist on engines that use the new steel cases and rotors.

DATES: Effective—February 14, 1980.

Compliance schedule—As prescribed in body of AD.

ADDRESSES: The applicable service documents may be obtained from the General Electric Company, Aircraft Engine Group, Cincinnati, Ohio 45215.

A copy of the applicable service information is contained in the Rules Docket, Office of Regional Counsel, 2300 East Devon Avenue, Des Plains, Illinois 60018; and at FAA Headquarters, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Cornelius Biemond, Engineering and Manufacturing Branch, AGL–217, Flight Standards, Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–4500, extension 460.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39–2878 (42 FR 21102) AD 77–08–08, which currently requires installation of a protective covering on certain fuel and oil lines on CF6–50 engine models. After issuing Amendment 39–2878, a new steel compressor rotor and case has become available, and engines incorporating these components do not need the protective covering. Therefore, the FAA is amending Amendment 39–2878 to exclude engines with steel compressors from the requirement for a protective covering.

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me be Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39–2878 (42 FR 21102) AD 77–08–08 by revising the applicability paragraph as follows:

Applies to General Electric Models CF6–50A, CF6–50C, CF 6–50C1, CF6–50D, CF6–50E, CF6–50E1, and CF6–50H engines that do not incorporate steel high pressure compressor rotors and cases, and are installed in aircraft certificated in all categories. Engines with serial numbers 517451, 517452, 517472 thru 517475, 517502, and subsequent 517 prefixed numbers; and 455907 thru 455912, 455920, and subsequent 455 prefixed numbers were manufactured with steel compressor rotors and cases. Earlier engines may be converted to the steel configuration in accordance with General Electric Service Bulletins (CF6–50/45) 72—547, 72–549, 72–550, and 72–551.

This amendment becomes effective February 14, 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 final regulation which is not significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In accordance with the DOT guidelines, a regulatory evaluation is being prepared and will be placed in the public docket for this action.

Issued in Des Plaines, Illinois on January 30, 1980.

Wayne J. Barlow,

Director, Great Lakes Region.

[FR Doc. 80-4178 Filed 2-8-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-GL-1-AD; Amdt. 39-3689]

McCauley Accessory Division, Model 1A170/FFA Fixed Pitch Propellers; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires a one-time inspection for cracks of the McCauley Model 1A170/FFA propeller hub used on Gulfstream American Model AA–5B airplanes. This AD is being issued as a result of six propellers that had been found with hub cracks. A crack such as this in the propeller can propagate and result in a safety-of-flight condition.

DATES: Effective—February 14, 1980. Compliance required within the next 10 hours time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: Copies of applicable Gulfstream American Service Bulletins (Service Bulletin No. 167A issued January 7, 1980) may be obtained by contacting Gulfstream American Corporation, Savannah, Georgia 31402. Copies of the service information referenced in this AD are contained in the Rules Docket, Office of Regional Counsel, 2300 E. Devon Avenue, Des Plaines, Illinois 60018; and at FAA Headquarters, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Cornelius Biemond, Engineering and Manufacturing Branch, AGL-217, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 460.

SUPPLEMENTARY INFORMATION: On October 18, 1979, during a rotine inspection, an operator found a cracked propeller hub. Subsequent inspection by the same operator utilizing visual and dye penetrant procedures revealed that five other propellers were cracked to varying degrees.

As a result of the propeller hub cracks found in the fleet of that operator, a failure analysis was conducted by McCauley and Gulfstream American. The failure analysis concludes that the fractures were caused by neither material deficiencies, nor fretting, but rather indicates the fatigue fractures were due to either (1) usage outside the design envelope, or (2) improper maintenance/installation procedures.

Since this condition is lifely to exist or develop on other propellers of the same type design, an Airworthiness Directive is being issued which requires an early inspection of all McCauley Model 1A170/FFA propellers installed on Grumman American AA-5B aircraft. The results of these inspections will be reported to the FAA, Engineering and Manufacturing Branch, AGL-210, Great Lakes Region. Periodic reinspections may also be required based on the accumulation of information submitted as the result of the initial inspection.

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 adding the following new Airworthiness Directive:

McCauley Accessory Division: Applies to the Model 1A170/FFA fixed pitch propellers installed on, but not limited to Gulfstream American Model AA-5B aircraft certificated in all categories.

Compliance is required within the next ten (10) hours time in service after the effective date of this AD, unless already accomplished. To prevent propeller failure, accomplish the following:

(a) Remove the propeller from the aircraft, and remove the spacer from the propeller.

(b) Inspect both sides of the entire propeller hub for cracks using dye penetrant inspection methods.

(c) If no cracks are found, the propeller, spacer and spinner assembly may be reinstalled.

(d) If a crack is found, the propeller must be replaced with an airworthy propeller of a model FAA approved for the Model AA-5B airplane.

(e) Upon completion of the inspection, complete the attached form, include the following information, and forward to: Engineering and Manufacturing Branch, AGL-210, Federal Aviation Administration, Flight Standards Division, 2300 E. Devon Avenue, Des Plaines, Illinois 60018.

(1) Aircraft serial number
(2) Propeller serial number
(3) Propeller total time since new
(4) Spinner configuration, i.e., P/N 550600202 or P/N 5506009-3 (Kit SK-143)
(5) Inspection results

(Reporting approved by the Bureau of the Budget under BOB No. 04-R0174)

A special flight permit may be issued in accordance with FAR 21.197 to fly the aircraft to a base where the inspection may be performed.

This information is also requested in Gulfstream American Corporation Service Bulletin No. 167A dated January 8, 1980.

This amendment becomes effective February 14, 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.—Due to the emergency 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). In accordance with the DOT guidelines, a regulatory evaluation is being prepared and will be placed in the public docket for this action.

Issued in Des Plaines, Illinois on January 30, 1980.

Wayne J. Barlow,
Director, Great Lakes Region.

[FR Doc. 80-4177 Filed 2-8-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-ASW-1; Amdt. 39-3686]

Airworthiness Directives; Mitsubishi Aircraft International Models MU-2B-36, MU-2B-36A, and MU-2B-60

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTIONS: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which provides for installation of a thicker and stiffer avionic equipment mounting shelf on Mitsubishi Aircraft Models MU-2B-36, MU-2B-36A, and MU-2B-60 aircraft. The AD is prompted by a report of a flight director attitude director indicator fluctuation without a corresponding warning flag which could result in a hazardous condition during Instrument Flight Rules (IFR) operations.

DATES: Effective February 14, 1980.

Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin or service note may be acquired from the manufacturer whose address and phone number are listed in the AD.

FOR FURTHER INFORMATION CONTACT: Tommie S. Plummer, Systems and Equipment Section (ASW-213), Engineering and Manufacturing Branch, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 624-4911, extension 518.

SUPPLEMENTARY INFORMATION: There have been reports of attitude director indicator fluctuations without a flag alarm on the indicated Mitsubishi aircraft models. This condition was corrected by installation of a thicker and stiffer avionic equipment mounting shelf which reduced the vibration excursions imposed on the vertical gyro rotor erection mechanism. Since this condition is likely to exist or develop on other airplanes of the same type design, and airworthiness directive is being issued which requires installation of a thicker avionic equipment mounting shelf on those serial numbers MU-2B-36, MU-2B-36A, and MU-2B-60 aircraft specified in the AD.

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:

Mitsubishi: Applies to: Model MU–2B–36 aircraft serial numbers 675, 681, 684, 687, 688, 691, and 695; models MU–2B–36A, and MU–2B–60, serial numbers 697SA, 699SA, 701SA, 706SA, 708SA, 709SA, 711SA, 713SA, 714SA, 719SA, 720SA, 721SA, 723SA, 725SA, 727SA, 729SA through 736SA, 738SA through 747SA, 749SA through 757SA, 759SA, 761SA, 763SA and 765SA.

Compliance is required within the next 25 hours of flight time, after the effective date of this AD, unless already accomplished.

To assure a reliable attitude reference and retain elegibility for IFR operation, install an improved avionic equipment mounting shelf in accordance with: (1) Mitsubishi Aircraft International Service Note No. 062 dated November 30, 1979, on affected Serial Number MU–2B–36 aircraft, or (2) Mitsubishi Aircraft International Service Bulletin SB015/53–001 dated November 30, 1979, on affected serial number MU–2B–36A and MU–2B–60 aircraft.

If the improved avionic equipment mounting shelf is not installed within the 25 hour compliance period, aircraft operations are limited to day VFR only. In this event install a placard stating "Operations Limited to Day VFR" with letters a minimum of ¼ inch high in clear view on the pilot's instrument panel. The placard and limitation can be removed upon incorporation of the improved avionic equipment shelf.

The manufacturer's instructions 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 of the Service Bulletin or Service Note upon request to Mary Ann Lowry, Publications Group, Mitsubishi Aircraft International, P.O. Box 3848, San Angelo, Texas 76901; telephone (915) 944–1511, extension 269; Telex 73–9438.

These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas, and at FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the Southwest Regional Office in Fort Worth, Texas.

This amendment becomes effective February 14, 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 Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Fort Worth, Texas, on January 29, 1980.

C. R. Melugin, Jr.

Director, Southwest Region.

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

[FR Doc. 80–4280 Filed 2–8–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 79–EA–61; Amdt. 39–3693]

Airworthiness Directives; Pratt & Whitney Aircraft of Canada, Ltd.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment issues a new airworthiness directive, applicable to Pratt & Whitney Aircraft of Canada, Ltd. (P&WACL) PT6A–6A, –6B, –6/C20 and –20 type aircraft engines, which requires an inspection of the push-pull control terminal P/N 3010175 and clevis P/N 3010622 or 3012419 for proper engagement. This amendment is made necessary by a report of a deficiency in the propeller reversing interconnect linkage which was found during an investigation of an accident.

EFFECTIVE DATE: February 8, 1980. Compliance is required as set forth in the AD.

ADDRESSES: P&WACL Service Bulletins may be acquired from the manufacturer at PO Box 10, Longueuil, Quebec, Canada J4K4X9.

FOR FURTHER INFORMATION CONTACT: J. Kiselica, Propulsion Section, AEA–214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212–995–2894.

SUPPLEMENTARY INFORMATION: In view of the continuing air safety problem, notice and public procedure hereon are impractical, and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

Applies to Pratt & Whitney Aircraft of Canada, Ltd. (P&WACL) PT6A–6A, –6B, –6/C20 and –20 turboprop engines.

Compliance required within the next 10 hours in service after the effective date of this AD unless already accomplished and every time the propeller reversing interconnect linkage is disconnected.

To insure adequate engagement of push-pull control terminal P/N 3010175 into the clevis P/N 3010622 or 3012419, inspect for a maximum of three threads outside the locknut. If more than three threads are visible, re-rig the linkage in accordance with P&WACL Maintenance Manual, P/N 3015422 Part 3, Paragraph 91 and the appropriate aircraft maintenance manual or equivalent inspection or procedure.

For clevises incorporating witness holes, a safety wire inserted through one hole should not be able to exit through the opposite hole. Where the safety wire passes through both holes, re-rig in accordance with P&WACL Maintenance Manual, P/N 3015422 Part 3, Paragraph 91 and the appropriate aircraft maintenance manual or equivalent inspection or procedure.

Aircraft may be flown to a base for performance of maintenance required by this AD per FAR 21.197 or FAR 21.199.

All equivalent inspections and procedures must be approved by the Chief, Engineering & Manufacturing Branch of the Eastern Region of the FAA.

(DeHavilland Service Bulletin Nos. A6/387 and ATB/50 pertain to this subject).

EFFECTIVE DATE. This amendment is effective February 8, 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)); and 14 CFR 11.89)

Issued in Jamaica, New York, on January 30, 1980.

Murray E. Smith,

Director, Eastern Region.

[FR Doc. 80–4293 Filed 2–8–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 80–CE–6–AD; Amdt. 39–3696]

Airworthiness Directives; Cessna Models 172N and R172K and Reims Aviation Models Cessna F172N and Cessna FR172K Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Amendment adopts a new Airworthiness Directive (AD), applicable to certain Cessna Models 172N and R172K, and Reims Aviation Models Cessna F172N and Cessna FR172K airplanes. The AD requires installation of a cover (insulator) to the map light switch in the left hand door post to prevent contact with a fuel line

in the same area. It also requires that the fuel line be repositioned as necessary to provide a minimum of .50 inch clearance from the switch. This action is necessary to prevent chafing of the fuel line on the switch or possible electrical short between the switch and the line. Either condition may result in a fuel leak and the electrical short may provide a source of ignition at this location and an in-flight fire may occur.

EFFECTIVE DATE: February 16, 1980.

COMPLIANCE: Within the next 25 hours time-in-service after the effective date of this AD.

ADDRESSES: Cessna Single Engine Customer Care Service Information Letter SE80–3, and Supplement #1 thereto, both dated January 21, 1980, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; telephone (316) 685–9111. Copies of this service information are contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106, and at Room 916, 800 Independence Ave., S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Fred Jones, Aerospace Engineer, Wichita Engineering and Manufacturing District Office, FAA, Room 238, Terminal Building, Mid-Continent Airport, Wichita, Kansas 67209, telephone (316) 942–4281.

SUPPLEMENTARY INFORMATION: There have been instances on Cessna Model 172N airplanes of chafing between the map light switch and an adjacent fuel line and of an electrical short between the map light switch and the fuel line. In the case of the electrical short, insulation was melted from the map light wire and a hole burned in the fuel line. The aircraft manufacturer has issued Cessna Single Engine Customer Care Service Letter SE80–3, and Supplement #1 thereto, both dated January 21, 1980, which provide instructions for installation of a cover (insulation) over the map light switch. In addition, the map light switch installation should be inspected to determine that a minimum .50 inch clearance exists between the switch and the adjacent fuel line and, if necessary, the fuel line repositioned to provide this clearance. Since the condition described herein can exist or develop in other airplanes of the same design, the FAA is issuing an AD, applicable to certain Cessna Models 172N and R172K, and Reims Aviation Models Cessna F172N and Cessna FR172K airplanes, making mandatory the installation of the insulator on the switch in accordance with Cessna Service Letter SE80–3 and Supplement #1 thereto. In addition, the AD will require inspection and action to assure physical separation of the map light switch and the fuel line.

The FAA has determined that there is an immediate need for a regulation to assure safe operation of the affected airplanes. Therefore, notice and public procedure under 5 U.S.C. 553(b) are impractical and contrary to the public interest, and good cause exists for making the amendment effective in less than thirty (30) days after the date of publication in the **Federal Register.**

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:

Cessna (including Reims Aviation): Applies to the following models and serial numbers airplanes certified in all categories. Model 172N (Serial Numbers 17267585 thru 17273278 except 17269319, 17271634, 17271639, 17272091, 17272097, 17272104, 17272105, 17272109, 17272113, 17272121, 17272125, 17272127, 17272130, 17272143, 17272165, 17272166, 17272179 thru 17272181, 17272192, 17272208, 17272211, 17272225, 17272229, 17272233, 17272235, 17272237, 17272240, 17272244 thru 17272246, 17272250, 17272255, 17272258, 17272259, 17272263, 17272264, 17272268, 17272274, 17272276, 17272277, 17272287, 17272292, 17272293, 17272306, 17272308, 17272309, 17272314, 17272335, 17272337, 17272347, 17272348, 17272351, 17272352, 17272369, 17272370, 17272375, 17272378, 17272389, 17272390, 17272395, 17272396, 17272401, 17272408, 17272409, 17272412, 17272414, 17272421, 17272422, 17272428, 17272430, 17272436, 17272441, 17272442, 17272450, 17272459, 17272462, 17272463, 17272472, 17272477, 17272478, 17272490, 17272491, 17272494, 17272500, 17272506, 17272511, 17272513, 17272514, 17272538, 17272540, 17272547, 17272551, 17272556, 17272567, 17272571, 17272573, 17272574, 17272577, 17272578, 17272583, 17272584, 17272592, 17272601, 17272602, 17272608, 17272609, 17272615, 17272620, 17272626, 17272627, 17272630, 17272631, 17272635 thru 17272637, 17272639, 17272640, 17272644 thru 17272646, 17272650 thru 17272661, 17272663, 17272664, 17272666 thru 17272669, 17272671 and 17272673 thru 17272714) airplanes and; Model R172K (Serial Numbers R1722000 thru R1723254 except R1722967, R1722986, R1723086, R1723087, R1723090, R1723154, R1723156 and R1723158 thru R1723166) airplanes; Model F172N (Serial Numbers F17201515 thru F17202029) airplanes; and Model FR172K (Serial Numbers FR17200531 thru FR 17200660) airplanes.

Compliance: Required as indicated, unless previously accomplished. To preclude the possibility of a fuel leak or an in-flight fire due to contact between a map light switch and an adjacent fuel line, within the next 25 hours time-in-service after the effective date of this AD accomplish the following:

(1) Visually inspect the fuel line and map light switch located in the left hand forward door post for chafing or arcing and replace damaged parts as necessary. If not already existing, provide at least .50 inch clearance between the map light switch and the fuel line in accordance with procedures in FAA Advisory Circular 43.13–1A.

(2) Install a cover (insulator), Cessna Part Number 0511080–1, over the map light switch in accordance with Cessna Single Engine Customer Care Service Information Letter SE80–3, and Supplement #1 thereto, both dated January 21, 1980.

(3) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished, providing the map light is not used during this flight.

(4) Any equivalent method of compliance with this Airworthiness Directive must be approved by the Chief, Wichita Engineering and Manufacturing District Office, Federal Aviation Administration, Room 238, Terminal Building, Mid-Continent Airport, Wichita, Kansas 67209.

This Amendment becomes effective February 16, 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)); and sec. 11.89 of the Federal Aviation Regulations (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 Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on Feburary 1, 1980.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 80–4294 Filed 2–8–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 80–CE–4–AD; Amdt. 39–3697]

Airworthiness Directives; Cessna Models T210 and P210 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to Cessna Models T210M and N and P210N airplanes. It requires installation of a modification kit adding insulation to fuel lines and other fuel system

components in the engine compartment and nose wheel well. This modification will reduce heating of the fuel and fuel vapor formation in the engine compartment. This action is necessary because excessive fuel vapor may cause interruption of fuel flow and resulting engine power loss.

EFFECTIVE DATE: February 16, 1980.

COMPLIANCE: Within 100 hours time-in-service after the effective date of this AD.

ADDRESSES: Cessna Single Engine Customer Care Service Information Letter SE 79–60, dated December 3, 1979, and Supplement No. 1 dated February 4, 1980, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; Telephone (316) 685–9111. A copy of the service letter cited above is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Jack Pearson, Wichita Engineering and Manufacturing District Office, FAA, Room 238, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 942–7927.

SUPPLEMENTARY INFORMATION: Investigations conducted by the manufacturer and FAA to determine the cause of reported fuel flow fluctuations and power interruptions on the Cessna Models T210M and N and P210N airplanes have established that excessive formation of fuel vapor in the engine fuel supply system may restrict engine fuel flow. These investigations also disclosed that the airplanes in question have a higher than normal transfer of heat to the fuel in the engine compartment. This contributes to formation of fuel vapor which, under some conditions, the system is unable to return to the fuel tanks. To reduce the transfer of heat to the fuel and fuel vapor formation in the engine compartment, the manufacturer has issued Single Engine Customer Care Service Information Letter SE 79–60 dated December 3, 1979, and Supplement No. 1, dated February 4, 1980, making available an engine compartment fuel system components insulation kit, Service Kit SK 210–93. Installation of this kit reduces the heat transfer to the fuel in the engine compartment and alleviates the above-cited condition. Since the condition described herein is likely to exist or develop in other airplanes of the same type design, the FAA is issuing an AD making compliance with the substance of the aforementioned service letter and service kit mandatory. The FAA has determined that there is an immediate need for a regulation to assure safe operation of the affected airplanes and to provide affected owners/operators the advantage of early notification to facilitate completion of the modification prior to operation in higher ambient temperature conditions.

Therefore, notice and public procedure under 5 U.S.C. 553(b) is impracticable and contrary to the public interest and good cause exists for making the amendment effective in less than thirty (30) days after the date of publication in the **Federal Register.**

Adoption of the Amendment

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

Cessna: Applies to: Models T210M and N (Serial Numbers 21061040 through 21063660 and P210N (Serial Numbers P21000001 through P21000389).

Compliance: Required as indicated unless already accomplished.

To preclude engine power interruptions and fuel flow fluctuations, within the next 100 hours time-in-service after the effective date of this AD, accomplish the following:

(A) Modify the engine compartment fuel system by installing Cessna Service Kit SK 210–93 in the engine compartment in accordance with applicable instructions set forth in Cessna Single Engine Customer Care Service Information Letter SE 79–60 dated December 3, 1979, or this letter and Supplement No. 1 thereto dated February 4, 1980.

(B) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(C) Any equivalent method of compliance with this Airworthiness Directive must be approved by the Chief, Engineering and Manufacturing District Office No. 43, Federal Aviation Administration, Central Region, Room 238, Mid-Continent Airport, Wichita, Kansas 67209. Telephone (316) 942–4285.

This Amendment becomes effective February 16, 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)); and sec. 11.89 of the Federal Aviation Regulations (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 Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to John L. Fitzgerald, Attorney, Office of the Regional Counsel, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374–5446.

Issued in Kansas City, Missouri on February 1, 1980.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 80–4295 Filed 2–8–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 78–EA–68; Amdt. 39–3692]

Airworthiness Directives; AVCO Lycoming

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment issues a new airworthiness directive, applicable to AVCO Lycoming type aircraft engines, which requires an inspection of the engine crankshaft flange to transmission drive coupling bolts for correct torque. This amendment requires repetitive inspections until the bolts have been replaced in accordance with the manufacturer's instructions. The amendment is made necessary by reports of bolt failures which have resulted in unscheduled landings.

EFFECTIVE DATE: February 8, 1980. Compliance is required as set forth in the AD.

ADDRESSES: AVCO Lycoming Service Bulletins may be acquired from the manufacturer at Williamsport, Pennsylvania 17701.

FOR FURTHER INFORMATION CONTACT: E. Manzi, Propulsion Section, AEA–214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212–995–2894.

SUPPLEMENTARY INFORMATION: In view of the continuing air safety problem, notice and public procedure hereon are impractical, and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

AVCO Lycoming: Applies to all VO and TVO–435 series engines and to all VO, IVO, TVO and TIVO–540 series engines.

To prevent possible failure of the crankshaft flange bolts, perform the following, unless already accomplished:

(a) Within the next 50 hours in service after the effective date of this AD, engines that have accumulated 550 hours or more in service since new or overhaul must have the engine crankshaft flange to transmission drive coupling bolts checked for 25 ft.-lbs. torque measured in the tightening direction. If the torque on any bolt is less than 25 ft.-lbs., the engine crankshaft flange and the helicopter transmission drive coupling flange must be inspected for cracks, fretting, galling, bolt hole elongation, or for any metal transfer from one surface to its mating surface. Remove from service any crankshaft or drive coupling which shows such deficiencies. Prior to returning the engine to service, accomplish the following:

(1) Remove and discard all flange bolts. Measure all bolt holes in the crankshaft flange and repair if necessary in accordance with the requirements of AVCO Lycoming Service Instruction No. 1209A or equivalent procedure approved by Chief, Engineering & Manufacturing Branch, FAA, Eastern Region.

(2) Install replacement bolts in accordance with AVCO Lycoming Service Instruction No. 1209A paragraph 5 or equivalent procedure approved by Chief, Engineering & Manufacturing Branch, FAA, Eastern Region.

Those engines which showed no such deficiencies or whose bolt torques measured 25 ft.-lbs. may be returned to service but the torque of the crankshaft flange bolts must be measured every 600 hours in service thereafter or until compliance with paragraphs a(1) and a(2) of this AD is accomplished.

(b) Engines that have less than 550 hours in service since new or overhaul must comply with the requirements of paragraph (a) of this AD prior to accumulating 600 hours in service.

(c) Upon submission of substantiating data through an FAA Maintenance Inspector, the Chief, Engineering & Manufacturing Branch, FAA, Eastern Region, may adjust the compliance time specified in this AD.

Effective date. This amendment is effective February 8, 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)); and 14 CFR 11.89)

Issued in Jamaica, New York, on January 29, 1980.

Murray E. Smith,

Director, Eastern Region.

[FR Doc. 80-4301 Filed 2-8-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 79-EA-39; Amdt. 39-3692]

Airworthiness Directives; AVCO Lycoming

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment issues a new airworthiness directive applicable to AVCO Lycoming type aircraft engines which requires an initial replacement of the upper exhaust spring seats and hydraulic lifter and a repetitive inspection of the lubrication system for metal contaminants. It appears that bent push rods resulting from excess oil in the tappet reservoir have led to inflight power failure. Further, there appears to be continued findings of oil contamination reflecting deterioration of hydraulic valve tappets.

EFFECTIVE DATE: February 8, 1980. Compliance is required as set forth in the AD.

ADDRESSES: AVCO Lycoming Service Bulletins may be acquired from the manufacturer at Williamsport, Pennsylvania 17701.

FOR FURTHER INFORMATION CONTACT: E. Manzi, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2894.

SUPPLEMENTARY INFORMATION: Bent push rods in the AVCO Lycoming 0-320-H2AD series engines have been reported and were experienced during flight, 18 of which incidents resulted in forced or unscheduled landings. Lycoming has modified its design of the hydraulic tappets to help alleviate this problem. There are also continuing reports of hydraulic valve tappet spalling. Since the proposed AD will require the replacement of the exhaust hydraulic tappets, periodic inspections of the lubrication system to monitor the valve tappet condition are also included. Spalling of the tappets causes metal contaminants throughout the engine oil system.

In view of the air safety problem, notice and public procedure hereon are impractical and the amendment may be made effective in less than 30 days.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

AVCO Lycoming: Applies to 0-320-H Series engines.

Compliance required as indicated, unless already accomplished.

To prevent hazards in flight associated with bent push rods and hydraulic tappet spalling accomplish the following:

a. Within the next 50 hours in service after the effective date of this AD, replace the upper exhaust valve spring seats with P/N LW-16475-KLI and the exhaust hydraulic lifters with P/N LW-16586 in accordance with AVCO Lycoming Service Bulletin No. 435 dated March 17, 1979, or FAA approved equivalent, on a 0-320-H Series engines with serial numbers up to and including L-6182-76 and on all 0-320-H Series engines overhauled (remanufactured by Lycoming) before March 19, 1979.

b. Within the next 50 hours in service after the effective date of this AD and every 100 hours in service thereafter, all 0-320-H Series engines must have the lubrication system inspected for metal contaminants. Inspection of the lubrication system consists of visual examination for minute particles of metal suspended in the oil, examination of the engine oil suction screen for presence of metal particles and the inspection of the external full flow oil filter for metal particles by cutting it open so that the pleated element can be unfolded and examined. If ferrous metal contaminants are detected during the above inspections, the camshaft lobes and hydraulic lifters must be inspected for wear or loss of metal. Replace the camshaft and hydraulic lifters found to have such indications.

c. Equivalent methods of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration (FAA) Eastern Region.

d. Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering & Manufacturing Branch, Federal Aviation Administration (FAA) Eastern Region, may adjust the compliance time specified in this AD.

Effective date. This amendment is effective February 8, 1980.

(Secs. 313(a), 601, and 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)); and 14 CFR 11.89)

Issued in Jamaica, New York, on January 29, 1980.

Murray E. Smith,

Director, Eastern Region.

[FR Doc. 80-4302 Filed 2-8-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-SO-1; Amdt. No. 39-3688]

Ayres Corp., Models S-2D, S-2R, S2R-T11, S2R-T15, S2R-T34 and S2R-R3S; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Ayres Corporation Models S-2D, S-2R, S2R-T11, S2R-T15, S2R-T34 and S2R-R3S, which requires repetitive visual inspections of the horizontal stabilizer tubular front spar or the replacement of the horizontal stabilizer assembly. This AD is prompted by reports of cracks in the root end of the horizontal stabilizer front spar.

DATES: Effective February 20, 1980. Compliance schedule as prescribed in body of AD.

ADDRESSES: The replacement horizontal stabilizer assembly, P/N 40221–70, may be obtained from Ayres Corporation, P.O. Box 1748, Albany, Georgia 31706, telephone (A/C 912) 883–1440, or their authorized dealers.

FOR FURTHER INFORMATION CONTACT: Don Buckley, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (A/C 404) 763–7407.

SUPPLEMENTARY INFORMATION: There have been four reports of cracks in the horizontal stabilizer tubular front spar between the root end rib and the horizontal stabilizer-to-fuselage attach bushing on Ayres Model S–2R series airplanes. Failure of the horizontal stabilizer front spar could cause complete structural failure of the horizontal stabilizer and the loss of aircraft longitudinal control. Since this condition is likely to exist or develop in other aircraft of the same type design, an Airworthiness Directive is being issued which requires repetitive visual inspections of the horizontal stabilizer front spar until horizontal stabilizer assembly, P/N 40221–70, is installed.

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 (AD):

Ayres Corporation (formerly Rockwell International and Snow Aeronautical Company): Applies to the following Ayres Models and serial numbers with 2000 or more hours time in service after the effective date of this AD, certificated in all categories:

Model S–2D: All S/N's
Model S–2R: S/N's 1416R through 2560R; S/N's 5000R through 5100R
Model S–2R–T11: S/N's T11–001 and T11–002
Model S–2R–T15: S/N's T15–001 through T15–005
Model S–2R–T34: S/N's 6000 through 6049; S/N's T34–001 through T34–019
Model S–2R–R3S: S/N's R3S–001 through R3S–008

Compliance required as indicated unless already accomplished.

To prevent the possible structural failure of the horizontal stabilizer due to a crack or cracks in the tubular front spar, accomplish the following within 25 hours time in service after the effective date of this AD and thereafter at intervals not to exceed 500 hours time in service from the last inspection:

a. Inspection Procedures

1. Remove fuselage side skins to provide access to the inspection hole in the bottom of the horizontal stabilizer.

2. Disconnect the flying wires, left and right sides, from both upper and lower surfaces of the horizontal stabilizer to permit the exercising of the stabilizer.

3. Inspect the horizontal stabilizer front spar tube (P/N 40221–19) in the area of both the left and right fuselage attach bushings as shown in Figure 1 using a flashlight and an inspection mirror. IMPORTANT—the stabilizer must be exercised with both an up and down force at the tip during the inspection to ensure detection of a crack.

4. If the spar is cracked, comply with Paragraph b. If the spar is not cracked, comply with Paragraph d.

b. Action Required if Spar Is Cracked

If the spar is cracked in the area of the front spar-to-fuselage attach bushing, accomplish either Paragraph a. or b. listed below:

1. Before further flight, replace the cracked horizontal stabilizer assembly P/N 40221–61 with a new horizontal stabilizer assembly P/N 40221–70. When P/N 40221–70 is installed, the repetitive inspections required by Paragraph a may be discontinued.

2. Before further flight, replace the cracked horizontal stabilizer assembly P/N 40221–61 with a serviceable assembly of the same part number. Continue the Paragraph a inspection at intervals not to exceed 500 hours time in service from the last inspection.

Reinstall the horizontal stabilizer assembly and adjust the flying wires in accordance with the Rigging Procedures in Section VII of the Maintenance Manual. Finally, adjust the tension in each flying wire until the midpoint has a deflection of 0.30 ± 0.05 inch with an applied side load of 20 pounds.

c. Action Required if The Spar Is Not Cracked

Reattach the flying wires to the horizontal stabilizer and adjust the flying wires in accordance with the Rigging Procedures in Section VII of the Maintenance Manual. Finally, adjust the tension in each wire until the midpoint has a deflection of 0.30 ± 0.05 inch with an applied side load of 20 pounds. Continue the Paragraph 1 inspection at intervals not to exceed 500 hours time in service from the last inspection. When horizontal stabilizer assembly P/N 40221–70 is installed, the repetitive inspections may be discontinued.

Compliance with the provisions of this AD may be accomplished in an equivalent manner approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

This amendment is effective February 20, 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 most significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in East Point, Georgia, on January 30, 1980.

Louis J. Cardinali,

Director, Southern Region.

BILLING CODE 4910-13-M

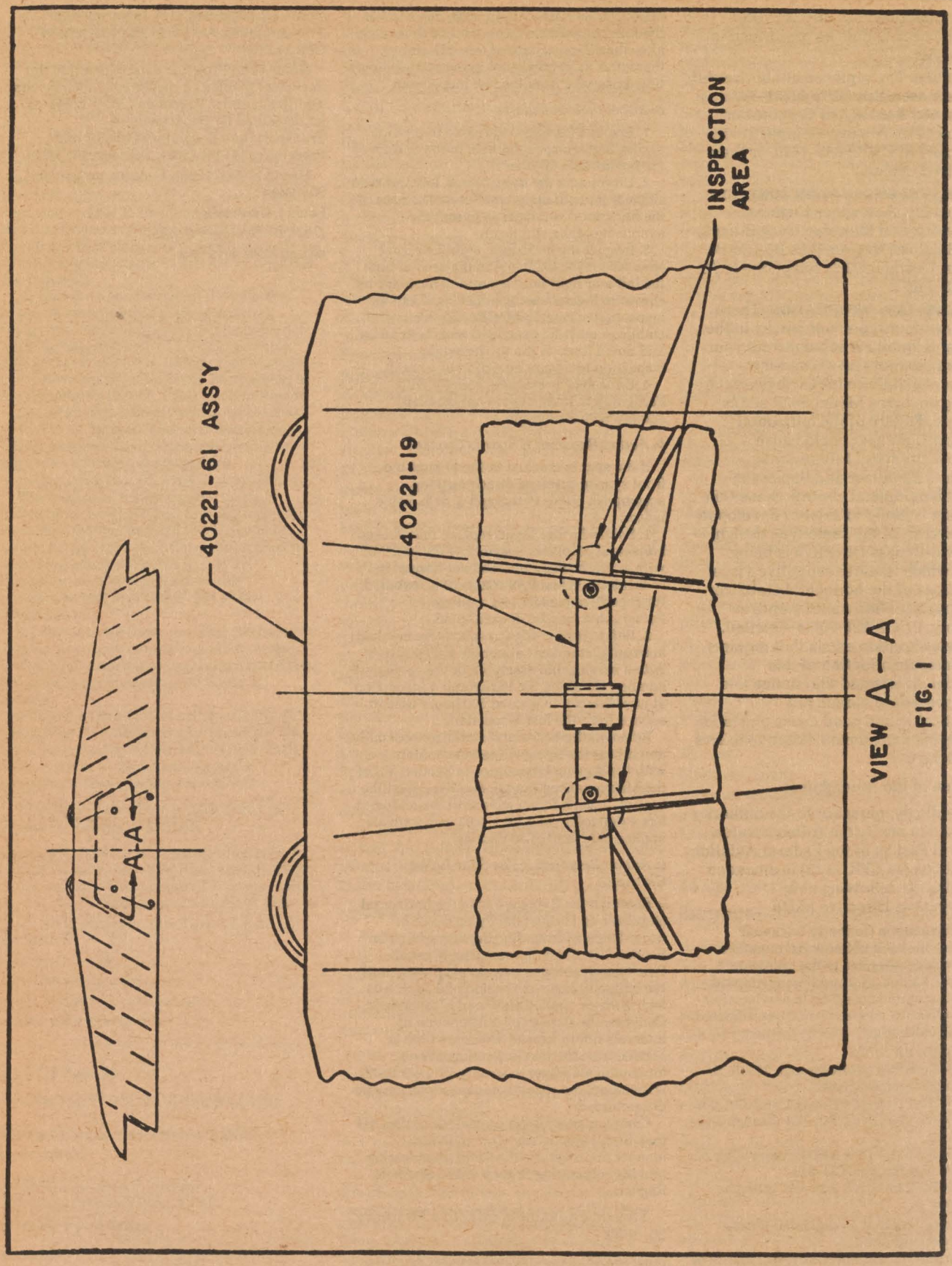


FIG. 1

[FR Doc. 80-4300 Filed 2-8-80; 8:45 am]
BILLING CODE 4910-13-C

CIVIL AERONAUTICS BOARD

14 CFR Part 223

[Reg. ER-1170; Economic Regulation Amendment 8 to Part 223; Docket 36534]

Free Transportation of Security Guards, et al.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its Economic Regulations to allow, but not require, free transportation of personal security guards by U.S. and foreign air carriers. The Board takes this action on its own initiative to relieve administrative burdens on the foreign air carriers, the U.S. Secret Service and itself.

DATES: Adopted: February 5, 1980. Effective: March 12, 1980.

FOR FURTHER INFORMATION CONTACT: Richard M. Loughlin, Chief, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 202-673-5880.

SUPPLEMENTARY INFORMATION: The Board proposed this action in EDR-389, 44 FR 52850, September 11, 1979. No comments were received.

Accordingly, for the reasons discussed in EDR-389 the Board amends § 223.21 of 14 CFR 223, *Free and Reduced-Rate Transportation*, to read:

§ 223.21 Security guards.

Every air carrier shall carry, without charge, on any aircraft which it operates, any duly authorized person who has been assigned to the duty of guarding such aircraft against unlawful seizure, sabotage or other unlawful interference. Any air carrier or foreign air carrier may carry without charge, on any aircraft which it operates, any person who has the duty of guarding foreign government officials, traveling on official business, against unlawful interference.

(Sections 204, 403, 404, and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758 (as amended by 74 Stat. 445, 88 Stat. 2105, 91 Stat. 1281, 1282, 92 Stat. 1724), 760 (as amended by 86 Stat. 95, 92 Stat 1724), 771 (as amended by 92 Stat. 1731, 1732), 49 U.S.C. 1324, 1373, 1874, 1386)

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-4443 Filed 2-8-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

DEPARTMENT OF THE INTERIOR

Office of the Secretary

15 CFR Part 303

Watches and Watch Movements; Amendment of Codified Rules

AGENCY: International Trade Administration, Department of Commerce; Office of Territorial Affairs, Department of the Interior.

ACTION: Amendment of codified rules.

SUMMARY: This action makes a number of substantive and technical changes in the watch quota regulations (15 CFR Part 303) which were proposed in the October 25, 1979 issue of the **Federal Register** (44 FR 61378 (1979)). The changes are prompted by new entry procedures recently adopted by the U.S. Customs Service; by developments in the regulated industry which suggests the need for new or clarified regulatory guidelines; and by the Department's review of the adequacy of the codified watch quota provisions since December 1977, when they were first issued. The Departments invited the submission of comments on or before December 24, 1979. The matters raised by commentors and the Department's responses are summarized in Supplementary information below.

DATE: This amendment is effective February 11, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Richard M. Seppa, (202) 724-3526.

SUPPLEMENTARY INFORMATION: In response to their invitation for comments the Departments received four written submissions containing comments and suggestions totalling 19 pages. None of the submissions contained comments on the proposed technical changes in §§ 303.2(b)(2), 303.5(a)(3), 303.5(b)(4), 303.6(e), and 303.8(b). In addition, the Departments received no comments on the substantive changes proposed in §§ 303.5(a)(1), and 303.7(c) and (d).

One commentor made general remarks on the Departments' proposals, noting favorably that two separate substantive factors (a determination to focus the program on "its effect on the economies of the insular possessions" and a recognition of the need "to permit producers some added flexibility in the timing of their production") are "behind several of the prospective amendments" and applauding "the efforts of the Departments to make their Headnote 3 (a) watch quota regulations more responsive to these crucial factors." The commentor also stated that, at several points, the proposal "recognizes the need for flexibility in a way which both is more consistent with business realities than the present regulations and is consistent with maximizing the economic value of the program to the territory."

Following is a summary and discussion of the specific comments received on the remaining proposed changes:

(1) § 303.2 Definitions and Forms

Respecting the proposal to clarify the quota statute's purposes by redefining "reallocation" to emphasize the need for consistency with congressional intent to avoid funnel-through operations, one commentor concurred that this congressional intent should be a "guiding principle" of the codified rules but disagreed with the belief that "maximization of a territory's use of quota" is one of the quota statute's purposes. While the maximization of quota use "may, under certain circumstances, represent a means" to the stimulation of light industry envisioned in the 1954 legislation establishing the headnote 3(a) program, in other instances maximization may "perversely degrade this objective." The commentor recommended that the purpose of making reallocations be changed to "stimulating light industry."

Another commentor described the proposed redefinition as "most appropriate."

The Departments' proposal should not have characterized maximization of quota use as a statutory purpose but rather as an administrative tool intended by the Departments to achieve their historical policy to administer the quota program in a manner that will maximize the industry's economic contributions to the territories and thereby stimulate light industry. Since adoption of the reallocation tool in the first two years of the watch quota program, the reallocation process clearly has had as its purpose that objective, as does the supplemental allocation process, which is similarly described in § 303.2(a)(12) and which was not objected to by the first commentor. In any event, it should be clear from the Departments' policy of limiting reallocations to firms satisfying the minimum assembly criteria that maximization of quota use is not the Departments' primary objective. Indeed, this change was proposed specifically for the purpose of clarifying that the Departments' employment of reallocation procedures is not intended

to maximize a territory's use of its quota if this would have the effect of encouraging funnel-through operations. For these reasons, no changes are made in the final rule.

(2) § 303.3 Publication of Annual Rules

One commentor specifically supported the Departments' proposal to change the time for publication of annual rules in proposed form to any time prior to December 15. A second commentor suggested that "the annual rules for a calendar year shall be made by July 1 of the previous year" and "any large changes in the rules should be made more than two years before they take effect."

Generally, the changes made in the annual rules are minor adjustments deemed appropriate by the Departments predicated on their analysis of the effects of the prior year's rules on the industry and external actions or conditions which suggest the need for an adjustment in the annual rules. The Department would not normally be able to determine as early as July 1 how well the industry will perform the entire year and whether circumstances dictate changes in the allocation rules. For example, the decision to invite applications from new firms may be predicated on the level of shipments for the industry as a whole the preceding year and on conditions in the U.S. market. Frequently these determinations cannot be made in June or in July. Also, with the rapidly changing technologies and marketing conditions in the world-wide watch market it would be virtually impossible to predict the need for substantive changes in regulations as far as two years in advance. When the Departments made a substantial change in the allocation rules in 1979, they notified the industry of their intentions in September 1977, published in June 1978 a pre-rulemaking notice regarding the "Proposed Production Incentive," and published the proposed rules in September 1978. Thus the Departments did attempt to provide the industry with the time necessary to adjust to the rather substantial change in the allocation rules adopted in 1979. Without establishing a specific time for publication of annual rules (e.g., July 1), the Departments' proposal offers them additional flexibility in the timing of annual rules. Therefore, this provision is adopted in final as proposed.

(3) § 303.4 Application for Quotas

One commentor supported the Departments' proposal to add to the records required for their annual verification any other records maintained outside the territory by the parent or affiliated company, and to authorize the Departments to stipulate the data to be used in calculating the quota in those cases where a company is unable to substantiate its data by the time the annual quotas must be calculated, on grounds that these changes would provide the Departments necessary procedural flexibility and enhance their ability to make quota decisions on the basis of sound economic judgments.

A second commentor thought that the Departments' need could be "satisfied by methods less disruptive to the commercial records of the companies involved than the transportation of the records to the insular possessions" and suggested that the requirement to produce such records locally be waived "if other satisfactory arrangements" have been made.

The Departments are uncertain what other satisfactory arrangements are envisioned by this suggestion. The Departments' limited staff and travel funds for administering the watch quota program would not permit inspection of the records where they are maintained if this required travel to various parent company locations throughout the United States. Transportation of the records to the Departments in Washington, a possible alternative arrangement, would not be substantially less disruptive than transporting them to the insular possessions. Nevertheless, in keeping with their desire to make the codified rules as flexible and unburdensome as possible, the Departments have adopted a final rule which reflects this objection to the proposed rule.

(4) § 303.5 Allocation and Reallocation of Quotas

In this section the Departments proposed to authorize their issuance of an initial allocation smaller than the producer would otherwise receive if, in their judgment, the larger amount might otherwise exceed the amount of the producer's probable annual quota; to permit the modification, at the Secretaries' discretion, of a producer's annual request later than March 31; and to establish a "special allocation" procedure as an alternative and more expeditious mechanism in lieu of the "hardship relief" procedure in § 303.11.

One commentor supported all three proposals, but endorsed in particular the new "special allocation" procedure because the "present requirement of filing a 'hardship' appeal is unnecessarily limited." The new mechanism, according to this commentor, would continue to assure the Departments' "full substantive control" but "through a more functional and sensible set of requirements and procedures."

A second commentor found the Departments' desire for more flexibility "understandable," but was concerned that waiving the March 31st deadline in certain situations might well "place high-labor assemblers at a disadvantage in planning for the year ahead." However brief the resulting delay in making the annual allocation, it would serve "only to diminish the role of the reserve quota in planning for annual production" and make it less likely that "companies will be induced to upgrade their assembly operations to qualify for additional quota that is subject to the minimum standards." The same commentor saw a similar problem in the Departments' special allocations proposal and urged that such allocations be made only "if the additional quota is in fact used to produce watches or watch movements by high-labor methods."

The Departments find unpersuasive the negative comment on their proposed discretion to accept modified requests after March 31. In this regard, the Departments note that the annual allocations may be delayed by a number of factors, including the late verification of necessary data and the time required to calculate and publish the quotas. As a result the dates of the annual allocations have ranged in the past from early in April to well into June in a few instances. The new provision adopted in § 303.4(b)(7) is designed to avoid excessive delays due to the first factor. Under normal circumstances, therefore, a late request could be made not more than several days after the March 31 deadline and still be accepted, because the process of calculating and publishing the quotas would normally be underway by then. Moreover, it will be the Departments' policy not to delay annual allocations due to receipt of late requests.

Also, a producer's modified request increases the actual amount of its allocation only if it earns more under the allocation formula than it had originally requested. A producer who requests 500,000 units before March 31 and who increases the request to 600,000 units after March 31, but earns only 400,000 units under the formula, will receive 400,000 units. Nor does the timing of a producer's request for quota have any bearing on its eligibility for incentive allocations under the annual allocation rules. In the interest of encouraging producers to request only what they think they can actually use (and thereby reducing the amount of quota having to

be reallocated later), and to allow them to modify their requests on the basis of new market information, the Departments believe the degree of flexibility being provided by the final rule is desirable.

Finally, the Departments cannot rule out the possibility of some delay in making the annual allocations due to extraordinary circumstances. In that event, their discretion to accept modified requests (including reduced requests) would be even more desirable.

With respect to the suggestion that special allocations be made only to "high-labor" producers, the Departments believe the annual rules are a preferable vehicle for incentive provisions to assure the industry's commitment to meaningful assembly operations. Although it would have been the Departments' policy in any event to limit special allocations to firms satisfying the economic contribution criteria applicable to incentive allocations, the annual rules are being modified specifically to reflect that policy.

(5) § 303.7 Issuance of Shipment Permits

One commentor favored the added flexibility afforded the Departments by their proposal to permit more than one permit per shipment if commercial hardship might otherwise result. No unfavorable comments were received. The final rule is adopted as proposed.

(6) § 303.9 Maintenance of Quota Entitlements

In this section the Departments proposed a number of changes: (1) to eliminate the requirement that producers utilize at least 25 percent of their initial quotas by April 1; (2) to change the prospective utilization standard for the entire year from 90 percent to 80 percent; and (3) to provide for the issuance of show-cause orders when specified operational discontinuities or minimal employment thresholds occur or when producers fail to comply with commitments made to the Departments upon which receipt of quota was predicated.

One commentor supported the elimination of the 25 percent requirement and the change of the 90 percent requirement to 80 percent on grounds these changes would enhance "the flexibility a producer needs." No negative comments were received on these proposals, although one commentor suggested a change of language to make the 80 percent standard more clear. In the final rule, the 25 percent requirement is eliminated as proposed and the new 80 percent standard is reworded to incorporate the commentor's suggestion.

One commentor supported the other changes proposed for this section, relating to factory closings and the maintenance of minimal work forces, as a "necessary balance" against the added flexibility afforded by the preceding changes and to prevent the "abuse" of such flexibility, especially by "funnel-through" producers whose operations in the territory are "not a matter of real economic substance."

A second commentor felt that "further efforts to prescribe minimum performance levels for the industry can only be detrimental to the industry and serve to discourage those companies which seek to adapt to the changes in the watch market while continuing their contributions to the insular possessions." This commentor opposed these changes because they might "merely result in the employment of fewer workers for longer periods of time, producing the same net benefit to the insular economy, but spreading it among fewer residents." A more appropriate approach might be "to offer such incentives as a part of the annual quota allocation rule, which is subject to yearly reconsideration."

The Departments retain their concern about the significant portion of total employment provided by the industry which is seasonal and part-time in character. Upon further consideration, however, they have concluded that the extent of the problem cannot be definitively stated in the absence of a thorough analysis of worker preferences and that the means proposed for addressing the problem may be disproportionate, in terms of the additional burdens imposed both on the companies and on the Departments, to the benefits envisioned as the results of the proposed incentives. Also, these proposals would impose new strictures on the companies, for uncertain results, in the same regulatory action which has among its principal aims the elimination of unnecessary burdens and the provision of maximum feasible operational flexibility consistent with general program goals. Accordingly, the changes proposed in § 303.9(a)(3) and (4) are not adopted in the final rule.

The final rule also includes additional language to that proposed in § 303.9(a)(2) in order to reflect a change in § 303.10, relating to the transfer of duty-free quotas. This change is discussed below.

(7) § 303.10 Restrictions on Transfer of Duty-Free Quotas

All three commentors had objections to the Departments' proposal to establish a procedure for seeking their prior approval of the sale of a quota firm when such sale is an indirect and relatively insignificant part of a larger transaction; and to set forth guidelines for subcontracting arrangements between quota firms.

With respect to the procedure for seeking prior approval of such sales, one commentor noted that such sales "are complex, often contested matters which frequently must be concluded quickly" and was concerned that the advance approval of the Departments might "preclude a sale and transfer that otherwise would be made." This commentor thought that such approval was not necessary "to protect the purposes of the program," ample means for which are provided by the existing regulations.

Another commentor, recognizing the problem for evasion "through the use of techniques designed to mask the sale of quota under the rubric of the sale of the corporation," nevertheless took issue with the Departments' proposal and argued that § 303.10 "should be amended to restrict and not extend the Departments' authority to require prior approvals of sales of businesses which have the right to insular watch quota." This restriction should take the form of a provision requiring "prior notification to the Department and not prior approval" and authorizing the withdrawal of quota if the transferee does not continue "operations at least as labor intensive as previously employed."

With respect to the proposed subcontracting guidelines, one commentor felt that this would encourage "an inappropriate and unwarranted trafficking in quota allocations." A second commentor thought that the proposed 40 percent limitation on subcontracting did not reflect the Departments' "historic practice," that the proposed rule had "no apparent basis in commercial reality," and that the requirement for prior approval of such arrangements was an adequate regulatory solution.

As stated in their discussion of the prior approval procedure when originally proposed, the Departments are conscious of the need for "a more flexibile review process" which will not unncessarily inject the Departments into "potentially delicate private business negotiations." It was, indeed, such considerations which stimulated the proposal in the first instance. The negative comments received reflect an unawareness that the Departments did not propose to amend § 303.10(b), which therefore would have continued to apply to transactions in which the sale of the quota firm was *not* a "relatively

insignificant part of a larger transaction"; and that the requirements proposed for § 303.10(c) represented a procedural relaxation with their removal of such larger transactions from § 303.10(b) and with their establishment of a procedure less stringent than the existing provision (which currently applies to *all* transactions). Under the current § 303.10(b), for example, the Departments historically have required the provision of complete financial, operational corporate information on *all* parties to the transaction. § 303.10(c) would clearly have relaxed this review process in the specified circumstances.

Nevertheless, upon further consideration of the comments received, as well as of the difficulty of establishing an objective yardstick by which the applicability of the less stringent process might be administratively determined, the Departments have concluded that a uniform procedure would be more feasible and that the procedure selected should afford parties to the proposed transaction the maximum flexibility consistent with the purposes of the quota program. Those purposes remain the prevention of (1) the capitalization of the quota; (2) undue concentration of quota entitlements; and (3) operational changes detrimental to the territorial economy. As a corollary of the last two, the Departments wish also to state their objective in this context of assuring the fair and unrestricted access of all producers to components and supplies, unimpeded by any specific corporate affiliations that presently exist or may in the future emerge. A final rule incorporating a policy of "prior notification" rather than "prior approval" and reflecting the considerations summarized above has accordingly been adopted. A related change is also made in § 303.9(a)(2).

With respect to the guidelines for subcontracting arrangements, the Departments believe the comments received are responsive one to the other. As noted in the Departments' discussion of the proposed rules, subcontracting arragnements have been made over the existence of the program and have legitimate foundation in commercial reality and in the Departments' administrative practice. Nevertheless, if abused, such arrangements could degenerate into "unwarranted trafficking" of the quota and the creation of "paper" quota firms benefiting from the quota privilege while making only limited direct contributions to the territorial economies. The 40 percent rule establishes an objective standard for the prevention of such abuse and is therefore retained in the final rule.

(8) § 303.11 Appeals

One commentor supported the Departments' proposal to authorize the setting aside of a portion of the annual quota sufficient to protect the interests of a petitioner under this section if their consideration of a petition overlaps the normal timing of an annual allocation, on grounds of the commentor's general support for necessary flexibility in the codified rules. No negative comments were received. The final rule adopts the change as proposed.

Accordingly, Part 303 of Title 15 of the Code of Federal Regulations is amended as set forth below.

Issued at Washington, D.C. on February 6, 1980.

Donald A. Furtado,

Acting Under Secretary for International Trade, U.S. Department of Commerce.

Ruth G. VanCleve,

Director, Office of Territorial Affairs, U.S. Department of the Interior.

1. Section 303.2 (a) and (b) are amended as follows:

§ 303.2 Definitions and forms.

(a) Unless the context otherwise indicates:

* * * * *

(14) A "reallocation" is a process whereby quota held by one or more producers, or quota set aside for new entrants, is placed with one or more other producers. Such will generally involve reduced allocations and supplemental allocations. Reallocations generally are made for the purpose of facilitating maximum utilization of a territory's calendar year quota and of promoting the greatest possible economic contribution to the territory, consistent with Congressional intent to avoid funnel-through operations in general headnote 3(a) businesses.

(b) * * *

(2) ITA–333, * * * It is also used to record the balance of a producer's quota remaining * * *

* * * * *

2. Section 303.3 is amended as follows:

§ 303.3 Publication of annual rules.

Prior to December 15 each calendar year * * *

3. Section 303.4(b) is amended as follows:

§ 303.4 Application for quotas.

* * * * *

(b) * * *

(7) Any other records in the possession of the parent or affiliated companies outside the insular possession pertaining to any aspect of the producer's headnote 3(a) watch assembly operation, provided that such records need not be produced in the insular possession for verification if other arrangements satisfactory to the Departments have been made in advance of the verification.

The verification of data shall be performed * * * the end of March. In the event a company cannot satisfactorily substantiate the data presented in its application prior to the time allocations must be calculated, the Secretaries shall determine, on the basis of the best available information, the data which will be used in calculating the quotas.

4. Section 303.5 (a) and (b) are amended as follows:

§ 303.5 Allocation and reallocation of quotas.

(a) Allocation of quotas—(1) Initial allocations. As soon as practicable * * * or any lesser amount requested in writing by such producer. The Secretaries may also issue a lesser amount if, in their judgment, the producer might otherwise receive an initial allocation in an amount greater than the producer's probable annual allocation. In calculating the initial allocations, the Director shall count only duty-free watches and watch movements verified by the U.S. Customs Service on Form ITA–340 as having been entered on or before August 31.

(2) Annual allocations. As soon as practicable * * * A producer's request may be modified by written communication received by the Secretaries on or by March 31, or, at the discretion of the Secretaries, a later date prior to the making of the annual allocations. A notice of allocations * * *

(3) Supplemental allocations. * * * Before making such supplemental allocations, the Secretaries shall take into account the requesting producer's estimated annual allocation to ensure that the sum of its initial and supplemental allocations does not constitute a disproportionate amount of the producer's estimated annual allocation * * *

(4) * * *

(5) Special Allocations. If in their judgment it would be beneficial to the economy of the territory, the Secretaries may make a special allocation to any firm which, due to unusual circumstances, was unable to maintain its duty-free shipments at a level comparable with its past record provided, however, that the Secretaries determine that the amount of quota so allocated is not likely significantly to

affect the amounts of quota allocated to other producers pursuant to § 303.5(a), above. In evaluating requests for such special allocations, the Secretaries shall take into account the firm's proposed assembly operations and its record in contributing to the territorial economy, as well as its intentions and capacity to make meaningful contributions in the event a special allocation, is made.

(b) * * *

(4) Whether the addition of new entrants offers the best prospect * * *

5. Section 303.6(e) is amended as follows:

§ 303.6 Issuance of licenses.

* * * * *

(e) * * * of each calendar year. No unused quota may be carried over into the subsequent calendar year.

6. Section 303.7 (c) and (d) are amended as follows:

§ 303.7 Issuance of shipment permits.

* * * * *

(c) Except when commercial hardship may result, producers shall request only one shipment permit for each separate shipment or consignment.

(d) Shipment permits shall be valid for only the calendar year in which issued. In order to accomplish duty-free entry, the importer of record or his broker must, prior to midnight, December 31, of the year in which the shipment permit is issued, present the merchandise together with the original of the related form ITA–340 and other documents required by the U.S. Customs Service to the District Director of Customs at the port of entry.

7. Section 303.8(b) is amended as follows:

§ 303.8 Quarterly reporting requirements.

* * * * *

(b) * * * which have occurred during the reporting period (see also § 303.10 regarding restrictions on the transfer of duty-free quotas).

8. Section 303.9(a) is amended as follows:

§ 303.9 Maintenance of quota entitlements.

(a) The Secretaries may issue a show-cause order requiring a producer to show cause, within 30 days of receipt of the order, why the duty-free quota to which it would otherwise be entitled should not be cancelled, in whole or in part, if:

(1) At any time after June 30 of the calendar year, (i) a producer's assembly and shipment record provides a reasonable basis to conclude that the producer will utilize less than 80 percent of its total quota by the end of the calendar year, and (ii) the producer refuses a request from the Departments to relinquish that portion of its quota which it is concluded will not be utilized;

(2) A producer fails to satisfy or fulfill any term, condition, or representation, whether undertaken by itself or prescribed by the Departments, upon which receipt of quota has been predicated or upon which the Departments have relied in connection with the sale or transfer of a business together with its quota; or

(3) A producer * * *

9. Section 303.10 is amended as follows:

§ 303.10 Restrictions on transfer of duty-free quotas.

(a) The sale or transfer of a quota from one firm to another shall not be permitted.

(b) The sale or transfer of a business together with its quota shall be permitted with prior written notification to the Departments. Such notification shall be accompanied by certifications and/or representations, as approporiate, that:

(1) If the transferee is a subsidiary of or in any way affiliated with any other company engaged in the production of watch or watch movement components being offered for sale to any territorial producer, the related company(ies) will continue to offer such watch and watch movement components on equal terms and conditions to all willing buyers and shall not engage in any practice, in regard to the sale of components, that competitively disadvantages the non-affiliated territorial producers vis-a-vis the territorial subsidiary.

(2) The sale or transfer price for the business together with its quota does not include the capitalization of quota per se.

(3) The transferee is not directly or indirectly affiliated with any other territorial quota holder in the same territory in which the business is located.

(4) The transferee will not modify the watch assembly operations of the quota firm in a manner that will diminish its economic contributions to the insular possession.

(c) The failure of a transferee to abide by the terms of the above representations and/or certifications to the Departments shall constitute a cause for the issuance of a show cause order for quota reduction or cancellation, pursuant to § 303.9(a)(2), above.

(d) At the request of the Departments, the transferee shall permit representatives of the Departments to inspect whatever records are necessary to establish to the satisfaction of the Departments that the certifications and/or representations contained in paragraph (b) of this section have been or are being met.

(e) Any transferee who is either unwilling or unable to make the certifications and/or representations specified in paragraph (b) of this section shall secure the Departments' approval in advance of the sale or transfer of the business together with its quota. The request for approval shall specify which of the certifications specified in paragraph (b) of this section the firm is unable or unwilling to make, and give reasons why such fact should not constitute a basis for the Departments' denial of the sale or transfer.

10. Section 303.11 is amended by adding a new paragraph (e) as follows:

§ 303.11 Appeals.

* * * * *

(e) If the outcome of any petition may materially affect the amount of the petitioner's quota and if the Secretaries' consideration of the petition continues during such time as the interests of other producers would be affected by delaying decisions of the Secretaries, the Secretaries shall set aside a portion of the quota to be allocated in an amount which, in their judgement, protects the petitioner's interest and shall allocate the remainder among the other producers.

[FR Doc. 80–4360 Filed 2–8–80; 8:45 am]

BILLING CODES 4310–10–M, 3510–25–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9079]

Reuben H. Donnelly Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This order, among other things, requires a New York City firm to cease, in connection with the publication of the Official Airline Guide—North American Edition, or any successor publication, from failing to publish connecting flight listings for commuter air carriers in the same manner as those published for certificated air carriers; or otherwise arbitrarily discriminating against any air carrier or class of air carrier in the publication of such listings.

DATES: Complaint issued April 13, 1976. Final order issued January 10, 1980.[1]

FOR FURTHER INFORMATION CONTACT: FTC/CS–2, James C. Egan, Jr., Washington, D.C., 20580. (202) 376–2863.

SUPPLEMENTARY INFORMATION: In the Matter of The Reuben H. Donnelly Corporation, a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Cutting Off Supplies or Service: § 13.610 Cutting off supplies or service; § 13.635 Refusing sales to, or same terms and conditions.

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

The Final Order, including further order requiring report of compliance therewith, is as follows:

Final Order

This matter having been heard by the Commission upon the appeal of respondent from the Initial Decision, and upon briefs and oral argument in support thereof and opposition thereto, and the Commission for the reasons stated in the accompanying Opinion having determined to affirm in part and reverse in part the Initial Decision:

It is ordered, That the Initial Decision of the administrative law judge be adopted as the Findings of Fact and Conclusions of Law of the Commission, except to the extent inconsistent with the accompanying Opinion.

Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

It is further ordered, That the following Order to Cease and Desist be, and it hereby is entered:

I

It is ordered, That respondent The Reuben H. Donnelly Corporation, and its parent, subsidiaries, successors and assigns, officers, agents, representatives, employees, and any concern controlled by it (including joint ventures), directly or indirectly through any corporate or other device, in connection with the publication of the Official Airline Guide–North American Edition or any successor publication, shall forthwith cease and desist from failing to publish connecting flight listings for commuter air carriers pursuant to whatever guidelines govern the publication of connecting flight listings for certificated carriers.

II

It is further ordered, That respondent The Reuben H. Donnelly Corporation, and its parent, subsidiaries, successors and assigns, officers, agents, representatives, employees, and any concern controlled by it (including joint ventures), directly or indirectly through any corporate or other device, in connection with the publication of the Official Airline Guide–North American Edition or any successor publication, shall forthwith cease and desist from otherwise arbitrarily discriminating against any air carrier or class of air carriers in the publication of connecting flight listings for air carriers providing scheduled passenger air transportation.

III

It is further ordered, That respondent The Reuben H. Donnelly Corporation and its successors and assigns shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations growing out of this Order.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-4306 Filed 2-8-80; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint, Initial Decision, Opinion of the Commission, Concurring and Dissenting Opinion of Commissioner Bailey, and Final Order filed with the original document.

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 231

[Release No. 33–6188]

Employee Benefit Plans; Interpretations of Statute

AGENCY: Securities and Exchange Commission.

ACTION: Interpretations of statute.

SUMMARY: The Commission has authorized the issuance of a release setting forth the views of its staff on the application of the Securities Act of 1933 to employee benefit plans. The purpose of the release is to provide guidance to the public and thereby assist employers and plan participants in complying with the Act.

FOR FURTHER INFORMATION CONTACT: Peter J. Romeo, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, (202) 272–2573.

SUPPLEMENTARY INFORMATION: On January 16, 1979, the Supreme Court issued a decision in which it addressed for the first time in its history the application of the Securities Act of 1933 ("1933 Act") [15 U.S.C. 77a et seq.] to participation interests in a private pension plan. The decision, which was rendered in the case of *International Brotherhood of Teamsters* v. *Daniel ("Daniel")*,[1] has generated considerable controversy and comment.[2] Moreover, it has raised questions about the application of the Act to many types of employee benefit plans[3] not covered by the decision. In an effort to resolve the uncertainty which has developed and thereby assist employers and plan participants in complying with the 1933 Act, the Commission has authorized the issuance of this release setting forth the views of its Division of Corporation Finance (hereinafter, the "staff")[4] on the application of the Act to such plans.

The release initially discusses the circumstances under which interests in plans and related entities may be subject to the requirements of the 1933 Act. In this connection, an analysis is provided of the criteria to be used in determining when an offer or sale of a security will occur. There is also a discussion of the various exemptions from the Act's registration provisions that may be available for such offers or sales. This is followed by a brief discourse on the application of the Act both to the various types of securities transactions in which plans may engage

[1] 99 S. Ct. 790, —— U.S. —— (1979). In *Daniel*, the Supreme Court held that neither the 1933 Act nor the Securities Exchange Act of 1934 ("1934 Act") [15 U.S.C. 78a et seq.] apply to a compulsory, noncontributory pension plan.

[2] *See*, e.g., L. J. Haas, *Supreme Court in Daniel leaves open possibility that some plans may be subject to securities laws* J. Tax., 263–267 (May 1979); J. D. Mamorsky and T. L. O'Brien, *Securities Law and the Daniel Case*, Pension World (May 1979); H. S. Bloomenthal, *The ABC's of Employee Benefit Plans—D for Daniel*, Sec. Fed. Corp. L. Rep. Vol. 1, No. 3 at 17 (March 1979); B. W. Nimkin, *Noncontributory Benefit Plans*, Rev. Sec. Reg., Vol. 12:4 (February 28, 1979); H. L. Pitt, *Daniel: A Seed for More Difficulties for the SEC*, Legal Times of Wash., January 29, 1979 at 27, Col. 1; M. Siegel, *Pension Outlook*, N.Y.L.J. Vol. 181, No. 48 at 1, Col. 1; P. M. Kelly, *Securities Regulation of Retirement Plans after Daniel*, Loyola Univ. L. J., 631–665 (Summer, 1979).

[3] As used in this release, the term "employee benefit plan" means a pension, profit-sharing, or similar plan. It does not include welfare and similar plans which provide for hospitalization or disability benefits, funeral expenses, or social or cultural activities. These latter plans historically have not been considered subject to the securities laws because they do not involve any expectation of financial return on the employee's part.

[4] While this release was prepared by the Division of Corporation Finance, in some instances the views described were originally expressed by the Commission's Division of Investment Management. All such instances are duly noted in the release.

and to resales by plan participants of securities acquired through the operation of plans. Finally, the release describes the methods of registration under the Act of securities issued by plans and related entities.

Although this release is intended to provide guidance to the public on the application of the 1933 Act to employee benefit plans, it should not be viewed as an exhaustive or all-inclusive treatment of the subject. The complexity and ever-increasing variety of such plans precludes the issuance of a release sufficiently comprehensive to cover all issues that might arise. Because this release is necessarily limited in its scope, the Commission's staff will continue its past practice of providing interpretive advice and assistance to the public regarding such plans upon request, except where otherwise indicated herein.

The staff recognizes that many of the issues discussed herein are controversial and that differences of opinion can exist with respect to them. Although it believes the positions described in the release are in accord with the general policies and purposes of the 1933 Act, the staff nevertheless invites interested members of the public who wish to express an opinion on such positions to submit their views in writing.[5] All comments received from the public will be given serious consideration by the staff and, to the extent they are persuasive, could result in a revision of some of the views expressed herein.

Because of the length of this release, the staff believes it would be helpful at the outset to summarize briefly the positions expressed herein. The summary, however, should not be read without also referring to the explanatory section of the release, where the various positions are discussed in detail.

Summary

The registration and antifraud provisions of the 1933 Act are applicable to the offer and sale of securities. Registration, however, would not be necessary if one of the exemptions specified in the Act is available.

1. The Term "Security".—There are two types of securities that may be issued in connection with employee benefit plans: (1) participation interests of employees in their respective plans,[6] and (2) participation interests of plans in the collective investment vehicles in which such plans invest their assets.

The interests of plans in collective investment vehicles are in all instances securities, generally in the form of investment contracts. They are therefore subject to both the registration and antifraud provisions of the 1933 Act. The interests of employees in a plan, however, are securities only when the employees voluntarily participate in the plan and individually contribute thereto. Thus, employee interests in plans which are not both voluntary and contributory are not securities and therefore are not subject to the Act.

2. The Term "Sale".—A sale of interests in voluntary, contributory plans occurs where there is both an investment decision and the furnishing of value by participating employees. Consistent with this view, the staff does not believe a sale occurs when an existing plan is converted into an ESOP [7] or other type of plan, except where employees are given a choice in the matter and therefore have the opportunity to make an investment decision. Similarly, there is no sale under noncontributory plans when employees make elections as to the manner of investing the employer's contributions.

The definition of "sale" in the 1933 Act also encompasses any "solicitation of an offer to buy" securities of the employer. Such solicitations sometimes will be attributed to employers in the context of certain employee stock purchase plans which acquire the employer's securities in the open market. If the employer's involvement in such a plan is limited to performing ministerial-type functions, no solicitation of an offer to buy is deemed to exist. But if the employer's involvement is so substantial that there are significant differences between acquiring stock under the plan and acquiring it in ordinary brokerage transactions, the employer will be deemed to be soliciting its employees to buy its securities, and registration generally will be necessary. An exception to this general rule, however, exists in the case of a TRASOP [8] where the employer's involvement is limited primarily to performing ministerial-type functions and paying half the price of stock purchased by employees under the plan.

3. Exemptions from Registration.—Registration of securities offered or sold pursuant to employee benefit plans is necessary unless an exemption is available. In most instances, an exemption is available and registration therefore is not required. Some of the exemptions that are frequently relied upon are those provided by the 1933 Act for nonpublic offerings, intrastate offerings, and certain small offerings. The only exemption, however, which is specifically designed for interests issued in connection with employee benefit plans is the one provided by section 3(a)(2) of the Act.

The section 3(a)(2) exemption applies both to the interests of plans in certain investment vehicles maintained by banks and insurance companies and to the interests of participants in the plans themselves. Interests issued in connection with Keogh plans, however, are specifically excluded from the exemption, although the Commission can exempt such interests from registration under certain conditions.

Although the language of section 3(a)(2) can be read to suggest otherwise, the staff does not believe that a single trust fund for a plan must be maintained by a bank in order for the exemption to be available. However, if the trust fund involves a single employer and invests employee monies in securities of the employer, the exemption cannot be utilized. For purposes of section 3(a)(2), the term "single employer" is deemed to include the employer and any entity controlling, controlled by, or under common control with, the employer. Thus, a parent and its subsidiaries are considered a single employer under this interpretation.

While the section 3(a)(2) exemption is not available by its terms for so-called "guaranteed investment contracts" issued to plans by insurance companies, the staff has taken a no-action position with respect to the offer and sale of such contracts if certain specified conditions are met. A similar position, again subject to certain conditions, also has been taken with respect to the offer and sale of interests in multiple-employer trusts established by insurance companies for the offering of various forms of annuity contracts to unrelated employers.

4. Securities Transactions by Plans.—In addition to issuing participation interests to employees or fostering the purchase of employer stock by such persons, a plan may engage in various other transactions involving the purchase, sale or distribution of securities. It may, for instance, acquire stock of the employer from various sources, including the company. For a

[5] Letters pertaining to this release should be addressed to Peter J. Romeo, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549.

[6] In some plans, such as stock bonus and certain stock purchase plans, where stock is directly acquired by employee participants, there may not be separate employee interests, apart from the stock, that are deemed to be securities. The stock acquired by employees under such plans, however, is a security.

[7] "ESOP" is a shorthand designation for "Employee Stock Ownership Plan."

[8] "TRASOP" is a shorthand designation for "Tax Reduction Act Stock Ownership Plan."

variety of reasons, however, registration usually would not be necessary with respect to the acquisition transaction.

A plan also may offer or sell securities of the employer or other entitles held in its portfolio. If the plan is considered to be an affiliate [9] of the employer, sales by it of the employer's securities would be subject to the registration provisions of the 1933 Act in the same manner as if the employer were engaging in the transaction. Sales by the plan of non-employer securities, however, usually would not have to be registered because of the availability of the exemption provided by section 4(1) of the Act for transactions not involving issuers, underwriters or dealers.

The distribution, or actual delivery, of employer stock by a plan to individual participants would not be subject to registration, although any offers or sales of such stock to participants prior to actual delivery would have to be registered, unless an exemption were available.

5. Resales by Plan Participants.—Employees who receive securities under a plan may freely resell such securities without restriction if the securities have been registered and they are not affiliates of the issuer. If the securities have not been registered, they generally must either be registered or sold in reliance upon some exemption, such as that provided by section 4(1) of the 1933 Act. An exception to this general rule occurs when non-affiliates receive unregistered securities under a plan which satisfies certain conditions.

6. Methods of Registration.—If the securities to be issued under a plan must be registered, Form S–8 [17 CFR 239.16b] would be the appropriate form for this purpose if the employer were able to satisfy the requirements for its use. If Form S–8 cannot be used, the issuer would then consider other forms, such as S–1 [17 CFR 239.11] or S–18 [17 CFR 239.28].

Affiliates who receive securities under a plan and wish to have them registered for resale may utilize a Form S–16 [17 CFR 239.27] reoffer prospectus for this purpose if the securities were originally issued pursuant to a Form S–8 filing. If the securities were not so issued, Form S–1 may be utilized, assuming the issuer is agreeable to a filing on that form, or the securities may be resold pursuant to Rule 144 [17 CFR 240.144] under the 1933 Act.

[9] An "affiliate" of an entity is defined in Rule 405 [17 CFR 230.405] under the 1933 Act as "a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the [entity]."

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I. General Structure of the Act

According to its preamble, the 1933 Act is intended "to provide full and fair disclosure of the character of securities sold in interstate and foreign commerce and through the mails, and to prevent frauds in the sale thereof * * *" Sections 5 and 17 of the Act are the principal provisions used to implement the Act's disclosure and antifraud purposes. Section 5 provides that every offer or sale of a security made through the use of the mails or interstate commerce must be accomplished through the use of a registration statement [10] meeting the Act's disclosure requirements,[11] unless one of the several exemptions from registration set out in sections 3 and 4 of the Act is available.[12] Section 17 of the Act prohibits the use of fraud or misrepresentation in the offer or sale of a security.[13]

To promote compliance with the registration and antifraud requirements, the Act provides for both civil liabilities and potential criminal penalties in the event violations occur. The civil liabilities are specified in sections 11 and 12 and basically give the buyer the right to rescind the sale and recover the net cost of the security. The criminal penalties are prescribed in section 24 and consist of a fine of up to $10,000 or imprisonment for up to five years, or both, if the Act is willfully violated. In addition, section 20(b) of the Act authorizes the Commission to bring injunctive actions whenever it appears a person is engaged, or is about to engage, in violations of the Act.

II. The Term "Security"

In order for the registration and antifraud provisions of the 1933 Act to be applicable, there must be an offer or sale of a security. The term "security" is defined in section 2(1) of the Act [14] and includes, among other things, stocks, bonds and investment contracts. The Commission believes that two types of securities, generally in the form of investment contracts, may be issued in connection with employee benefit plans: (1) interests of participants in their respective plans, and (2) interests of

[10] A registration statement generally consists of two parts: a prospectus which is delivered to investors before a sale becomes final and a separate section containing information which is on file with the Commission but which is not required to be furnished to investors. Sales of securities cannot be made until the registration statement becomes effective.

[11] The types of information required to be included in registration statements are specified in Schedules A and B of the 1933 Act and in the various registration forms under the Act adopted by the Commission.

[12] Part IV of this release will discuss some of the exemptions commonly relied upon for transactions involving employee benefit plans.

[13] It should be noted that Section 10(b) of the 1934 Act and rule 10b–5 [17 CFR 240.10b–5] thereunder prohibit the use of any manipulative device or contrivance in connection with the purchase or sale of any security.

[14] Section 2(1) states in its entirety that: The term "security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas or other mineral rights, or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

plans in collective investment media, such as bank collective trust funds and insurance company separate accounts, in which such plans invest their assets.[15] Each of these interests will be discussed in detail in the sections which follow.

A. Interests of Participants in Plans

An investment contract involves "an investment in a common venture premised on a reasonable expectation of profits to be derived from the entreprenurial or managerial efforts of others."[16] The Commission has traditionally applied this test, which is often called the "*Howey* test" because it was first articulated in the case of *S.E.C.* v. *W. J. Howey Co.*,[17] to the interests of employees in pension, profit-sharing and similar plans. In this regard, it has in the past determined that such interests are investment contracts because the plans are in essence investment vehicles designed to produce profits in the form of retirement or other benefits for the employees through the efforts of plan managers.[18]

Although the Commission has believed that employee interests in pension and profit-sharing plans generally are securities, it has required such interests to be registered only where a plan is both voluntary [19] and contributory [20] and invests in securities of the employer an amount greater than that paid into the plan by the employer.[21] The basis for this administrative practice, which was codified by Congress in 1970 in Section 3(a)(2) of the 1933 Act,[22] is as follows:

(1) Registration serves no purpose where a plan is involuntary, since a participant is not permitted to make an investment decision in such a circumstance; and

(2) The costs of registration are a significant burden to an employer and should be imposed only where the employer has a direct financial interest in soliciting voluntary employee contributions, as in the case where such contributions will be used to purchase the employer's securities.

The Commission's belief that the registration provisions of the 1933 Act should be applicable to voluntary, contributory plans which involve the purchase by employees of employer stock is supported by the legislative history of the Act. In 1934 Congress considered and rejected a proposed amendment to the Act that would have exempted employee stock investment and stock option plans from the Act's registration provisions. The amendment, which had been passed by the Senate but was eliminated in conference, was not adopted "on the ground that the participants in employees' stock investment plans may be in as great need of the protections afforded by the availability of information concerning the issuer for which they work as are most members of the public."[23]

The decision by the Supreme Court in the *Daniel* case, in which the Court held that the interests of employees in involuntary, noncontributory pension plans are not securities, has raised questions concerning the applicability of the 1933 Act to other types of employee benefit plans not covered by the decision.[24] In the interest of providing guidance to the public and because of uncertainty with respect to the implications of *Daniel*,[25] the staff believes it is appropriate at this time to set forth its own views regarding the application of the 1933 Act to employee benefit plans. Those views are expressed according to the major categories into which pension and profit-sharing plans may fall (i.e., defined benefit and defined contribution, corporate, Keogh, IRA, and miscellaneous plans).

1. *Defined Benefit and Defined Contribution Plans.*—Employee benefit plans are of an infinite variety. All such plans, however, can be reduced to two broad categories: defined benefit plans and defined contribution plans.

A defined benefit plan [26] pays fixed or determinable benefits.[27] The benefits ordinarily are described in a formula which specifies the amount payable in monthly or annual installments to participants who retire at a certain age.[28] As long as the plan and the employer(s) contributing to the plan remain solvent, and the plan continues to be operated, vested participants will receive the benefits specified. In the event the investment results of the plan do not meet expectations, the employer(s) usually will be required, on the basis of actuarial computations, to make additional contributions to fund the promised benefits.[29] Conversely, if plan earnings are better than anticipated, the employer(s) may be permitted to make contributions that are less than the projected amounts.

A defined contribution plan [30] does not pay any fixed or determinable benefits. Instead, benefits will vary, depending on the amount of plan contributions, the investment success of the plan, and allocations made of benefits forfeited by nonvested participants who terminate employment. Thus, the amount of benefits is based, in part, on the earnings generated by the plan.

Both defined benefit and defined contribution plans can provide for employee contributions. In addition, defined contribution plans maintain individual accounts for all participating employees.[31] These accounts reflect each participant's share in the underlying trust assets and are adjusted annually to take into account plan contributions, earnings and forfeitures. In contrast, defined benefit plans ordinarily do not maintain individual accounts, except to the extent necessary under the Internal Revenue Code to record benefits attributable to voluntary contributions by employees.[32]

The *Daniel* decision dealt with an involuntary, noncontributory plan which

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[15] A plan could, of course, invest its assets directly in stocks, bonds and similar instruments, rather than in collective investment vehicles. Such instruments clearly are securities, for they are expressly referred to in Section 2(1) and otherwise possess the characteristics of securities.

[16] *United Housing Foundation, Inc.* v. *Forman*, 411 U.S. 837, 852 (1975).

[17] 328 U.S. 293 (1946).

[18] Opinion of the Assistant General Counsel of the Commission—first opinion (1941), (hereinafter, "Opinion of Assistant General Counsel") CCH Fed. Sec. L. Rep., 1941–1944 Transfer Binder, ¶ 75,195.

[19] A "voluntary" plan is one in which employees may elect whether or not to participate.

[20] For purposes of this release, a "contributory" plan is one in which employees make direct payments, usually in the form of cash or payroll deductions, to the plan.

[21] Letter to *Commerce Clearing House* dated May 12, 1953.

[22] Pub. L. 91–547 (December 14, 1970) and Pub. L. 91–567 (December 22, 1970). Section 3(a)(2) exempts from registration interests or participations issued in connection with certain corporate plans, unless the plan is held in a single trust or separate account for a single employer and "an amount in excess of the employer's contribution is allocated to the purchase of securities * * * issued by the employer or by any company directly or indirectly controlling, controlled by or under common control with the employer."

[23] H.R. Report No. 1838, 73rd Cong., 2d Sess. (1934), 41.

[24] Some courts have applied the *Daniel* decision to other types of pension plans. See *Black* v. *Payne*, 591 F. 2d 83 (9th Cir. 1979); *Tanuggi* v. *Grolier, Inc.*, 471 F. Supp. 1209 (S.D.N.Y., 1979); and *Newkirk* v. *General Electric Company*, CCH ¶ 97,216 (N.D. Cal., 1979).

[25] See Note 2, *supra*.

[26] All defined benefit plans are considered to be pension plans. *See* Internal Revenue Code ("IRC") [26 U.S.C. 1 et seq.] § 414(j).

[27] IRC Reg. § 1.401–1(b)(1) (1956).

[28] If retirement occurs at a different age or in a different form, participants will receive an adjusted monthly or annual amount. See IRC § 415(b)(2)(B).

[29] An exception to this general rule arises in the case of multi-employer collectively bargained defined benefit plans (such as the one at issue in *Daniel*) where the contribution obligations of participating employers are limited to contractually fixed amounts for each hour, day or week employment.

[30] Some examples of defined contribution plans are profit-sharing plans, stock bonus plans, ESOPs, and so-called money purchase pension plans.

[31] In fact, defined contribution plans are sometimes characterized as "Individual Account Plans."

[32] IRC § 411(b)(2)(A). The benefits must not be less than the employee's contribution with statutory interest. IRC § 411(a)(1) and § 411(c)(2)(B).

was also a defined benefit plan. The Supreme Court's opinion in that case, however, did not rest on the fact that the plan was a defined benefit one. Instead, the Court based its decision on the involuntary nature of the plan (unlike all prior cases of the Court involving securities, the employees did not have a choice whether to participate)[33] and the fact that the plan did not provide for direct, identifiable contributions by employees (the employees' labor could be considered a contribution "only in the most abstract sense").[34] This view is supported both by the Court's statement of the issue presented by the case ("whether a noncontributory, compulsory pension plan constitutes a 'security' ")[35] and by its later statement that "We hold the Securities Acts do not apply to a noncontributory, compulsory pension plan."[36] In neither instance did the Court refer to the defined benefit nature of the plan.

In light of the foregoing, the staff is of the view that the defined benefit or defined contribution nature of a plan is not dispositive in determining whether a security is present. Other factors, such as whether the plan is voluntary or involuntary, and contributory or noncontributory, must be taken into consideration, as indicated in the analysis of the major types of plans which follows.[37]

2. Corporate Plans.—Perhaps the largest single category of plans in terms of the number of participants are so-called "corporate" plans. Such plans may be defined benefit or defined contribution in nature, but all share the common characteristic of being established by corporations. Common types of corporate plans are pension, profit-sharing, bonus, thrift, savings and similar plans. Almost all such plans are established pursuant to Section 401 of the Internal Revenue Code.[38]

To determine whether or not a participant's interest in a corporate plan is a security, the Court in *Daniel* indicated that it is necessary to demonstrate that a participant "chose" to give up "specific" consideration in return for a "separable financial interest" that had "substantially the characteristics of a security."[39] A participation interest possesses the essential characteristics of a security when the elements of an investment contract are present.[40]

The foregoing suggests that some of the key factors to be considered in connection with the "security" question are whether a plan is voluntary or involuntary, and whether it is contributory or noncontributory. There are four possible combinations in which these elements can appear, each of which is separately discussed in the sections which follow.

a. Involuntary, Noncontributory Plans. The Court in *Daniel* held that "* * * the Securities Acts do not apply to a noncontributory, compulsory pension plan."[41] This holding clearly precludes the finding that interests in such plans are securities. Accordingly, the 1933 Act is not applicable to such interests.

b. Involuntary, Contributory Plans. Where a plan requires direct contributions by employees, it would be possible to take the position that there is an "investment" (in the form of employee contributions) "in a common enterprise" (the plan) "with an expectation of profits" (the excess of benefits over contributions) "from the efforts of others" (the plan managers). In the *Daniel* decision, however, the Supreme Court based its decision that no investment contract was present at least in part on the involuntary nature of the plan involved in that case. The Court noted in this regard that in its other decisions involving investment contracts the person found to have been an investor "*chose* to give up a specific consideration in return for a separable financial interest with the characteristics of a security."[42]

After consideration of the foregoing, the staff believes it is appropriate from an administrative standpoint for it to take the position that the interests of employees in involuntary, contributory plans are not securities[43] and that the registration and antifraud provisions of the 1933 Act do not apply to them.

C. *Voluntary, Noncontributory Plans*

Plans in which employees may voluntarily participate without making any personal contributions generally arise in rather limited circumstances.[44] The staff traditionally has not required participation interests in such plans to be registered.[45] In its view, no practical purpose is served by requiring registration of such interests, since in almost all instances employees would chose to participate, due to the fact that they would receive benefits without incurring any out-of-pocket expenses.[46]

Whether interests in voluntary, noncontributory plans are securities is a matter that has not been addressed by a court. As previously indicated, the "security" question depends to some extent on whether a plan is voluntary. But the mere presence of a voluntary feature in a plan would not, by itself, necessarily indicate the presence of a security, since the other elements of an investment contract also must be present.

In most instances, the fact that a plan is noncontributory would mean that the

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[33] 99 S. Ct. 796.

[34] 99 S. Ct. 796–797.

[35] 99 S. Ct. 793.

[36] 99 S. Ct. 802.

[37] See, in particular, the section herein entitled "Voluntary, Contributory Plans."

[38] Plans which are qualified under Section 401 become entitled to certain tax benefits.

[39] 99 S. Ct. 796–797. The Court also stated that the consideration should be "tangible and definable." 99 S. Ct. 797.

[40] As indicated in Note 6, *Supra*, some plans, such as stock bonus and certain stock purchase plans, which are in essence mechanisms for the acquisition of stock, may not involve separate securities in the form of participation interests that are investment contracts. The stock acquired by employees under such plans, however, is a security.

[41] 99 S. Ct. 802.

[42] 99 S. Ct. 796.

[43] At least one court subsequent to *Daniel* has addressed the issue of whether such interests are securities in the context of a plan sponsored by a public (i.e., governmental) employer. In *Black* v. *Payne*, 591 F. 2d 83 (9th Cir. 1979), the question raised was whether participation in a state sponsored involuntary, contributory pension plan (which appeared to share the characteristics of a defined benefit plan) constituted an investment contract. The District Court held that such participation failed to satisfy the definition of a security enunciated by the Supreme Court in *Daniel*. The Court of Appeals for the Ninth Circuit agreed, noting that even though the plan was contributory, participation therein did not involve a reasonable expectation of profit nor the element of volition sufficient to bring the transaction within the scope of the securities laws. Pointing to the Supreme Court's discussion of the impact of the Employee Retirement Income Security Act of 1974 ("ERISA") [29 U.S.C. 1001 et seq.] in the *Daniel* situation, the Court also expressed the view that the existence of extensive state regulation and control over the plan constituted a formidable factor militating against extending the federal securities laws to cover this type of plan. *Id.* at 87, n. 3.

[44] The circumstances usually are that the plan contains a number of alternatives for the investment of the employer's contribution, and participating employees are allowed to determine: (1) whether they will participate in the plan (the response almost always being in the affirmative), and (2) the investment alternative they prefer to have an interest in.

[45] *See*, e.g., letter re *Four Phase Systems, Inc.* dated October 5, 1978.

[46] Perhaps the only circumstance in which any employee might choose not to participate would arise where it is more advantageous for tax reasons not to do so. In this regard, one commentator [Nimkin, note 2, *supra*, at 971] has stated that: "[Under a noncontributory plan], the employee's choice is not between giving or not giving consideration (his labor) in exchange for the plan interests, but between two retirement plans that under the tax law are mutually exclusive: a personally-financed IRA and an employer-financed plan. It is the Internal Revenue Code that requires the employee to make this choice, not the employer. [However], it can be argued that once the employee has an alternative, he needs to be adequately informed about the employer's plan, and that this need is best protected by the registration and antifraud provisions of the federal securities laws. This suggests that "opt-out" provisions should not be included in noncontributory plans without awareness of their possible securities law implications."

"investment of money" aspect of the *Howey* test is not met.[47] Even where a noncontributory plan meets the "investment" requirement, it may not satisfy the "profit" element of the *Howey* test. The Court in *Daniel* seemed to dismiss the earnings generated by the plan managers as being too insignificant in relation to employer contributions to qualify as "profits" in the investment contract sense.[48] Moreover, the Court seemed to believe that any participation by employees in the earnings of the plan at issue in that case depended primarily on the personal efforts of the employees to meet the vesting requirements, rather than on the plan actually generating such earnings.

Although a commentator has suggested that a security may be present in some voluntary, noncontributory plans,[49] the staff, as a matter of administrative practice, will assume that such plans do not involve securities. Accordingly, the registration and antifraud provisions of the 1933 Act are not considered by the staff to be applicable to such plans.

d. *Voluntary, Contributory Plans.* Since 1941, the Commission and its staff have adhered to the position that interests in voluntary, contributory pension and profit-sharing plans are securities.[50] The articulated basis for this view is that such interests constitute investment contracts, although it also has been suggested that they may be "certificates of interest or participation in a profit-sharing agreement" as well.[51]

The Commission recently confirmed its view in the testimony of its Chairman before the Senate Committee on Human Resources on the antifraud provisions of the proposed ERISA Improvements Act of 1979 (S. 209),[52] wherein it was noted that

> * * * An employee who is given a choice whether to participate in a voluntary pension plan, and decides to contribute a portion of his earnings or savings to such plan, has clearly made an investment decision, particularly when his contribution is invested in securities issued by his employer. Employees making such decisions should continue to be afforded the protections of the antifraud provisions of the federal securities laws.

The Commission's view that the interests of employees in voluntary, contributory plans are investment contracts appears to be supported by the reasoning used in the *Daniel* decision. Certainly, where a plan is voluntary, the requirement that employees be able to choose whether or not to invest has been met. And the other elements of an investment contract would also appear to be present where a plan is contributory, regardless of whether the plan is defined contribution or defined benefit in nature, as the following analysis indicates.

(1) *Investment of money.* The payment of cash or its equivalent by an employee to a contributory plan clearly satisfies the "investment" requirement in that the consideration paid is "specific, tangible and definable."[53]

(2) *In a common enterprise.* The opinion in *Daniel* suggests that a plan will satisfy the common enterprise requirement where the interests of employees therein are "separable" and possess "substantially the characteristics of a security."

With regard to the separability aspect, it appears the Court believed that where there is an investment contract, it is possible to segregate the non-investment (or employment) portion of a person's total compensation package from the investment (or pension) portion. In contributory plans, the amount set aside for investment purposes can be readily identified by examining the contributions made by each individual participant. A record of such contributions is always available in defined contribution plans because such plans maintain individual accounts for participants. And it also should be present in defined benefit plans, by virtue of the requirement that, in order to qualify for favorable tax treatment,[54] such plans must return to nonvested employees who cease being participants accrued benefits based upon the employee's contributions. Thus, in both defined contribution and defined benefit plans, there is, in effect, a separate account maintained for each participant to the extent of such person's contributions to the plan. Accordingly, the investment aspects of an employee's compensation package are segregated under both types of plans.

(3) *With an expectation of profits.* An employee who voluntarily contributes his own funds to a pension or profit-sharing plan can expect that in return for his contributions the plan will generate earnings through the efforts of the plan managers that will result in his receiving pension or similar benefits that will exceed his total contributions. In terms of economic realities, the excess of benefits over contributions, to the extent they are dependent on earnings by the plan, may be deemed a profit which the employee fully expects to receive as a result of his payments to the plan. By deciding to participate in the plan voluntarily, the employee implicitly has made an investment decision to the effect that his contributions will achieve investment results that will be equal to or superior to those he could obtain from investing his funds elsewhere. Accordingly, from the employee's standpoint, there would appear to be an "expectation of profits" in the investment contract sense.

The foregoing analysis clearly appears to be valid when applied to a defined contribution plan, for the level of benefits under such a plan is directly related to the plan's investment success. Further analysis, however, is necessary for defined benefit plans.[55]

In *Daniel*, the Court indicated there was no "expectation of profits" with respect to the defined benefit plan at issue in that case because (1) the plan did not depend substantially on earnings

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[47] 99 S. Ct. 797.

[48] 99 S. Ct. 797–798.

[49] One commentator [Nimkin, note 2, *supra*, at 970] has suggested that where some or all of the following characteristics are present in a noncontributory plan, a security may exist:

(a) the interests are close to the commonly understood notion of a security, such as interests in an ESOP that are invested solely in employer stock, and they either satisfy the other elements of the *Howey* test or do not call for a *Howey* investment contract analysis at all;

(b) the value of the interests is measurable and is not insignificant in dollars or in percentage of total compensation;

(c) the amount of employer contributions attributable to each of the interests can be identified, as in a case where such contributions are a percentage of employee compensation; and

(d) there is a fixed relationship between employer contributions and employee benefits as there normally would be in a profit-sharing or other individual account plan.

[50] Opinion of Assistant General Counsel, Note 18, *supra*.

[51] Opinion of the Assistant General Counsel of the Commission—second opinion (1941), CCH, 1941–1944 Transfer Binder, ¶75,195.

[52] The ERISA Improvements Act of 1979 would, among other things, remove the interests of employees in employee benefit plans from the definitional scope of the term "security" for purposes of the antifraud provisions of the 1933 and 1934 Acts. The proposed legislation, however, would not limit the application of the registration provisions of the 1933 Act to such interests. The Commission's views on the bill are set forth in the Statement of Harold M. Williams, Chairman, Securities and Exchange Commission, Before the Senate Committee on Human Resources, on S. 209, 96th Cong., 1st Sess. (February 8, 1979).

[53] This is not to say that a person's "investment," in order to meet the definition of an investment contract, must always take the form of cash. Goods and services may also be sufficient in some instances. 99 S. Ct. 797, n. 12.

[54] IRC §§ 411(a)(1) and 411(c)(2)(B).

[55] *See*, e.g., the recent case of *Tanuggi* v. *Grolier Inc.*, 471 F. Supp. 1209 (S.D.N.Y. 1979). The question presented in that case was whether the securities laws applied to interests in a voluntary, shared contribution, defined benefit plan. The particular plan featured a mandatory contribution component and a voluntary contribution component. The Court found no security present with respect to the mandatory contribution component. It did not, however, reach the question of whether interests in the voluntary component constituted a security, inasmuch as the plaintiff's contributions did not exceed the mandatory level.

to meet its benefit obligations, since it could rely on increased employer contributions to cover any shortfalls in earnings, and (2) the vesting requirements for the plan were so substantial that an employee's participation in the plan's earnings depended more on his own efforts to meet the vesting requirements than it did on the plan actually generating the earnings.[56] The Court's statements can be interpreted to suggest that unless a defined benefit plan has a substantial dependency on earnings, as well as vesting requirements that are not excessively difficult to satisfy, there may be no expectation of profits in the investment contract sense.

Several points should be kept in mind with respect to the Court's statements. First, they were made in the context of an involuntary, noncontributory defined benefit plan, in which employees neither invested any funds of their own nor had any investment choice to make. The situation is materially different in voluntary, contributory plans, where employees clearly make investment decisions by deciding to invest their funds in such plans rather than in other investment media. An employee who participates in such a plan implicitly does so because he expects the plan to generate earnings that will be sufficient to provide him with a return on his investment, in the form of certain promised benefits, that will be equal to or superior to other investment alternatives available to him.

Second, many, if not most, defined benefit plans substantially depend on earnings to pay the benefits promised by them.[57] Quite often, in the case of multi-employer plans, a shortfall in earnings (and thus a shortfall in assets to pay benefits) results not in increased employer contributions, as the Court suggested is usually the case,[58] but in a revision downward of the level of benefits to be paid.[59] Or, in some instances, the plan itself may be terminated and benefits may be paid only to the extent that the Pension Benefit Guaranty Corporation[60] is able to do so within its prescribed limitations. The fact that a plan may reduce its level of benefits or terminate altogether in the event earnings are insufficient to pay benefits underscores the dependency which many plans have on such earnings.

Third, vesting requirements under ERISA (which was not applicable to Daniel) are much less strict than the requirement of 20 years continuous service with which Daniel had to comply.[61] Because the ERISA requirements are substantially less difficult to satisfy than the vesting provision in *Daniel*, the staff takes the position that the ERISA requirements would not be a barrier to finding an investment contract present.

On the basis of all of the foregoing, the staff is of the view that where a plan is both voluntary and contributory, regardless of whether it is defined contribution or defined benefit in nature, a participant generally would have an expectation of profits from it in the investment contract sense.

(4) *From the efforts of others.* Any earnings generated by a plan would, of course, result from the efforts of the plan managers. Thus, the requirement of an investment contract that there be reliance on the efforts of others to produce profits would seem to be satisfied in the context of a voluntary, contributory plan.

* * * * *

As a result of the foregoing anlysis, the staff believes that the interests of employees in voluntary, contributory, corporate pension and profit-sharing plans are securities within the meaning of section 2(1) of the 1933 Act. Moreover, as indicated in Part III of this release, such securities are deemed to be offered and sold to employees within the meaning of section 2(3) of the Act. Accordingly, they are subject to both the registration and antifraud requirements of the Act. But, as indicated in the discussion of section 3(a)(2) in Part IV of the release, such securities generally would be required to be registered only where the plan invests in employer securities an amount greater than that contributed to the plan by the employer.

3. Keogh Plans

Keogh plans (also known as "H.R. 10 plans") are tax-deferred retirement plans established by self-employed individuals[62] for the benefit of themselves and their employees. They were authorized by Congress in 1962[63] to permit such individuals to share some of the favorable tax benefits[64] which prior therto were available only in conection with certain corporate plans.

There are two types of securities that may be issued in connection with Keogh plans: (1) interests in collective funding vehicles arising from investments made by the plans, and (2) interests of employee participants in the plan themselves.

With respect to the interests of Keogh plans in collective funding vehicles, these clearly are securities, often in the form of investment contracts. There is an investment of money by the plan in a common enterprise (the funding vehicle) with the expectation that the managers of the funding vehicle will generate earnings on that investment.

Congress gave implicit recognition to the fact that interests in collective funding vehicles maintained for Keogh plans are securities when it amended section 3(a)(2) of the 1933 Act in 1970. In both the Senate and House reports relating to the 1970 Amendments, it was indicated that such interests were not being exempted under section 3(a)(2) "because of their fairly complex nature as an equity investment and because of the likelihood that they could be sold to self-employed persons, unsophisticated in the securities field."[65] Clearly, the reference to such interests in the reports (and in section 3(a)(2) as well) was based on the belief that they are securities. As explained in Part IV of this release, however, the Commission possesses authority under section 3(a)(2) to exempt interests or participations

[56] 99 S. Ct. 797–798.

[57] The Supreme Court appeared to believe otherwise, as indicated by its statement that "a plan usually can count on increased employer contributions, over which the plan itself has no control, to cover shortfalls in earnings." 99 S. Ct. 798.

[58] *Id.*

[59] Of course, benefits accrued by participants up to the date the level of benefits is revised would be payable on the basis of the schedule of benefits in effect until then.

[60] The Pension Benefit Guaranty Corporation ("PBGC") was created by ERISA to provide some assurance that the benefits promised to vested participants in employee benefit plans would, in fact, be paid. Pursuant to ERISA, every single-employer defined benefit plan must meet certain minimum funding standards and pay annual premiums to the insurance fund maintained by the PBGC. The PBGC guarantees a portion of the defined benefit in the event the employer terminates the plan. The extent of PBGC coverage is set forth in 29 U.S.C. 1301–1381.

[61] Daniel was denied his pension because, although he had over 22 years of service as a teamster, he had suffered an involuntary break-in-service of approximately four months midway through his career. Thus, the years prior to the break-in-service could not be used to satisfy the requirement of 20 years of "continuous" service.

[62] An individual who is an "employee" within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954 may establish a Keogh plan.

[63] The Self-Employed Individuals Tax Retirement Act of 1962, Pub. L. 87–792 (1962).

[64] The tax advantages to a self-employed person in establishing a Keogh Plan are essentially twofold: A deduction can be taken for at least a part of his contributions to the plan and the income earned on his contributions is not taxed until it is distributed.

[65] Senate Report No. 91–184 (1969), at 27–28, and House Report No. 91–1382 (1970), at 44. Although Section 3(a)(2) may not be available, the intrastate offering exemption (see Part IV) often can be relied upon for the offer and sale of interests in collective funding vehicles maintained for Keogh plans. However, if the funds in that vehicle are commingled with those from exempt qualified plans sold to non-residents, the two offerings would be integrated, and the intrastate exemption would not be available.

issued in connection with Keogh plans from the registration requirements of the 1933 Act.

The interests of covered employees in Keogh plans also appear to be securities. Although many such plans involve only one individual, a significant number cover more than one person (as would occur, for example, where a law partnership institutes a plan in which all employees can participate). Using the analysis already described with respect to corporate plans, the staff is of the view that voluntary contributions by participants to such plans would create securities in the form of investment contracts.

Althoulgh the interests of participants in voluntary, contributory Keogh plans are deemed to be securities, the staff has not required the separate registration of such interests. Most plans can rely on an exemption from registration for the offer and sale of employee interests.[66] For those relatively few plans that do not have a readily available exemption, the staff, as a matter of administrative discretion, will not require such interests to be registered. The antifraud provisions of the 1933 Act, however, would continue to apply to the offer and sale of such interests to employees.

4. IRAs and Simplified Employee Pension Plans

IRAs (or "Individual Retirement Accounts") are a relatively new form of tax deductible retirement savings created by ERISA in 1974. They are intended to allow employees who are not covered under a corporate or Keogh plan to obtain tax benefits similar to those provided under such plans.[67]

Although IRAs commonly are established by individuals, they also may be sponsored by employers and unions for their employees and members, respectively. In an effort to encourage the establishment of employer-sponsored IRAs, the Revenue Act of 1978[68] introduced the concept of "Simplified Employee Pensions".[69] Simplified pensions have been characterized as plans with a minimum of paper work and red tape,[70] and, in this context, the Revenue Act provides for simplified employer reports to the IRS and to employees.[71] For the purposes of this discussion, IRAs and Simplified Employee Pensions will be considered the same.

The applicability of the federal securities laws to IRAs was specifically considered by Congress at the time ERISA was pending congressional approval. In that regard, the conference report on ERISA stated:

> The conferees intend that this legislation with respect to individual retirement accounts is not to limit in any way the application of the federal securities laws to individual retirement accounts or the application to them of the laws relating to common trusts or investment funds maintained by any institution. As a result, the Securities and Exchange Commission will have the authority to act on the issues arising with respect to individual retirement accounts independently of this legislation.[72]

The status of IRAs under the securities laws was further commented upon by the Senate Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs in a study conducted in 1975. The Subcommittee expressed the belief that "IRAs and collective investment funds for IRAs clearly are not exempt from registration under . . . the Securities Act of 1933."[73] While the question of whether or not an exemption would be available would depend on the facts and circumstances of each case, it is clear that IRAs which involve the placement of an individual's funds in the hands of another person with reliance on that person to produce profits are securities which are subject to the registration and antifraud requirements of the 1933 Act.

Many IRAs involve a direct investment by an individual in an exempt security (such as one issued by a bank)[74] or in a medium that is not considered to be a security (such as a traditional fixed annuity). In neither instance would registration be necessary, and only in the former would the antifraud provisions be applicable.

Beyond the foregoing are two other situations in which the registration of IRAs is considered unnecessary. The first of these involves IRAs which are funded solely by specific mutual fund shares that are registered under the 1933 Act. The staff has stated that, so long as these shares are offered pursuant to current prospectuses which contain appropriate disclosure of the IRAs to which they may be offered, no separate registration of the IRAs is necessary.[75]

The second situation involves so-called master trust or prototype plan arrangements[76] which are used to market IRAs and Keogh plans. Where these types of trusts or arrangements exist, the sponsoring organization usually limits its own involvement to establishing the plan and/or setting up a separate account for each individual participant. The commingling of account assets is generally prohibited and, for the most part, complete investment discretion is vested in each account holder. Participants usually are afforded several investment alternatives, such as savings accounts or other bank instruments, insurance products or the like. The sponsor generally limits its role to that of a custodian and does not render any investment advice.

An argument often made is that interests in these types of plans do not constitute securities within the meaning of Section 2(1). The theory underlying

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[66] See Part IV of this release for a discussion of some exemptions available to plans.

[67] For example, an employee can claim a tax deduction for contributions to an IRA of the lesser of 15% of earned income or $1,500, and he will generally not be taxed on the amounts held in the IRA until they are distributed. In addition to the tax benefits, the ERISA requirements for certain employer-sponsored IRAs relating to reporting obligations, fiduciary standards, and prohibitions against self-dealing are generally less burdensome than those which apply to corporate plans.

[68] Pub. L. 95-600 (November 6, 1978).

[69] Under a simplified pension plan, the deduction limit for employee contributions to IRAs is increased to $7,500 or 15% of compensation, whichever is less. And, to the extent that an employer's contributions to IRAs for its employees are less than the usual limits on deductible IRA contributions, the employees are permitted to make up the difference through deductible contributions to the IRA, provided such persons are not active participants in a qualified plan for that year.

[70] Hearings before the Subcommittee on Private Pension Plans and Employee Fringe benefits on S. 3140, S. 3193 95th Cong., 2d Sess. (1978), at 11.

[71] Staff of Joint Committee on Taxation, 96th Cong., 1st Sess. General Explanation of the Revenue Act of 1978, H.R. 13511, Pub. L. 95-600, at 97.

[72] Joint Explanatory Statement of the Committee of Conference, H.R. 93-1280 (1974), 338.

[73] The Securities Activities of Commercial Banks, Study Outline of The Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs, 94th Cong., 1st Sess. (1975), at 204. In this regard, it should be noted that the exemption provided by Section 3(a)(2) of the Act, clearly does not apply to IRAs because they are authorized by Section 408 of the Internal Revenue Code, not Sections 401 or 404, as is necessary under 3(a)(2).

[74] Section 3(a)(2) exempts, among other things, "any security issued or guaranteed by any bank."

[75] Letter re *Investment Company Institute* available October 21, 1974, where the Commission's Division of Corporation Finance also took the same position with respect to accounts and plans created under Section 403(b) of the Internal Revenue Code as deferred compensation arrangements for employees of public school systems and charitable organizations. In addition, it was indicated in the same letter that the Division of Investment Management would not recommend any enforcement action to the Commission with respect to the creation of such plans without registration under the Investment Company Act of 1940 ("1940 Act") [15 U.S.C. 80a, et seq.], provided no custodian or trustee could exercise investment discretion with respect to the plans.

[76] The term "master plan" refers to a standardized form of plan with related form of trust or custodial agreement, administered by the sponsoring organization for the purpose of providing plan benefits on a standardized basis.

The term "prototype plan" refers to a standardized form of plan with or without a related form of trust or custodial agreement, which is made available by the sponsoring organization for use without change by emloyers who wish to adopt such plan and which will not be administered by the sponsoring organization which makes such form available. *CCH Pension Plan Guide* ¶32,000.

this view is that each individual relies on his own efforts to earn a profit in his account, rather than on the efforts of others, and therefore one of the key elements of an investment contract is missing.[77] Although in practice this theory does not apply where an IRA or Keogh plan is funded through the use of a pooled investment medium, it has more validity where the sponsor acts as a mere custodian for a participant's separate account (the assets of which are not commingled) and the participant retains complete investment power or control over his account. Recognizing that the existence of an investment contract in such circumstances may be open to question, the staff generally has taken a no-action position regarding the registration of such interests.[78]

5. Miscellaneous Plans

In addition to the plans already mentioned, there are four types of employee benefit plans that merit a separate discussion, either because they involve issues of special interest or because they are somewhat unique.

a. Stock purchase plans. Stock purchase plans permit employees to purchase stock of their employer through payroll deductions or otherwise.[79] The stock may be acquired either directly from the employer or in open market purchases effected by the plan. Clearly, the stock is a security, and where it is supplied by the employer or an affiliate for purchase by employees under the plan registration is necessary absent an exemption. Where the stock is obtained through open market purchases, registration may not be required, as indicated in Part III of this release.

The only significant question presented by stock purchase plans under section 2(1) of the 1933 Act is whether the interests of participants therein are securities. In Release No. 33–4790 (July 13, 1965) [30 FR 9059], the Commission indicated that employee interests in stock purchase plans which acquire the employer's stock in the open market might be securities where there are substantial differences between the manner of acquiring stock under the plan and the manner of acquiring it in ordinary brokerage transactions. Some of the variations which might be considered substantial, according to the release, are (1) limitations on the rights of employees to withdraw from the plan or to withdraw securities held in custody, (2) the granting of management discretion to someone other than the individual participants, (3) the accumulation of sums by the plan manager for material periods of time before investment, (4) the payment of special fees or charges, such as a front-end load, and (5) the diminution of the employee's rights or privileges as a shareholder.

The staff continues to believe that the presence of some or all of the foregoing factors in a stock purchase plan may create a separate security in the form of a participation interest. The reason is that such factors tend to place the employee in a position where he is relying on the plan managers to maintain or protect his investment. Accordingly, where such participation interests are deemed to be securities, they would be subject to the registration and antifraud provisions of the 1933 Act upon their offer or sale.

b. Bond purchase plans. Bond purchase plans are authorized under section 405 of the Internal Revenue Code. They permit employers to purchase a special series of United States bonds for the benefit of employees or their beneficiaries. Although the bonds are securities, they are exempt from the registration requirements of the 1933 Act by virtue of section 3(a)(2) thereof.[80] Similarly, the interests of employees in such plans are not required by the staff to be registered, because of the nature of the bonds underlying them and the congressional policy to encourage the establishment of these plans.

c. Annuity Plans. Section 403(b) of the Internal Revenue Code permits public school systems and charitable organizations to enter into deferred compensation arrangements with their employees that are funded through the purchase of annuity contracts[81] or mutual fund shares for the covered employees. Variable annuity contracts are securities[82] as are mutual fund shares, and both are therefore subject to the registration and antifraud provisions of the 1933 Act. Whether the interests of employees in these plans also are securities in all instances is problematical.

Participation interests in section 403(b) plans that are both voluntary and contributory on the part of participating employees would appear to be securities, for the reasons already discussed under the section entitled "Voluntary, Contributory Plans." As a matter of administrative practice, however, the staff does not require such interests to be registered. The antifraud provisions, however, would be applicable to the offer and sale of such interests.

d. Stock bonus plans. Stock bonus plans are plans under which an employer awards shares of its stock to covered employees at no direct cost to the employees. These plans can take various forms, such as Employee Stock Ownership Plans ("ESOPs"), Tax Reduction Act Stock Ownership Plans ("TRASOPs"),[83] stock appreciation right plans ("SARs"), and other variations as well.

While the stock awarded to employees under the above types of plans is a security, the staff generally has not required it to be registered. The basis for this position generally has been that there is no "sale" in the 1933 Act sense to employees, since such persons do not individually bargain to contribute cash or other tangible or definable consideration to such plans.[84] It also is justified by the fact that registration would serve little purpose in the context of a bonus plan, since employees in almost all instances would decide to participate if given the opportunity. Similarly, the interests of employees in bonus plans have not been subjected to registration.

B. Interests of Plans in Collective Investment Media

The contributions made to employee benefit plans frequently are invested in pools of assets managed by other entities. These pools of assets may take the form, for example, of bank collective

[77] See, e.g., letter re *Security National Bank* dated November 26, 1975.

[78] The staff's no-action position involving master trust or prototype plan arrangements extends to both IRA and Keogh plans having substantially the same characteristics as those described in the text. See, e.g., letters re *A. G. Edwards & Sons, Inc.* dated June 15, 1978 and *The National Bank of Georgia* dated November 4, 1976.

[79] Plans which possess the essential characteristics of a stock purchase plan will be treated as such under the 1933 Act, even though they may not be labeled as "stock purchase plans." The substance of a plan, rather than the name assigned to it, is the determining factor with respect to the application of the 1933 Act.

[80] Section 3(a)(2) exempts, among other things, any security "issued * * * by the United States * * *"

[81] An annuity contract is one which provides an income for a specified period of time, such as a number of years or for life.

[82] *S.E.C.* v. *Variable Annuity Life Insurance Co.*, 359 U.S. 65, 79 S. Ct. 618 (1959), and *S.E.C.* v. *United Benefit Life Insurance Co.*, 387 U.S. 202, 87 S. Ct. 1557 (1967).

[83] Many TRASOPs permit employees to purchase stock of the employer at a price equal to half its market value. See Part III of this release for a discussion of the application of the 1933 Act to such purchases.

[84] The staff's position generally is applicable only in the context of bonus plans which are made available to a relatively broad class of employees. With respect to stock awarded to, or acquired by, employees pursuant to individual employment arrangements, the staff generally has concluded that such arrangements involve separately bargained consideration, and that a sale of the stock has occurred.

trust funds or insurance company separate accounts. In the staff's view, the participation interests of plans in these collective investment vehicles are securities, generally in the form of investment contracts.[85] That is, they involve an investment of money (the assets of the investing plan) in a common enterprise (the fund) with an expectation of profits (the earnings generated by the fund) from the efforts of others (the fund managers). In effect, plans which invest in such funds choose "to give up a specific consideration in return for a separable financial interest with the characteristics of a security."[86] Support for the fact that these interests are securities can be found in section 3(a)(2) of the 1933 Act, which provides a specific exemption from registration for them if certain specified conditions are met. Clearly, there would be no need to provide such an exemption unless the interests were securities.

The real issue, then, with respect to interests in collective investment media is not whether they are securities, but whether they are exempt from registration by virtue of section 3(a)(2) or some other exemption. The general exemptions that might be available are discussed separately in Part IV of this release.

III. The Term "Sale" and Other Factors Affecting Registration

It already has been stated that the application of the registration and antifraud provisions of the 1933 Act depends on there being a "sale" or an "offer" of a security. Section 2(3) of the 1933 Act defines these terms as follows:

> The term "sale" or "sell" shall include every contract of sale or disposition of a securities or interest in a security, for value. The term "offer to sell," "offer for sale," or "offer" shall include every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value
> * * *

The key elements in the foregoing definition from the standpoint of employee benefit plans are the words "value" and "solicitation of an offer to buy," for without one or both the 1933 Act is inapplicable. Each of these terms is discussed in the following sections.

A. What Constitutes "Value"

While the term "value" is not defined in the 1933 Act, the staff generally has taken the position that it includes all ordinary forms of consideration, such as cash, property, services, or the surrender of a legal right. There are two specific situations involving the term "value" that warrant a separate discussion. These are dealt with in the sections which follow.

1. Conversions of Existing Plans.—For various reasons, a company may decide to convert its pension or profit-sharing plan into an ESOP or other type of plan. When such a conversion occurs, all of the assets of the old plan are transferred to a trust established under the new plan.[87] In terms of the application of the 1933 Act, the question arises whether the exchange of interests in the former plan for interests in the new plan constitutes "value" within the meaning of section 2(3).

The staff's response to this question is that although "value" in the traditional sense may be present in the exchange, no useful purpose is served by applying the Act's registration provisions where employees have no investment decision to make with respect to the proposed conversion.[88] Accordingly, the staff has indicated that it will not recommend any enforcement action concerning registration if the conversion will occur without giving employees any choice in the matter[89] and, likewise, has declined to issue a no-action letter where the situation is otherwise.[90] Because the staff's position on the conversion of existing plans is clear-cut, it will decline to respond to any future requests on the subject.

2. Investment Elections Under Noncontributory Plans.—The application of Section 2(3) also becomes an issue in the context of noncontributory plans which provide employees with the opportunity to make various investment elections. For example, a plan may permit an employee to invest his share of the employer's contribution in various investment media (including company stock),[91] or to accept cash and defer a portion of the employer's award in the form of company stock,[92] or to elect cash or stock upon a distribution by the plan.[93] Because of the nature of these elections, which appear to involve investment decisions, the staff for some time declined to take a no-action position with respect to them.[94]

As a result of the *Daniel* decision, which dealt with a noncontributory plan, the staff has reconsidered its position. It now is of the view that registration should not be required with respect to investment elections in noncontributory plans.

3. The Bifurcated Sale Concept.—In its brief in the *Daniel* case, the Commission took the position that it was possible for some employee benefit plan transactions to involve a "sale" for purposes of the antifraud, but not the registration, provisions of the 1933 Act. The basis for this view was the belief that the phrase "unless the context otherwise requires," which precedes the definitional portion of the Act, allows in some cases a different construction of the term "sale" in the context of the Act's registration provisions than it does in the context of the antifraud provisions.[95]

The Supreme Court in *Daniel* did not specifically address the merits of the Commission's "bifurcated sale" concept.[96] The staff, however, has revisited this issue and concluded that, for purposes of analyzing the impact of the 1933 Act on various employee benefit plans, it serves no practical purpose to apply the term "sale" in a bifurcated manner. Accordingly, the term "sale," when applied to employee benefit plans in the future, will be considered to have the same meaning for purposes of both the registration and antifraud provisions of the Act.[97]

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[85] Collective investment vehicles also are generally considered to be "investment companies" subject to the requirements of the 1940 Act.

[86] 99 S. Ct. 796.

[87] *See*, e.g., letter re *Imaginetics, Inc.* dated June 22, 1978, and *G. F. Wacker Stores, Inc.* dated January 27, 1976.

[88] In this regard, whether or not an employee has a choice may depend on the nature of the plan being terminated. Many plans which provide for a choice do so as a result of requirements of the Pension Benefit Guaranty Corporation which, prior to the transfer of assets from a defined benefit plan, will require that such an election be offered. *See*, e.g., letter re *Guaranty Corporation* dated July 22, 1976.

[89] *See*, e.g., letters re *Decouper Industries Inc.* dated November 20, 1975; *CFW Construction Company Inc.* dated August 20, 1975; *Crowley Maritime Corporation* dated January 27, 1976; *G. F. Wacker Stores, Inc.* dated January 27, 1976; *Tracy-Locke Company Inc.* dated May 18, 1976; and *Mayer-Lang-Marquis, Inc.* dated October 25, 1977.

[90] *See*, e.g., letters re *United Cotton Goods Company Inc.* dated September 29, 1976; *Guaranty Corporation* dated July 22, 1976; *Modern Merchandising, Inc.* dated August 30, 1976; and *Imaginetics Inc.* dated June 22, 1978.

[91] Letter re *Hycel, Inc.* dated December 2, 1977.

[92] Letter re *Aluminum Company of America* dated April 20, 1978.

[93] Letter re *U.S. Trust Corporation* dated December 11, 1978.

[94] *See*, e.g., letter re *First Union Inc.* available December 29, 1971 where, in a noncontributory incentive compensation program which featured an employee election to invest employer contributions in company stock, the staff declined to express a no-action position. *See* also, letters re *Piper Industries, Inc.* available March 6, 1972; and *Midlantic Banks, Inc.* available October 17, 1973.

[95] SEC Amicus Brief, 63–90.

[96] In a note to its decision, the Court indicated that "we express no opinion as to the correct resolution of the divergent views on this issue." 99 S. Ct. 801, n. 22.

[97] In each instance in this release where the staff has concluded that registration is not necessary, the reader should be careful to note the particular ground relied upon. In those instances where interests in an employee benefit plan need not be registered because there is no sale, the antifraud provisions also do not apply. On the other hand, in

Footnotes continued on next page

B. Solicitations of Offers To Buy

The registration and antifraud provisions of the 1933 Act apply not only where there has been a disposition of a security for value, but also where there has been an offer to sell a security or a solicitation of an offer to buy the same for value. Insofar as employee benefit plans are concerned, the issue of whether the employer has made a solicitation of an offer to buy its securities arises most frequently in connection with employee stock purchase plans.

1. *Stock Purchase Plans.*—As previously noted in Part II, a stock purchase plan allows an employee to purchase stock of the employer through payroll deductions or otherwise. The stock may be acquired directly from the employer, in which case registration would be necessary unless an exemption were available. Alternatively, the stock may be acquired in the open market through various types of arrangements involving payroll deductions.

The Commission's view as to whether registration by the employer will be necessary with respect to open market purchases depends on the employer's degree of participation in the plan.[98] If the employer's involvement is fairly substantial, it may be deemed to be soliciting its employees to buy its securities, and registration generally would be necessary in such circumstances. On the other hand, if the employer's participation is limited to ministerial-type functions so that purchases of stock under the plan are not significantly different than purchases outside the plan in ordinary brokerage transactions, registration would not be required.

In Release No. 33–4790, the commission specified the circumstances under which an employer's involvement in a stock purchase plan would be considered sufficiently limited so as not to raise a registration question. According to the release, the employer must not solicit employees to participate in the plan (only the broker or other agent of the employees may do so). It may, however, perform the following functions:

(1) Announce the existence of the plan;

(2) Make payroll deductions for the plan at the request of employees;

(3) Make available to the broker or other agent the names and addresses of employees in order to facilitate communications regarding the plan;

(4) Address communications to be sent to employees by the broker or other agent;

(5) Include the broker's communications with other announcements by the employer;

(6) Permit an initial meeting of employees regarding the plan to be held at the employer's premises; and

(7) Limit its expenditures to those involved in making payroll deductions and paying the reasonable fees and charges of the broker or other agent for commissions and bookkeeping and custodial expenses.

In addition to the general caveat in Release No. 33–4790 that any deviation from the foregoing standards could necessitate registration, the staff has stated that the following requirements should be complied with in order to avoid any registration difficulties:

(1) The plan should be limited solely to employees [99] or to persons, such as franchisees [100] and independent sales representatives, [101] who have essentially the same degree of access to information regarding the company as do its employees; and

(2) The employer must not make contributions to the plan to defray the cost of the stock [102] or lend money to employees for the purpose of facilitating its purchase.[103] This requirement, however, is not violated where an employee elects to supplement his personal contributions to the plan with his portion of profits distributable from the employer's profit-sharing plan.[104]

2. *TRASOPs.*—TRASOPs are a special form of Employee Stock Ownership Plan created by the Tax Reduction Act of 1975.[105] From the employee's standpoint, they are a combined stock bonus and stock purchase plan. That is, employees can receive shares of the employer at no cost to them under such a plan, and they also may be given the opportunity to purchase additional shares of the employer at half the prevailing market price.

Employers derive certain tax benefits by sponsoring TRASOPs. They can, for instance, receive up to an additional one percent investment tax credit for amounts contributed in cash or shares to the plan. In addition, they can become entitled to an extra one-half percent investment tax credit to the extent they match employee contributions for the purchase of company stock under the plan.

Generally, as pointed out in Release 33–4790, it has been the Commission's position that where an employer's involvement in a stock purchase plan (which a TRASOP partially can be) extends beyond the ministerial functions outlined in the preceding section, it is deemed to be soliciting an offer to buy the securities offered through the plan. In a contributory TRASOP, this customary analysis yields the result that the shares purchased by employees under such a plan must be registered. This is based on the theory that the employer's payment of half the price of stock purchased by the employees amounts to a subsidy that provides such a strong incentive to acquire the employer's stock that it is deemed to be a "solicitation of an offer to buy" within the meaning of section 2(3).

There are, however, persuasive reasons for taking the position that the registration of shares acquired in the open market under TRASOPs is neither necessary nor appropriate. First, no practical purpose appears to be served by requiring registration solely because the employer is paying half the purchase price. To hold otherwise creates the anomalous situation whereby a company is not required to provide a prospectus to employees who pay the full market price for stock under a plan which complies with the requirements of Release 33–4790, but must furnish a prospectus to employees who pay only half the market price under a TRASOP that is essentially identical to the 4790 plan.

Second, the party ultimately subsidizing half of the purchase price of shares acquired under a TRASOP is not the employer but the federal government. Through the device of an investment tax credit conditioned upon the employer's participation in a TRASOP, the employer's payment of half the cost of stock purchased by employees is in effect reimbursed by the U.S. Treasury. The congressional policy underlying this tax credit to encourage

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Footnotes continued from last page

those instances where an employee plan involves the sale of a security, the antifraud provisions are, of course, applicable even though the staff may be taking the position that interests in the plan need not be registered

[98] *See* in this regard Release No. 33–4790.

[99] *See* letter re *Buning the Florist, Inc.* dated May 10, 1976, in which the staff declined to take a no-action position with respect to an issuer's proposal that purchasers of its services be allowed to participate in its stock purchase plan without registration.

[100] Letter re *Servicemaster Industries, Inc.* dated January 10, 1979.

[101] Letter re *Baldor Electric Company* dated August 8, 1978.

[102] Letters re *Studebaker-Worthington, Inc.* dated June 13, 1975 and *Carlisle Corporation* dated April 15, 1975. An exception to this general principle involving TRASOPs is discussed later in this section.

[103] Letters re *Texas American Bancshares, Inc.* dated November 12, 1976 and *Atlantic American Corporation* dated August 1, 1977.

[104] Letter re *Manufacturers Hanover Corporation* dated March 17, 1978.

[105] Pub. L. 94–12 (1975), § 301(d). The Tax Reform Act of 1976 [Pub. L. 94–455 (1976), § 803] extended the TRASOP provisions through 1980.

the purchase of the employer's stock at half the market price is a further reason for not requiring registration.

On the basis of the foregoing reasons, the staff henceforth will take the position that shares acquired in the open market by employees under a TRASOP which otherwise satisfies the requirements of Release 33–4790 need not be registered. The purchase of such shares would, of course, continue to be subject to the antifraud provisions of the 1933 and 1934 Acts.

IV. Exemptions From Registration

If an issuer determines that an offer or sale of securities will occur in connection with an employee benefit plan, it must either register the securities or rely upon one of the several exemptions from registration contained in the 1933 Act.

A. Generally Available Exemptions

Sections 3 and 4 of the Act set forth the various exemptions from registration.[106] Those most likely to be available for securities transactions involving employee benefit plans are set forth below.

(1) *Section 3(a)(2).* This is the only exemption in the 1933 Act which specifically refers to employee benefit plans. Because of its significance, it will be discussed in detail later in this section.

(2) *Section 4(2).* This provision exempts transactions by an issuer not involving any public offering. Known as the "private offering" exemption, it generally is available if an offering is made to a limited number of persons who are sophisticated in business matters and have access to the types of information that could be obtained through the registration process. In connection with the exemption provided by section 4(2), the Commission has adopted Rule 146 [17 CFR 230.146], which provides certainty, in the form of a safe harbor, that the exemption is available if all of the conditions of the rule are met.

(3) *Section 3(a)(11).* This section, which is commonly referred to as the "intrastate offering" exemption, exempts offerings that are confined to residents of the state in which the issuer is organized and conducts the bulk of its business.[107] Rule 147 [17 CFR 230.147] under the Act provides a safe harbor for reliance upon the intrastate offering exemption if all of its conditions are satisfied.

(4) *Section 3(b).* Under this provision, the Commission has the authority to exempt certain offerings of securities if it finds that neither the public interest nor the protection of investors warrants registration "by reason of the small amount involved or the limited character of the public offering. Pursuant to the authority provided by section 3(b), the Commission has adopted Regulation A [17 CFR 230.251 to 230.264], Rule 240 [17 CFR 230.240], and Rule 242 [17 CFR 230.242], all of which may be utilized in connection with securities offered pursuant to employee benefit plans. Regulation A can be relied upon for offerings of up to $1.5 million during a 12 month period. Rule 240 is available for offerings of up to $100,000 during a similar period. Rule 242 may be used for offerings of up to $2 million of securities in a single issue if certain conditions are met.

B. Section 3(a)(2)

Congress amended section 3(a)(2) in 1970 [108] to exempt securities issued in connection with certain employee benefit plans. The relevant provisions of Section 3(a)(2) read as follows:

Section 3. (a) Except as hereinafter expressly provided, the provisions of this title shall not apply to any of the following classes of securities:

* * * * *

(2) * * * any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian; * * * or any interest or participation in a single or collective trust fund maintained by a bank or in a separate account maintained by an insurance company which interest or participation is issued in connection with (A) a stock bonus, pension or profit-sharing plan which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954, or (B) an annuity plan which meets the requirements for the deduction of the employer's contribution under section 404(a)(2) of such Code, other than any plan described in clause (A) or (B) of this paragraph (i) the contributions under which are held in a single trust fund maintained by a bank or in a separate account maintained by an insurance company for a single employer and under which an amount in excess of the employer's contribution is allocated to the purchase of securities (other than interests or participations in the trust or separate account itself) issued by the employer or by any company directly or indirectly controlling, controlled by or under common control with the employer or (ii) which covers employees some or all of whom are employees within the meaning of section 401(c)(1) of such Code. The Commission, by rules and regulations or order, shall exempt from the provisions of section 5 of this title any interest or participation issued in connection with a stock bonus, pension, profit-sharing, or annuity plan which covers employees some or all of whom are employees within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954, if and to the extent that the Commission determines this to be 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 this title. For purposes of this paragraph, a security issued or guaranteed by a bank shall not include any interest or participation in any collective trust fund maintained by a bank; and the term "bank" means any national bank, or any banking institution organized under the laws of any State, territory, or the District of Columbia, the business of which is substantially confined to banking and is supervised by the State or territorial banking commission or similar official; except that in the case of a common trust fund or similar fund, or a collective trust fund, the term "bank" has the same meaning as in the Investment Company Act of 1940.

1. Definitions.—The lengthy and complex provisions of section 3(a)(2) quoted above can best be analyzed by first defining the major terms used therein. The meaning of those terms is described below.

(a) *Interest or Participation.* The beneficial right or share which a participant has in a plan, or which a plan has in a single trust fund, collective trust fund, or separate account.

(b) *Common Trust Fund.* A trust fund maintained by a bank as an investment vehicle solely for trusts, estates or similar entities for which the bank acts in a bona fide fiduciary capacity, such as that of trustee, executor, administrator or guardian.[109] Such a fund may not be used as a vehicle for direct investment by members of the public.[110] The staff takes the position that the exemption in section 3(a)(2) of the 1933 Act (as well as its counterpart in section 3(c)(3) of the 1940 Act) for interests or participations in bank-maintained common trust funds was not meant to exempt investments by a bank as trustee for employee benefit plans,

[106] The exemptions in Sections 3 and 4 do not apply to the antifraud provisions of the Act. *See* in this regard the introductory phrase to Section 4, as well as Section 17(c) of the Act.

[107] The intrastate offering exemption requires that all plan participants and the plan trustee reside in the same state as the employer. See letters re *Queens County Medical Society* dated January 7, 1972 [plan participants], and *Continental Investors Life Insurance Company* dated March 4, 1971 [plan trustee]. Also, the exemption may not be relied upon if the securities of the employer held by the trustee are not eligible for the exemption. Letter re *Rochester Telephone Corp.* dated June 2, 1978.

[108] Note 22, *supra.* The amendments made to Section 3(a)(2) in 1970 hereinafter are cited as the "1970 Amendments".

[109] House Report No. 91–1382 (1970) [hereinafter "House Report"], at 43, and Senate Report No. 91–184 (1969) [hereinafter "Senate Report"], at 27.

[110] House Report at 43, and Senate Report at 27.

including Keogh plans.[111] Such investments were meant to be exempted by the later clause in section 3(a)(2) dealing with collective trust funds for employee benefit plans, provided the conditions of that clause are satisfied.

(c) *Collective Trust Fund.* A trust fund maintained by a bank as an investment vehicle solely for corporate stock bonus, pension, or profit-sharing plans (other than Keogh plans) which meet the requirements for qualification under section 401(a) of the Internal Revenue Code.[112] Like a common trust fund, a collective trust fund may not be used for direct investment by members of the public.[113] It should be noted that the section 3(a)(2) exemption for interests or participations in collective trust funds will not be available to a collective fund which commingles the assets of section 401 qualified plans with those of Keogh plans.[114]

(d) *Single Trust Fund.* A non-collective trust fund (i.e.), a fund which is not established at the instance of, or by, a financial intermediary for the use of separate employers).[115] Under this definition, each of the following would be considered a single trust fund: (1) a trust fund for employees of a single employer;[116] (2) a trust fund for employees of employers so closely related as to be regarded as a single employer (e.g., a parent and its subsidiaries);[117] and (3) a trust fund established and controlled by employers and/or a union representing the employees of such employers.

(e) *Bank.* This term includes the following entities only: (1) a banking institution organized under the laws of the United States, (2) a member bank of the Federal Reserve System, (3) any other banking institution or trust company, whether incorporated or not, doing business under the laws of any State or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency and which is supervised and examined by a State or federal authority having supervision over banks, and which is not operated for the purpose of evading the provisions of the 1940 Act, and (4) a receiver, conservator, or other liquidating agent of any institution or firm included in clauses (1), (2) or (3).[118] In connection with the foregoing, neither a savings and loan association [119] nor a bank holding company will be considered a bank, but a foreign bank whose U.S. operations are subject to the regulations of domestic banking authorities will be so considered.[120]

(f) *Separate Account.* An account established and maintained by an insurance company pursuant to the laws of any State or territory of the United States, the District of Columbia, or of Canada or any province thereof, under which income, gains and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company.[121]

(g) *Insurance Company.* A company which is organized as an insurance company, whose primary and predominant business activity is the writing of insurance or the reinsuring of risk underwritten by insurance companies, and which is subject to supervision by the insurance commissioner, or a similar official or agency, of a State or territory or the District of Columbia; or any receiver or similar official, or any liquidating agent for such company, in his capacity as such.[122]

(h) *Plan.* The permanent [123] Program or arrangement under which participating employees will become entitled to benefits. The four types of plans which are specifically referred to in Section 3(a)(2) are described below. The first three must meet the requirements for qualification under section 401(a) of the Internal Revenue Code,[124] while the fourth must satisfy the requirements for the deduction of the employer's contribution under section 404(a)(2) of the Code.

(1) *Pension Plan.* A plan established and maintained by an employer primarily to provide systematically for the payment of definitely determinable benefits to its employees over a period of years, usually for life, after retirement.[125]

(2) *Profit-Sharing Plan.* A plan established and maintained by an employer to provide for participation in its profits by its employees or their beneficiaries.[126]

(3) *Stock Bonus Plan.* A plan established and maintained by an employer to provide benefits similar to those of a profit-sharing plan, except that the contributions by the employer are not necessarily dependent upon profits and the benefits are distributable in stock of the employer company.[127]

(4) *Annuity Plan.* A pension plan under which retirement benefits are provided under annuity or insurance contracts without a trust.[128]

(i) *Single Employer.* An employer and any entity controlling, controlled by, or under common control with, such employer. This definition represents a departure from prior staff interpretations and will be discussed in detail later in this section.

2. Scope of the Exemption.—The 1970 Amendments to section 3(a)(2) codified in part the Commission's longstanding administrative position [129] that interests or participations issued in connection

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[111] See letters re *National Boulevard Bank of Chicago* dated February 20, 1974 and September 18, 1974 (reconsideration request) issued by the Division of Investment Management.

[112] House Report at 43, and Senate Report at 27. *See* also letter re *Communications Workers of America* dated December 28, 1979 issued by the Division of Investment Management.

[113] House Report at 43, and Senate Report at 27.

[114] Letter re *Pueblo Bank and Trust Company* dated December 4, 1979. The same principle applies to the commingling of assets of Section 401 plans with assets of IRAs.

[115] Letter re *Communications Workers of America* cited in Note 112, *supra.*

[116] *See* the definition in this section of the term "single employer."

[117] Letter re *Gibson, Dunn & Crutcher* dated March 18, 1974 issued by the Division of Investment Management.

[118] The definition used for the term "bank" is the one found in Section 2(a)(5) of the 1940 Act. The 1940 Act definition is applicable because of the language used in the last clause of Section 3(a)(2), which states that ". . . in the case of a common trust fund or similar fund, or a collective trust fund, the term 'bank' has the same meaning as in the Investment Company Act of 1940."

[119] Letter re *First Western Savings Association* dated September 8, 1975.

[120] Letter re *Sumitomo Trust and Banking Company, Limited* dated November 27, 1978.

[121] Section 2(14) of the 1933 Act.

[122] Section 2(13) of the 1933 Act.

[123] IRC Regulation § 1.401–1(b)(2) states that for purposes of qualification under Section 401(a) of the IRC, "the term 'plan' implies a permanent as distinguished from a temporary program." The regulation goes on to indicate that "the abandonment of the plan for any reason other than business necessity within a few years after it has taken effect will be evidence that the plan from its inception was not a bona fide program for the exclusive benefit of employees in general."

[124] The availability of the Section 3(a)(2) exemption does not depend on the name given to a plan. What is important is that the plan meet the requirements for qualification under Section 401 of the Internal Revenue Code. Thus, plans with names such as "incentive compensation plan" [letter re *First Union, Inc.* dated November 29, 1971], "thrift and savings plans" [letter re *Finnigan Corporation* dated April 2, 1976], and "savings plan for salaried employees" [letter re *Bell System Savings Plan for Salaried Employees* dated March 18, 1971], have been considered within the scope of the exemption because they satisfied the requirements for qualification under Section 401.

If a pension, profit-sharing, stock bonus, or similar plan does not qualify under Section 401, then the exemption provided by Section 3(a)(2) would not be available. For example, a collective trust fund which included assets of Individual Retirement Accounts would not be able to rely upon the exemption because IRAs fall under Section 408 of the Internal Revenue Code, not Section 401. Letter re *Gary-Wheaton Bank* dated October 30, 1975.

[125] IRC Reg. § 1.401–1(b)(1)(i).

[126] IRC Reg. § 1.401–1(b)(1)(ii).

[127] IRC Reg. § 1.401–1(b)(1)(iii).

[128] IRC Reg. § 1.404(a)–3(a).

[129] Opinion of the Assistant General Counsel, Note 18 *supra.*

with employee benefit plans need not be registered unless employee funds are used to purchase employer securities. In the *Daniel* decision, however, the Supreme Court implied, in *dictum*, that the section 3(a)(2) exemption extends only to the interests or participations of plans in certain funding vehicles, rather than the interests of employees in the plans themselves.[130]

The legislative history of the 1970 Amendments indicates that their original purpose was to alleviate a concern expressed by banks and insurance companies that there was no clear exemption from registration in the 1933 Act for interests in the collective funding vehicles maintained by those entities for employee benefit plans.[131] While the amendments were under consideration, however, language was added that reflected the Commission's consistent administrative practice of not requiring interests in plans to be registered except where employee money is used to buy securities of the employer.[132]

The inclusion of the language referred to above, as well as a recent decision by a U.S. District Court,[133] would seem to support the staff's view that the implicit purpose of the 1970 Amendments was to exempt not only the interests of plans in certain investment vehicles, but also the interests of participants in the plans themselves.[134] This position is reasonable when one considers that, from the employee's standpoint, his interest in the plan is inseparable from his aliquot share of the plan's interest in the funding vehicle. Moreover, there is the practical consideration that if section 3(a)(2) were not broadly construed to cover employee interests in plans as well as plan interests in funding vehicles, many plans would have no exemption from registration upon which to rely for the offer and sale of interests to employees.[135] Accordingly, the staff believes it is appropriate to link both the plan's interest in a funding vehicle and the interests of participants in the plan itself for purposes of the exemption provided by section 3(a)(2).

The staff recognizes that the Supreme Court, in the *Daniel* decision, did not endorse the broad view of the 3(a)(2) exemption described above.[136] While the statements by the Court are entitled to serious consideration, they are *dicta* and therefore do not resolve the issue conclusively. This fact is reflected in Chief Justice Burger's concurring opinion, in which he stated that "There is no need to deal, in this case, with the scope of this exemption, since it is not an issue presented for decision."[137] The Chief Justice further noted that "the construction of the 1970 Amendment may be problematical" and "of real importance to someone in some future case" and that, as a result, he was "reserving any expression of views" on the scope of the exemption.[138] In light of all of the foregoing, particularly the negative effects on many plans which might flow from a narrow construction of Section 3(a)(2), the staff will continue to view the exemption as being applicable to both interests in funding vehicles and interests in plans.

3. Significant Interpretive Issues.—There are several significant interpretive issues under section 3(a)(2) that have arisen over the years. These are discussed in detail in the sections which follow.

a. *"Maintained by a Bank" Requirement.* Section 3(a)(2) states in part that it shall be available for interests or participations in any "common trust fund * * * maintained by a bank" or any "single or collective trust fund maintained by a bank," provided certain conditions are met. The word "maintained" has been interpreted by the staff to mean that the bank must exercise "substantial investment responsibility" over the trust fund administered by it.[139] Thus, a bank which functions in a mere custodial or similar capacity will not satisfy the "maintained" requirement.[140] In exercising its investment authority over a trust fund, however, a bank may hire an investment adviser to assist it, although the final decision whether or not to invest must be made by the bank.[141]

The principal question concerning the "maintained" requirement is whether it applies to single trust funds. The language of the statute, which is the starting point in statutory construction,[142] suggests that such funds must be so maintained. The staff, however, has taken the position that the "maintained" requirement applies only to common and collective trust funds.[143] Thus, interests or participations in a single trust fund which does not have a bank as trustee will be deemed exempt under Section 3(a)(2) if all of the other requirements of the provision are satisfied.

The staff's view that single trust funds need not be maintained by a bank is based on its perception of the intent of Congress at the time the reference to such funds was inserted in section 3(a)(2). The reference was included in 1970[144] at the request of Sperry-Rand Corporation,[145] with the Commission's full support.[146] Sperry-Rand had expressed concern that a failure to refer specifically to single trust funds in the then-pending amendments to section 3(a)(2) would create a negative inference

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[130] The Court stated in this regard that the 1970 Amendments to Section 3(a)(2) "recognized only that a pension plan has 'an interest or participation' in the fund in which its assets were held, not that prospective beneficiaries of a plan had any interest in either the plan's bank-maintained assets or the plan itself." 99 S. Ct. 799. *See* also, n. 19 at 99 S. Ct. 799.

[131] In the case of banks, the concern arose because the exemption for bank securities previously included in Section 3(a)(2) and thought to be applicable to interests in bank common and collective trust funds was determined not to be available for such interests. This position was codified to some extent in the 1970 Amendments to Section 3(a)(2), which added a provision to that section stating that a "security issued or guaranteed by a bank shall not include any interest or participation in any collective trust fund maintained by a bank." Subsequently, insurance companies also became concerned that the separate accounts maintained by them for investments by Section 401 corporate plans might involve the issuance of securities for which there was no available exemption from registration.

[132] See the portion of Section 3(a)(2) which states that the exemption does not extend to plans for a single employer "under which an amount in excess of the employer's contribution is allocated to the purchase of securities * * * issued by the employer or [an affiliate thereof] * * *."

[133] *Leonard* v. *Drug Fair* (D.C. of D.C., 1979), CCH ¶97,144.

[134] The exemption, however, certainly does not extend to stock or other securities that may be held by a plan. Such securities must find their own exemption from registration. *See* letter re *AMF, Inc.* dated September 29, 1978.

[135] This, of course, presumes that such interests are securities, a presumption that, as previously stated, may be applicable only to voluntary, contributory plans.

[136] Note 130, *supra.*

[137] 99 S. Ct. 802.

[138] *Id.*

[139] Letters re *Bank of America* dated December 8, 1971 and *Sterling National Bank and Trust Company of New York* dated February 10, 1976. A similar view has been adopted by the Division of Investment Management with respect to the "maintained" requirement of Section 3(c)(11) of the 1940 Act, a provision comparable to Section 3(a)(2) insofar as employee benefit plans are concerned. See letter re *Bank of Delaware* dated November 15, 1972.

[140] Letter re *Bank of America* dated December 8, 1971.

[141] Letters re *First Liberty Real Estate Fund* dated June 12, 1975 and *Sterling National Bank and Trust Company of New York* dated February 10, 1976.

[142] 99 S. Ct. 795.

[143] Letters re *Gilbert Associates* dated October 31, 1977 and *New England Electric System* dated April 5, 1979.

[144] Pub. L. No. 91-547 (December 14, 1970).

[145] *See* letter from the General Counsel of Sperry-Rand to the Honorable John E. Moss dated November 7, 1969. The letter is reproduced at pages 929-930 of the Hearings on H.R. 11995, S. 2224, H.R. 13754, and H.R. 14737 before the Subcommittee on Commerce and Finance of the House Committee on Interstate and Foreign Commerce, 91st Cong., 1st Sess., pt. 2 (1969). The letter to Congressman Moss was preceded by two letters from the Assistant Secretary of Sperry-Rand to staff members of the Commission dated April 30, 1969 and May 9, 1969, respectively.

[146] Commission minute dated June 18, 1969.

that interests in such funds were required to be registered. Such an inference, as previously indicated, would have been contrary to the Commission's consistent position over the years that interests in such funds were subject to registration only where employee funds were invested in securities of the employer.[147]

To eliminate the problem raised by Sperry-Rand, it was decided to insert the words "single or" in section 3(a)(2) immediately in front of the words "collective trust fund maintained by a bank." In retrospect, this method of resolving the issue was somewhat inartful, since it created the erroneous impression that single trust funds had to be maintaind by a bank in order for interests therein to be exempt under section 3(a)(2). Certainly, there was no intent by Congress to change the Commission's prior interpretive position that such funds did not have to be maintained by a bank in order to avoid registration. This is evident from the Conference Report on the subject, which stated that the amendment "codified a long established administrative practice of the Commission by making it clear that [the section 3(a)(2)] exemption applied not only to collective trust funds, but also to single trust funds."[148]

Further support for the validity of the staff's interpretation can be found in section 3(c)(11) of the 1940 Act. That section, together with its predecessor,[149] was the model upon which the provisions in section 3(a)(2) under discussion were based.[150] It excludes from the operation of the 1940 Act "any employees' stock bonus, pension or profit-sharing trust which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954," as well as "any collective trust fund maintained by a bank consisting solely of the assets of such trusts." Clearly, single trust funds are not required to be maintained by a bank under section 3(c)(11). A different view of such funds under section 3(a)(2) would result in an anomaly whereby virtually all single trust funds for section 401 plans would have to be maintained by a bank under the 1933 Act but not under the 1940 Act. Such a result would, in the staff's view, be contradictory and counter to the apparent intent of Congress.

[147] Opinion of Assistant General Counsel, note 18, *supra*.

[148] House Report No. 91–1631 (1970), 31.

[149] The predecessor of section 3(c)(11) was section 3(c)(13), which had been in existence since the inception of the Act in 1940.

[150] See Hearing on Amendment No. 438 to S. 1659 (1967), 1338–1347.

b. *What Constitutes a "Single Employer".* The general exemption provided by section 3(a)(2) for interests or participations issued in connection with certain employee benefit plans contains two exclusions.[151] One relates to interests in Keogh plans and will be discussed in the next section. The other relates to interests in plans whose contributions are held in a single trust fund or separate account for a "single employer" and which permit amounts in excess of the employer's contribution [152] to be used to purchase securities of the employer or its affiliates.[153]

The purpose of the second exclusion described above is to deny the section 3(a)(2) exemption to interests in plans which invest employee contributions in securities of the employer or related entities. It appears, however, that this purpose has been frustrated somewhat by the staff's prior interpretation of the term "single employer." Until now, the staff has viewed the term in a literal sense and stated that a parent and its subsidiaries are not a single employer for purposes of section 3(a)(2).[154] The effect of this has been to permit some plans covering a parent and its subsidiaries to invest employee funds in securities of the parent (or one of the subsidiaries) without abrogating the 3(a)(2) exemption. This has occurred because the exclusion referred to above applies only where a plan both covers a single employer *and* invests employee money in employer securities.

The staff announced some time ago that it was reconsidering its position concerning the single employer question.[155] It has now concluded that its past interpretation of the term was incorrect and contrary to the purpose of the exclusion. A parent and its subsidiaries are in fact under common control and to consider them as separate or unrelated employers ignores reality. Accordingly, in the future, a parent and its subsidiaries will be deemed a single employer for purposes of the 3(a)(2) exclusion being discussed, as will all entities which share a control relationship. It should be noted, however, that the staff's revised view of the single employer question will be applied on a prospective basis only. Therefore, it will not be cited with respect to past activities of employers made in reliance upon the staff's former interpretation.

c. Keogh Plans. As indicated in part II of this release, interests or participations issued in connection with Keogh plans generally are deemed to be securities which are subject to the registration and antifraud provisions of the 1933 Act. Although the intrastate exemption frequently is relied upon for the offer and sale of such interests, registration has been necessary in some instances.[156]

Section 3(a)(2) specifically excludes Keogh plan interests from the general exemption provided by the section [157] but does provide the Commission with the authority to exempt such interests from registration where it is "necessary or appropriate in the public interest and consistent with the protection of investors and the purposes [of the 1933 Act]" to do so. This power was granted to the Commission in 1970 [158] but was not used until November 1976, [159] when an exemptive order under section

[151] The full text of the two exclusions states that the section 3(a)(2) exemption does not apply to any plan described in clause (A) or (B) of this paragraph (i) the contributions under which are held in a single trust fund maintained by a bank or in a separate account maintained by an insurance company for a single employer and under which an amount in excess of the employer's contribution is allocated to the purchase of securities (other than interests or particpations in the trust or separate account itself) issued by the employer or by a company directly or indirectly controlling, controlled by or under common control with the employer or (ii) which covers employees some or all of whom are employees within the meaning of Section 401(c)(1) of such Code.

[152] The reference in the second exclusion to amounts in excess of the employer's contributions simply means that employee funds may not be utilized to purchase securities of the employer or affiliated entities. No tracing of the employer's contributions is necessary to satisfy this requirement. It is enough simply to demonstrate that the amount invested by the plan in employer securities is the same or less than the amount contributed by the employer to the plan. Moreover, the staff has indicated in a letter concerning *Eastman Kodak Company* dated January 22, 1976 that an employee may allocate part or all of his share of the employer's plan contributions to the purchase of employer securities without destroying the 3(a)(2) exemption.

[153] The second exclusion originally applied to both single and collective trust funds maintained by banks for such plans. [Pub. L. 91–547 (December 14, 1970)]. Shortly after its enactment, however, it was amended to delete the reference to collective trust funds. [Pub. L. 91–567 (December 22, 1970)]. This was done in recognition of the fact that such funds might unwittingly lose the 3(a)(2) exemption simply because they invested some of the fund's assets in securities of one of the covered employers.

[154] *See*, e.g., letters re *Bell Systems* available April 16, 1971, *Aluminum Company of America* available March 14, 1974, *Western Gear Corporation* available July 11, 1975, and *Monsanto Co.* available November 19, 1976.

[155] Letter re *Public Service Co. of New Mexico* dated February 8, 1978.

[156] *See*, e.g., the following registration statements: National Bank of Detroit Trust for Retirement Plans (File No. 2–21954), American Security and Trust Company Self-Employed Retirement Trusts (2–51997), and Wells Fargo Keogh Plan Trusts (2–55249).

[157] Note 151, *supra*.

[158] The 1970 Amendments to Section 3(a)(2) granted such authority to the Commission. See Note 22, *supra*.

[159] See Release No. 33–5759 (November 11, 1976) relating to the Keogh plan of the firm of Cravath, Swaine & Moore.

3(a)(20 was issued for interests issued in connection with a Keogh plan for a law firm. Since that time, the Commission has issued over 50 exemptive orders [160] in response to applications submitted by various law firms, accounting firms, and a medical clinic.

Almost all applications for exemptive orders under section 3(a)(2) granted by the Commission have contained the following representations:

(1) The plan is comparable to corporate plans and would be exempt under section 3(a)(2) if the applicant were organized in corporate, rather than partnership, form;

(2) The plan is designed specifically for the applicant and therefore is not a uniform prototype designed for mass marketing by a financial institution to numerous unrelated self-employed persons;

(3) The plan is administered by the employer, who is subject to the fiduciary and disclosure requirements of ERISA, thereby assuring that the interests of participants are protected by the provisions of ERISA; and

(4) The applicant has the resources and the financial expertise to protect its interests and those of the plan participants adequately.

Because the applications for exemptive orders under section 3(a)(2) currently being received are essentially identical, the Commission's Division of Investment Management is drafting a proposed exemptive rule that may eliminate the need for granting exemptive orders in the future. It is anticipated that the proposed rule will be published for comment during 1980.

d. Plans Funded by Certain Insurance Contracts. A relatively new development in the pension and profit-sharing plan area is the funding of such plans through the issuance by insurance companies of so-called "guaranteed investment contracts." Generally, these fixed annuity contracts are sold to trustees of plans or corporate employers establishing plans, and they are written in the form of group annuity contracts for contract periods ranging from three years to beyond twenty years. The trustee or corporate employer makes contributions, in either a single sum or on a periodic basis, which contributions are held as part of the general assets or general account of the insurance company. These contracts generally provide for guaranteed interest and annuity purchase rates, both of which may be subject to change after a specified period, commonly three to five years. Some contracts provide for the payment of interest (or dividends in the case of mutual companies) in excess of the guaranteed amount based upon an investment year method of interest allocation. The contracts also provide for or permit the optional purchase of annuities generally at the time a retiree's annuity is desired.

Certain guaranteed investment contracts appear to be securities. They are not exempt from registration under Section 3(a)(2) of the 1933 Act because they are funded by insurance company general accounts, which are not referred to in that section. (Only separate accounts are mentioned.) They also are not exempt under Section 3(a)(8) of the Act in those instances where the issuing insurance company either fails to assume a meaningful mortality risk under the contract or allows the purchaser to bear a significant investment risk. [161]

Notwithstanding the above, the Division of Investment Management has indicated that it will not recommend any enforcement action if the offer and sale of guaranteed investment contracts to pension and profit-sharing plans is not registered, provided certain specified conditions are met. [162] The conditions are:

(1) Each contract must be issued in connection with a pension or profit-sharing plan which (a) covers not less than 15 persons, or (b) involves annual contributions in excess of $10,000, or (c) is established by a corporate employer with a net worth of at least $100,000 on the last day of its fiscal year preceding the day the contract becomes effective;

(2) Each prospective contractholder must be provided with an offer by the issuer (which also should be contained in any printed sales literature used) to provide upon request financial statements and other material information; and

(3) Advertising describing or offering such contracts must be directed solely to employers who may establish tax-qualified corporate plans or to trustees of such plans.

In addition to the foregoing, a more recent development has been the formation of multiple-employer trusts by insurance companies that are funded, respectively, by fixed or variable annuity contracts, or combination contracts providing both fixed and variable annuity alternatives. The formation of a trust for the offering of such contracts to unrelated employers appears to be necessary to satisfy state insurance requirements. Moreover, because of the economies of scale involved, it has the advantages of permitting reduced group annuity rates and limiting the expenditures for complying with ERISA recordkeeping and reporting requirements.

The Division of Investment Management has indicated that it will not recommend enforcement action to the Commission if multiple-employer trust arrangements of the type described above are marketed without registration of participations in the trusts under the Securities Act of 1933 or registration of the trusts under the Investment Company Act of 1940. A number of facts and representations were important in reaching the no-action position. [163] Specifically:

(1) Participants in the group annuity contract would tender consideration directly to the insurance company, and would receive annuity payments directly from the insurance company;

(2) The insurance company would perform all marketing, administrative and investment functions involved in funding the group annuity contracts, and any financial claim which the participants would have under the contracts would be against the insurance company itself;

(3) The insurance company would name the trustee of each trust, and reserve the right to remove them and name successor trustees;

(4) The sole responsibility of the trustee would be to serve as group annuity contract holder, and the trust would not have any financial interest in the group annuity contract.

In such circumstances, where the multiple-employer trust is passive, compliance with the federal securities laws would be unnecessary.

V. Securities Transactions by Plans

In addition to issuing participation interests and fostering stock purchases by employees, either of which may be subject to the registration and antifraud provisions of the 1933 Act depending on the circumstances, a plan may engage in various other transaction involving the purchase, sale or distribution of

[160] The Commission's Division of Investment Management has been delegated authority by the Commission to issue exemptive orders under Section 3(a)(2) where the applications for such orders do not involve any issues not previously settled by the Commission or raise questions of fact or policy indicating that a hearing should be held. *See* 17 CFR 200.30-5(b-1) (1) and (2).

[161] *See* in this regard, Release No. 33-6051 (April 5, 1979) (44 FR 21626).

[162] Letter to *American Council of Life Insurance* re Guaranteed Investment Contracts dated March 18, 1977. The letter specifically indicates that to the extent guaranteed investment contracts are securities they would be subject to the antifraud provisions of the 1933 Act.

[163] Letter re *Equitable Life Assurance Society of the United States* available July 9, 1979 issued by the Division of Investment Management.

securities. These are briefly discussed in the sections which follow.

A. Acquisitions of Employer Stock

Many plans invest part or all of their assets in stock or other securities of the employer. There are three primary sources that a plan can draw upon to acquire employer securities: the employer, affiliates of the employer, and persons selling their securities in the open market. Generally, no matter from whom the securities are obtained, registration will not be necessary with respect to the acquistion transaction by the plan. The reasons for this result will vary, depending on the manner of acquisition. For instance, there may be no sale involved (as in the case of a contribution of stock or cash to the plan by the employer),[164] or one of the several exemptions from registration provided by section 4 of the Act may be available.[165]

Although the transaction in which a plan acquires employer securities need not be registered, the same would not necessarily be true with respect to the offer, sale or distribution of those securities to plan participants. These latter transactions are separate and distinct from the acquisition transaction and therefore must either be registered or exempt from registration. Further, the plan trustee should take into consideration, when purchasing stock of the employer in the open market, the application of the antifraud provisions of the 1934 Act[166] to such purchases.

B. Sales of Employer Stock

A plan may from time-to-time offer or sell the securities of the employer held by it. If the plan is considered an affiliate[167] of the employer, any such offers or sales, whether to plan participants or to persons not associated with the company, would be subject to the registration and antifraud provisions of the 1933 Act[168] in the same manner as if the employer were engaging in the transaction. Thus, even if the securities to be sold were acquired on the open market, registration would be necessary under such circumstances, absent an available exemption.[169]

C. Distributions of Employer Stock to Plan Participants

The distribution, or actual delivery, of employer stock by a plan to individual participants is not deemed to be a registerable event. Of course, if the plan were to offer or sell such stock to participants prior to actual delivery, registration would be necessary unless an exemption were available.

D. Transactions in Non-Employer Securities

In conducting its operations, a plan may buy or sell securities of issuers other than the employer. Purchases of such securities by the plan ordinarily would not create any 1933 Act consequences,[170] since the compliance provisions of the Act are directed at sellers of securities, not at buyers. Sales of such securities would, of course, have to be made in reliance upon an exemption unless they were registered. The most common exemption relied upon for sales is that provided by section 4(1) of the Act for persons who are not issuers, underwriters [171] or dealers. Rule 144 (17 CFR 230.144)[172] under the 1933 Act provides a safe harbor from registration for persons who wish to rely upon the section 4(1) exemption for resales of restricted securities,[173] provided all of its conditions are met.

Plan trustees who intend to acquire significant amounts of the equity securities of an issuer (including the employer) should bear in mind the potential applicability of sections 13(d), 16(a), and 16(b) of the 1934 Act. Section 13(d) requires beneficial owners of more than five percent of a class of equity securities registered under section 12 of the 1934 Act [174] to report their ownership, as well as any further acquisitions, to the issuer, to any stock exchange on which the securities are traded, and to the Commission. Sections 16(a) and 16(b) apply to beneficial owners of more than 10% of a class of equity securities registered under section 12.[175] Section 16(a) requires an initial report of a person's holdings and subsequent reports of any changes in such holdings. Section 16(b) permits an issuer to recover any profits realized by persons subject to that section on purchases and sales of the issuer's securities that occur within a period of less than six months.

VI. Resales by Plan Participants

A matter of major concern to participants in a pension or profit-sharing plan is the tradeability of securities received by them under the plan. That is, can the securities be freely resold without restrictions or not? The next two sections will attempt to resolve the uncertainty that may exist regarding this issue.

A. Registered Plans

Many plans register the securities offered and sold by them on Form S–8 or some other appropriate registration form under the 1933 Act.[176] Generally, such securities are freely tradeable upon distribution to participants, unless the person acquiring the securities is an affiliate of the issuer. Thus, participants in a registered plan who do not have a control relationship with the issuer may resell the shares or other securities acquired by them under the plan without any restrictions.

Affiliates are in a somewhat different position because their control relationship with the issuer subjects them to the same disabilities regarding registration that would attach to the issuer if it tried to sell the securities. Such persons may resell their shares publicly either pursuant to an effective registration statement or pursuant to Rule 144 [177] under the 1933 Act. Affiliates also may resell the securities

[164] Letter re *Modern Merchandising, Inc.* dated March 24, 1977.

[165] Some of the available exemptions under Section 4 are those provided, respectively, by Section 4(1) for open market purchases from persons who are not underwriters, Section "4(1–1/2)" for purchases form affiliates in private transactions, and Section 4(2) for purchases from the employer in private transactions. For more information concerning the so-called Section "4(1–1/2)" exemption, *see* Note, *infra*.

[166] See Section 10(b) of the 1934 Act and Rule 10b–5 thereunder.

[167] See Note 9, *supra*" for a definition of the term "affiliate."

[168] The antifraud provisions of Section 10(b) of the 1934 Act and Rule 10b–5 thereunder also would apply to any such offers or sales.

[169] Letter re *General Motors Corp.* dated May 10, 1972.

[170] The antifraud provisions of the 1934 Act, however, would apply to all such purchases.

[171] The term "underwriter" is broadly defined in Section 2(11) of the 1933 Act and includes persons who acquire securities "with a view to * * * distribution."

[172] Rule 144 essentially states that a person shall not be deemed an underwriter of the securities he is selling if all of the conditions of the rule are satisfied. These conditions may be summarized as follows: (1) there must be current public information available about the issuer of the securities; (2) the securities must have been held by the seller for at least two years; (3) the amount of securities sold cannot exceed certain specified volume limitations; (4) the securities must be sold either in a broker's transaction or in a transaction with a marketmaker; and (5) a notice of sale on Form 144 must be filed with the Commission if certain specified amounts of securities are to be sold during a three-month period.

[173] See Note 180, *infra* for a description of the term "restricted securities."

[174] A class of equity securities is subject to registration under Section 12 if it is either listed on a national securities exchange (Section 12(b)) or if, at the end of the issuer's fiscal year, it is held of record by more than 500 persons and the issuer has assets exceeding $1,000,000 (Section 12(g)).

[175] Officers and directors of issuers whose securities are registered under Section 12 also are subject to the requirements of Sections 16(a) and 16(b).

[176] See Part VII for a discussion of the various forms that can be used under the 1933 Act for the registration of securities offered and sold by plans.

[177] See Note 172, *supra* for a brief description of Rule 144.

in a private transaction,[178] provided it is understood that the purchaser is acquiring restricted securities which are subject to the same limitations on resale that applied to the seller.

Registration of plan securities for resale by affiliates is relatively easy to accomplish in most cases, since a Form S–16 reoffer prospectus usually can be used for this purpose.[179] With respect to Rule 144, it should be noted that the two-year holding period requirement of the rule does not apply to securities acquired under a registered plan.[180] Thus, some or all of the securities ordinarily could be resold by affiliates under the rule immediately upon acquisition.

B. Unregistered Plans

Other than the one exception noted below, which is based upon an administrative position of the staff, unregistered securities distributed to participants under an employee benefit plan may not be freely resold. Thus, such securities, whether held by affiliates or non-affiliates, must either be registered or sold in reliance upon an exemption, such as that provided by Section 4(1) of the Act. Perhaps the most practical means for relying upon Section 4(1) is to resell the securities pursuant to Rule 144, which, as previously noted, requires that the securities be held a minimum of two years prior to resale.

The exception[181] to the general rule mentioned above applies to shares or other securities received by non-affiliates from a plan under the following conditions: (1) the issuer of the securities is subject to the periodic reporting requirements of Section 13 or 15(d) of the 1934 Act; (2) the stock being distributed is actively traded in the open market; and (3) the number of shares being distributed is relatively small in relation to the number of shares of that class issued and outstanding.

The above conditions are designed to provide some assurance that there is adequate information available to the public concerning the issuer of the distributed securities and that resales of such securities will not have a measurable impact on the trading market. Thus, where the conditions are satisfied, unregistered securities received by non-affiliates may be resold immediately without any restrictions. Affiliates, of course, would continue to be subject to registration, in the absence of an available exemption.

VII. Methods of Registration

Many plans are structured so that registration under the 1933 Act is not required. Where registration is necessary, an appropriate form for this purpose must be selected and all applicable requirements must be complied with. A brief discussion of the available forms and their requirements follows.

A. Form S–8

The principal form used to register securities issued in connection with employee benefit plans is Form S–8. The form is designed primarily to provide information to employees concerning the plan[182] and the securities[183] offered pursuant to it. Sone information concerning the employer,[184] including audited financial statements, also is required to be disclosed by the form. This information, however, is not as extensive as that required by many other registration forms, on the theory that employees are more familiar with their company than most other investors.

The form may be used by any issuer which has been subject, at the time of filing, to the periodic reporting requirements of Section 13 or 15(d) of the 1934 Act for a least the prior 90 days and has filed all reports required during the preceding 12 months or such shorter period that it was subject to those requirements.[185]

The availability of Form S–8 is conditioned on its being used to offer securities to "employees" of the issuer and its parents and subsidiaries pursuant to a "plan."[186] Independent contractors and other persons who do not have a formal employment relationship with the employer or its parent or subsidiaries[187] are not considered to be "employees" for purposes of the form.[188] In addition, a "plan" will not be deemed to exist where only one or a few persons are covered or the incidents of a plan (such as a formal plan document) are not present.[189]

In recent months, the staff has been exploring various possibilities for reducing the time and expense involved in registering securities on Form S–8. In this regard, the Commission recently invited public comment on various proposals concerning the form.[190] One of

[178] In making such private sales, the affiliates presumably would rely on the so-called "Section 4(1–1/2)" exemption. This is a hybrid exemption not specifically provided for in the 1933 Act but clearly within its intended purpose. The exemption basically would permit affiliates to make private sales of securities held by them so long as some of the established criteria for sales under both Section 4(1) and Section 4(2) of the Act are satisfied. For a detailed discussion of the "Section 4(1–1/2)" exemption, *see The Section "4(1–1/2)" Phenomenon: Private Resales of "Restricted Securities"*, a Report to the Committee on Federal Regulation of Securities of the ABA from the Study Group on Section "4(1–1/2)" of the Subcommittee on 1933 Act—General, dated April 30, 1979. The report is reproduced in The Business Lawyer (July 1979), at 1961.

[179] See Part VII for a discussion of the Form S–16 reoffer prospectus.

[180] See in this regard paragraph (d) of Rule 144, which states that the holding period requirement of the rule applies only to restricted securities. The term "restricted securities" is defined in paragraph (a)(3) of the rule and basically includes securities acquired in nonpublic offerings. Securities acquired in registered offerings clearly are not deemed to be restricted securities because such offerings are public in nature, not non-public.

[181] See in this regard Release No. 33–5750 (October 8, 1976) [41 FR 45632].

[182] The information concerning the plan would include: (1) eligibility requirements for employees; (2) contributions to be made by the employer and employees; (3) withdrawal provisions; (4) administration of the plan; (5) investments by the plan; and (6) brokerage placement practices. Also, if interests in the plan are registered, audited statements of the financial condition of the plan and the income and changes in equity of the plan for each of the latest two fiscal years, must be included.

[183] The information regarding the securities being registered would include the title of the class and the rights attendant to those securities. These rights would include: (1) dividend rights; (2) voting rights; (3) liquidation rights; (4) pre-emptive rights; (5) conversion rights; (6) redemption provisions; (7) sinking fund provisions; and (8) liability to further calls or to assessment by the issuer.

[184] The information concerning the employer would, in addition to audited financial statements of the type required to be set forth in its annual report to security holders, include: (1) a summary of operations for each of the preceding five fiscal years; (2) market prices of the employer's securities; (3) the employer's dividend policy; (4) certain significant developments in the last three years; (5) the employer's business and management; and (6) a list of the employer's parents. All of this information can be incorporated by reference from the employer's annual report, which must be furnished to employee participants.

[185] General Instruction A to Form S–8 also states that an issuer which is subject to Section 15(d) of the 1934 Act and wishes to use Form S–8 must furnish to its security holders, prior to the date of effectiveness of the A–8, an annual report for its last fiscal year containing substantially all of the information required by Rule 14a–3 [17 CFR 240.14a–3] under the 1934 Act.

[186] *See* General Instruction A to Form S–8.

[187] Employees of "sister" companies of an issuer (i.e., companies whose shares are paired for trading purposes with shares of the issuer) also may be offered securities pursuant to an S–8. *See* letter re the *L. E. Myers Co.* dated May 5, 1978.

[188] *See*, e.g., letter re *Piedmont Management Company, Inc.* dated March 22, 1977. The form cannot be used for sales to non-employees because such persons presumably do not possess the inherent knowledge of the issuer gained from employment that justifies the abbreviated disclosure requirements of the form.

[189] *See*, e.g., letter re *United States Surgical Corp.* dated August 16, 1976, in which the staff indicated that form S–8 was not available for the registration of securities to be issued to employees pursuant to certain options which did not relate to any specific employee benefit plan of the issuer.

[190] Release No. 33–6151 (November 19, 1979) [44 FR 67671]. In addition to the proposals described in this section, Release 33–6151 also invited comments on the following items: (1) amendments to Form S–8 that would conform plan disclosure and description requirements to similar requirements under ERISA; (2) amendments to Form S–8 to allow updating to be accomplished by means of filings or other documents or reports made pursuant to ERISA; and

Footnotes continued on next page

these proposals would permit new filings on S–8 to become effective automatically on the twentieth day after receipt, without review or other action by the Commission or its staff. In addition, the proposal would allow amendments to previously filed Form S–8 registration statements to become effective automatically on the date of filing, without any waiting period. It is believed that this proposal, if adopted, would permit issuers to make offerings on Form S–8 on a more timely basis than in the past and would allow the staff to reallocate the resources which it formerly devoted to reviewing filings on the form.

Another proposal of a more far-reaching nature would amend Form S–8 to resemble Form S–16 in both its disclosure and operational aspects. Form S–16 is an abbreviated registration form which provides a limited amount of information about the issuer and the offering. It does, however, incorporate by reference certain past and future reports required to be filed by the issuer under Section 13 or 15(d) under the 1934 Act. The assumption underlying Form S–16 is that the information in the 1934 Act reports is widely available and sufficiently detailed to satisfy the disclosure requirements of the 1933 Act.

The use of a Form S–16 registration format for employee benefit plans could result in significant cost savings to issuers. For instance, the expense of preparing such a filing would be minimized because of the limited disclosures involved. And, like all S–16 registration statements, there would be no need to amend the prospectus annually to update it, provided the accountant for the issuer filed an appropriate consent in the issuer's annual report on form 10–K [17 CFR 249.310].[191] Thus, in almost all cases, the initial filing on the revised Form S–8 would be the only one required for the plan, thereby eliminating the expense now involved in preparing and filing annual post-effective amendments to such forms.

It should be noted that final action on the foregoing proposals has yet to be taken by the Commission. It is anticipated, however, that they will be reviewed by the Commission during 1980 and that a decision as to their final status will be made at that time.

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(3) the adoption of one or more new forms that would be less difficult to comply with than Form S–8.

[191] The consent would permit the 10–K financial statements and the accountant's opinion concerning them to be used in connection with filings (such as those on Form S–8) under the 1933 Act.

B. Other Forms

For those issuers who are unable to satisfy the requirements for the use of Form S–8, there are several other forms [192] that may be available to register securities offered under a plan:

(1) *Form S–1.* This is the Commission's general registration form which is available to all issuers for which no other form is authorized or prescribed. It contains detailed disclosure requirements regarding the organization and business of the issuer, as well as extensive financial statement requirements.

(2) *Form S–18.* This form can be used for an offering of up to $5 million in securities for cash. Its availability is limited, however, to U.S. or Canadian corporations who are not subject to the periodic reporting requirements of the 1934 Act and who meet certain other standards.[193] The disclosure requirements of Form S–18 are considerably less difficult to comply with than those of Form S–1.

(3) *Form S–7.* The availability of this form is restricted to established companies who satisfy certain specified criteria.[194] The disclosure requirements of the form are somewhat abbreviated in comparison to those of Form S–1.

(4) *Form S–16.* This form is available only to issuers which qualify for the use of Form S–7 and meet certain other requirements[195] for its use in connection with primary offerings. As previously noted, the disclosure requirements of this form are minimal, with heavy reliance placed on the issuer's continuing disclosures under the 1934 Act.

[192] Specific descriptions of each of these other forms may be found in the Code of Federal Regulations, as follows: Form S–1 [17 CFR 239.11], Form S–7 [17 CFR 239.26], Form S–16 [17 CFR 239.27] and Form S–18 [17 CFR 239.28].

[193] The other requirements are: (1) the issuer must have, or propose to have its principal business operations in the country in which it is incorporated; and (2) the issuer must not be: (a) an investment company; (b) an insurance company exempt from Section 12 of the 1934 Act; (c) a majority owned subsidiary of an issuer which does not meet the requirements for the use of the form; (d) offering limited partnership interests; or (e) engaging or proposing to engage in significant mining operations or oil and gas related operations which exceed the criteria for exemption specified in Rule 3–18(k) [17 CFR 210.3–18(k)] of Regulation S–X.

[194] Among other things, the issuer must have had net income of at least $250,000 for three of the last four fiscal years (including the most recent fiscal year) and been subject to, and filed, all reports and materials required by, Sections 13, 14 and 15(d) of the 1934 Act for at least 36 months preceding the filing on the form. The other requirements for the use of the form can be found in General Instruction A to the form, which is reproduced in CCH ¶ 7,190.

[195] The issuer, among other things, must have stock held by non-affiliates with a market value of $50 million or more. All of the requirements for the use of the form are specified in General Instruction A thereof, which is reproduced in CCH ¶ 7,291.

Although any of the above forms are available to issuers who qualify for their use, the staff takes the position that when they are used in connection with primary offerings by employee benefit plans, they must contain all of the information regarding plans which Form S–8 would otherwise require. Thus, the disclosures regarding the plan would be the same, no matter which registration form was used.

C. Form S–16 Reoffer Prospectus

Affiliates who acquire securities under a plan may not, as previously indicated, freely resell such securities because of their control relationship to the issuer. As a practical matter, these persons must either register the securities for resale or rely upon Rule 144 [196] if they wish to sell the securities in a public transaction.

Affiliates who wish to register their securities for resale may do so on Form S–16, provided the issuer meets the qualifications for the use of the form and the affiliates have a present intention to sell their securities within the next 16 months.[197] S–16, as stated earlier, is a simplified registration form which consists of little more than the names of the selling security holders, the amount of securities being sold, and the terms of their distribution.

If the securities held by the affiliate are covered by a Form S–8 registration statement, the use of Form S–16 for resale is a relatively simple matter. A reoffer prospectus on that form can be filed as part of the S–8,[198] and no separate registration fee is required in such circumstances. The amount of securities that can be included in the S–16 reoffer prospectus, however, is limited to the quantities that can be sold under Rule 144, unless the issuer independently meets the qualifications for the use of the form. In the latter circumstance, there is no limitation on the amount of securities that can be included in the S–16 for resale.

[196] Rule 144 is not the exclusive means for resales without registration, as indicated in paragraph (j) of the rule. It appears, however, that insofar as affiliates are concerned, brokerage firms ordinarily would decline to execute an unregistered resale transaction of a public nature by such persons outside the rule.

[197] If Form S–16 cannot be used, Form S–1 would then become the proper form for resale purposes.

[198] *See* in this regard, General Instruction E to Form S–8. The staff has indicated that a limited number of securities issued by a plan prior to registration may be included in the S–8 filing solely for resale on the Form S–16 reoffer prospectus. Letter re *Colonial Bancorp, Inc.* dated October 17, 1977. The amount that can be so included is limited to 10 percent of the total number of shares issuable under all plans registered by the employer on Form S–8. Letter re *Microdyne Corp.* dated July 3, 1978.

For the Commission.

George A. Fitzsimmons,

Secretary.

February 1, 1980.

[FR Doc. 80-4258 Filed 2-8-80; 8:45 am]

BILLING CODE 8010-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FRL 1409-6; FAP 9H5211/R53]

Proposed Food Additive Regulation for The Pesticide Chemical N-(Mercaptomethy) Phthalimide S-(O,O-Dimethyl Phosphorodithioate)

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice establishes a food additive regulation for the insecticide *N*-(mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) in cottonseed oil at 0.2 part per million (ppm). The request was submitted by Stauffer Chemcial Co. This regulation establishes a maximum permissible level for residues of the subject insecticide in cottonseed oil.

DATE: Comments must be received on or before March 12, 1980.

ADDRESS COMMENTS TO: Mr. George T. LaRocca, Product Manager (PM) 15, EPA, Office of Pesticide Programs, Registration Division (TS-767), 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. George T. LaRocca, PM 15, at the above address (202/426-9490)

SUPPLEMENTARY INFORMATION: On April 23, 1979, notice was given (44 FR 23932) that Stauffer Chemical Co., 1200 S. 47th Street, Richmond, CA 94804, had filed a food additive petition (FAP 9H5211) with the EPA. This petition proposed that 21 CFR 193 be amended by establishing a food additive regulation for combined residues of the insecticide *N*-(mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) and its oxygen analog *N*-(mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) in cottonseed oil at 0.2 ppm. No comments were received in response to this notice of filing. (A related document establishing a pesticide tolerance for residues of the subject insecticide on cottonseed appears elsewhere in today's Federal Register.)

The data submitted in the petiton and other relevant material have been evaluated. No new toxicology data accompanied this petition. All toxicology data requirements were referenced in this action. The toxicological data considered in support of the proposed tolerance included two-year chronic feeding studies on rats and dogs with cholinesterase no-observed-effect levels (NOEL) of 40 ppm; teratology studies which were negative in rabbits and monkeys; a three-generation rat reproduction study with an NOEL of 40 ppm, 13-week subchronic feeding studies in rats and dogs with cholinesterase NOEL's of 20 ppm and 75 ppm, respectively; and a demyelination study in hens and an embryotoxicity study in rats, which were both negative. The acceptable daily intake (ADI) is 0.1 milligram (mg)/kilogram (kg) of body weight (bw)/day. The maximum permissible intake (MPI) is 6.0 mg/day. The two-year chronic feeding study in dogs with a cholinesterase NOEL of 40 ppm (equivalent to 1.0 mg/kg bw/day) was used to calculate the ADI using a 10-fold safety factor. The percent of the MPI used up by established tolerances, not including this subject tolerance, is 18.2 percent. The addition of the subject tolerance, due to the very slight increase in the theoretical maximum residue concentration (TMRC) of only 0.0004 mg/day, does not change the percent of the MPI used (i.e, it remains at 18.2 percent). The incremental increase in risk, therefore, is negligible.

Desirable data that are currently lacking from the petition are a second oncogenicity study in a second mammalian species. In a letter of December 7, 1979, the petitioner indicated a timetable for initiation and completion of the second oncogenicity study. This study will be submitted to the Agency by February 1984. The petitioner also agreed to voluntarily delete the use of the subject pesticide on cotton from the label should the second oncogenicity study exceed the risk criteria for chronic toxicity in 40 CFR 162.11.

The metabolism of this pesticide is adequately understood, and an adequate analytical method (gas-liquid chromatography utilizing a phosphorus specific detector) is available for enforcement purposes. Residues in or on cottonseed hulls, meal, or soapstock will not exceed the tolerance being concurrently established on cottonseed, and therefore, food additive tolerances are not needed for these commodities. There is no reasonable expectation of secondary residues in eggs, meat, milk, or poultry as outlined in 40 CFR 180.6(a)(3). No actions are currently pending against continued registration of this pesticide nor are there any other relevant considerations involved in establishing the proposed tolerance.

The pesticide is considered useful for the purpose for which a tolerance is sought, and it is concluded that the pesticide can be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136). It is concluded, therefore, that the tolerance be established as set forth below.

Any person adversely affected by this regulation may, on or before March 12, 1980, file written objections with the Hearlng Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Section 409(c)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)))

Dated: February 4, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Part 193, Subpart A, is amended by establishing the new § 193.275 to read as follows:

§ 193.275 N-(Mercaptomethyl)phthalimide S-(O,O-dimethyl phosphorodithioate) and its oxygen analog.

Tolerances are established for residues of the insecticide *N*-(mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) and its oxygen analog *N*-(mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorothioate) in the following processed food when present

therein as a result of application of the insecticide to growing cotton.

Food:	Parts per million
Cottonseed oil	0.2

[FR Doc. 80-4308 Filed 2-8-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 79-162]

Drawbridge Operation Regulations; Napa River, Calif.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the California Department of Transportation (CALTRANS), the Coast Guard is changing the regulation for the Imola Avenue bridge across the Napa River, Napa, California, to require 72 hours advance notice. This change is being made because of extremely infrequent requests for opening. This action will relieve the bridge owner of the burden of having a person readily available to open the draw while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment is effective on April 1, 1980.

FOR FURTHER INFORMATION CONTACT: Wayne R. Till, Chief, Bridge Section, Twelfth Coast Guard District, 630 Sansome Street, Room 932, San Francisco, CA 94126 (415-556-8668).

SUPPLEMENTARY INFORMATION: On November 29, 1979, the Coast Guard published a proposed rule (44 FR 68588) and circulated a Public Notice concerning this amendment. Interested persons were given until December 31, 1979 to submit comments.

Drafting Information

The principal persons involved in drafting this rule are: Wayne R. Till, Project Manager and Chief, Bridge Section, and Lieutenant Commander Richard E. Peyser, Project Attorney and Assistant Legal Officer, Twelfth Coast Guard District.

Discussion of Comments

Two commenters supported the proposal. Three opposed the proposal without suggesting an alternate plan. The remaining nine commenters opposed the six months notice suggesting instead plans for from three days to three months advance notice. The Coast Guard feels that 72 hours advance notice will meet the reasonable needs of navigation while providing some relief to the bridge owner.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by deleting the existing § 117.712(i)(3) and adding a new § 117.712(i)(3) to read as follows:

§ 117.712 Tributaries of San Francisco Bay and San Pablo Bay, Calif.

* * * * *

(i) Mare Island Strait, Napa River, and their tributaries.

* * * * *

(3) Imola Avenue highway bridge at Napa. 72 hours advance notice required.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

J. S. Gracey,

Admiral, U.S. Coast Guard Commander, Twelfth Coast Guard District.

[FR Doc. 80-4420 Filed 2-8-80; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[FRL 1409-7; PP 9F2188/R227]

Proposed Tolerance for the Pesticide Chemical *N*-(Mercaptomethyl) Phthalimide *S*-(*O,O*-Dimethyl Phosphorodithioate)

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice establishes a tolerance for residues of the insecticide *N*-(mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) on cottonseed at 0.1 part per million (ppm). The request was submitted by Stauffer Chemical Co. This rule establishes a maximum permissible level for residues of the subject insecticide on cottonseed.

DATE: Comments must be received on or before March 12, 1980.

ADDRESS COMMENTS TO: Mr. George T. LaRocca, Product Manager (PM 15), EPA, Office of Pesticide Programs, Registration Division (TS-767), 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. George T. LaRocca, PM 15, at the above address (202/426-9490).

SUPPLEMENTARY INFORMATION: On April 23, 1979, notice was given (44 FR 23932) that Stauffer Chemical Co., 1200 S. 47th Street, Richmond, CA 94804, had filed a pesticide petition (PP 9F2188) with the EPA. This petition proposed that 40 CFR 180.261 be amended by establishing a tolerance limitation for combined residues of the insecticide *N*-(mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate) and its oxygen analog *N*-(mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorothioate) in or on the raw agricultural commodity cottonseed at 0.1 ppm. No comments were received in response to this notice of filing. (A related document establishing a food additive regulation for residues of the subject pesticide in cottonseed oil appears elsewhere in today's **Federal Register**.)

The data submitted in the petition and other relevant material have been evaluated. No new toxicology data accompanied this petition. All toxicology data requirements were referenced in this action. The toxicological data considered in support of the proposed tolerance included two-year chronic feeding studies on rats and dogs with cholinesterase no-observed-effect levels (NOEL) of 40 ppm; teratology studies which were negative in rabbits and monkeys; a three-generation rat reproduction study with a NOEL of 40 ppm; 13-week subchronic feeding studies in rats and dogs with cholinesterase NOEL's of 20 ppm and 75 ppm, respectively; and a demyelination study in hens and an embryotoxicity study in rats, which were both negative. The acceptable daily intake (ADI) is 0.1 milligram (mg)/kilogram (kg) of body weight (bw)/day. The maximum permissible intake (MPI) is 6.0 mg/day. The two-year chronic feeding study in dogs with a cholinesterase NOEL of 40 ppm (equivalent to 1.0 mg/kg bw/day) was used to calculate the ADI using a 10-fold safety factor. The percent of the MPI used up by established tolerances, not including this subject tolerance, is 18.2 percent. The addition of the subject tolerance, due to the very slight increase in the theoretical maximum residue concentration (TMRC) of only 0.0004 mg/day, does not change the percent of the MPI used (i.e., it remains at 18.2 percent). The incremental increase in risk, therefore, is negligible.

Desirable data that are currently lacking from the petition are a second oncogenicity study in a second mammalian species. In a letter of December 7, 1979, the petitioner indicated a timetable for initiation and completion of the second oncogenicity study. Thus study will be submitted to the Agency by February 1984. The petitioner also agreed to voluntarily delete the use of the subject pesticide on cotton from the label should the second oncogenicity study exceed the risk

criteria for chronic toxicity in 40 CFR 162.11.

The metabolism of the subject insecticide is adequately understood, and an adequate analytical method (gas-liquid chromatography utilizing a phosphorus specific detector) is available for enforcement purposes. Included on the label is the restriction "do not graze or feed forage to livestock." Therefore, no tolerance is needed for forage. Residues in or on cottonseed hulls, meal, or soapstock will not exceed the tolerance on cottonseed, and therefore food additive tolerances are not needed on these items. There is no reasonable expectation of secondary residues in eggs, meat, milk, or poultry. No actions are currently pending against continued registration of this pesticide nor are there any other relevant considerations involved is establishing the proposed tolerance.

The pesticide is considered useful for the purpose for which a tolerance is sought, and it is concluded that a tolerance of 0.1 ppm in or on cottonseed will protect the public health. It is concluded, therefore, that the tolerance be established as set forth below.

Any person adversely affected by this regulation may, on or before March 12, 1980, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Section 408(d)(2) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(d)(2)])

Dated: February 4, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, § 180.261 is amended by revising the heading and by alphabetically inserting cottonseed at 0.1 ppm in the table, as follows:

§ 180.261 N-(Mercaptomethyl) phthalimide S-(O,O-dimethyl phosphorodithioate) and its oxygen analog; tolerances for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Cottonseed	0.1
* * * * *	

[FR Doc. 80-4309 Filed 2-8-80; 8:45 am]

BILLING CODE 6560-01-M

VETERANS ADMINISTRATION

41 CFR Part 8-76

Contracting Authority of the Inspector General

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: The Veterans Administration is revising its procurement regulations to reflect the contracting authority of the Inspector General as provided by Pub. L. 95-452, the Inspector General Act of 1978.

EFFECTIVE DATE: This rule is effective February 11, 1980.

FOR FURTHER INFORMATION CONTACT: A. G. Vetter, Supply Service, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202-389-2334)

SUPPLEMENTARY INFORMATION: Section 6(a)(8) of Pub. L. 95-452 gives contracting authority to the Inspector General. Because of the unique functions of the Inspector General, substantial autonomy is needed. The revised regulations reflect the new source of contracting authority which is independent from that of the Administrator, and which is available for use should the necessity arise.

It is the general policy of the Veterans Administration to allow time for interested parties to participate in the regulatory process (section 1.12, Title 38, Code of Federal Regulations). The amendment herein, however, is required by law, and the public regulatory process is deemed unnecessary in this instance.

Approved: February 5, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

1. 41 CFR Chapter 8 is amended by adding a new Part 8-76, reading as follows:

PART 8-76—CONTRACTING AUTHORITY OF THE INSPECTOR GENERAL

Sec.

8-76.000 Scope of part.

Subpart 8-76.1—Authority and Governing Regulations

8-76.101 Contracting authority.

8-76.102 Applicability of Federal Procurement Regulations and VA Procurement Regulations.

Authority: (38 U.S.C. 210(c); 40 U.S.C. 486(c)).

§ 8-76.000 Scope of part.

This part sets forth the contracting authority of the Inspector General pursuant to Pub. L. 95-452, the Inspector General Act of 1978.

Subpart 8-76.1—Authority and Governing Regulations

§ 8-76.101 Contracting authority.

(a) As provided by section 6(a) of Pub. L. 95-452 (October 12, 1978), the Inspector General is authorized to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of the Act, to the extent and in such amounts as may be provided in advance by appropriations Acts.

(b) In exercising the special authority provided in paragraph (a) of this section, the Inspector General may request the assistance of the Supply Service in developing appropriate contract or agreement documents.

(c) If, in the opinion of the Inspector General, a reason to exercise the special authority does not exist, the services required by the Inspector General shall be obtained by the Supply Service in accordance with the provisions of FPR and VAPR.

§ 8-76.102 Applicability of Federal procurement regulations and VA procurement regulations.

Contracts entered into under the authority of § 8-76.101 are subject to the provisions of the Federal Procurement Regulations. In addition, such contracts are subject to those provisions of VAPR which implement and supplement the FPR on matters other than those stemming from or related to delegations of the Administrator's contracting authority.

[FR Doc. 80-4307 Filed 2-8-80; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

Office of Child Support Enforcement

42 CFR Parts 433, 435, and 436

45 CFR Parts 302, 304, and 306

Assignment of Benefits; Collection of Medical Support and Payments

AGENCIES: Health Care Financing Administration (HCFA) and Office of Child Support Enforcement (OCSE), HEW.

ACTION: Final regulations.

SUMMARY: These regulations authorize States to require Medicaid applicants and recipients, as a condition of eligibility, to assign to the State their rights to medical support or other third party payments for medical care. Under these regulations, State Medicaid agencies can make agreements with other agencies (including State child support enforcement agencies) for assistance in collecting on third party liability. State agencies must make incentive payments to other States or political entities that collect medical support and payments. These incentive payments are taken from the Federal share of the collection. The regulations also prohibit Federal sharing in payments for medical assistance that would be covered by a private health insurance policy if that policy did not exclude services covered by Medicaid. The regulation implements section 11 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977 (Pub. L. 95–142). The intent is to conserve Federal and State Medicaid funds by ensuring maximum use of available third party resources.

EFFECTIVE DATE: May 12, 1980.

FOR FURTHER INFORMATION CONTACT:

For HCFA: Elizabeth Matheson, 202–245–8097.

For OCSE: Steve Henigson, 301–443–5301.

SUPPLEMENTARY INFORMATION: Section 11 of Pub. L. 95–142 amended title XIX of the Social Security Act by adding a new section 1912, authorizing State Medicaid agencies to take new measures to collect from third parties who are legally obligated to pay for medical services that an individual has received under Medicaid. Under these measures a State may require individuals, as a condition of eligibility for medical assistance, to assign to the State their rights to any medical support or other payments for medical care, and to cooperate with the State in establishing paternity and obtaining third-party payments. In addition, a State Medicaid agency may make cooperative arrangements with State Child Support Enforcement (title IV–D) agencies and other appropriate agencies, courts, and law enforcement officials to assist in making collections. The State Medicaid agency must pay an incentive payment, taken from the Federal share of the amount collected, to the State, political subdivision or other entity that makes the collection.

Section 11 also amends title XIX by prohibiting Federal matching of a State's Medicaid payment in any case where a private insurer would have been liable to pay for the care except that the insurance contract provides that this liability is modified or inapplicable when the individual is eligible for Medicaid.

These regulations: (1) Specify requirements State Medicaid agencies must meet when they implement these provisions; (2) provide the conditions under which title IV–D agencies may perform medical support collection functions; (3) incorporate the prohibition against payments where private insurer liability exists; and (4) implement the incentive payment authority.

Proposed regulations prepared jointly by HCFA and the Office of Child Support Enforcement (OCSE) were published on August 29, 1978 (43 FR 38668). The proposed regulations were reorganized and rewritten to conform with the format and style of program regulations revised as part of HCFA's Medicaid recodification project (43 FR 45177). This preamble summarizes, for both the Medicaid and child support programs, the comments received on the proposal and the content of the final rules.

Responses to NPRM—Medicaid Regulations

Thirty comments were received from State welfare and Medicaid agencies, State Child Support Enforcement agencies, advocates for the disadvantaged, attorneys for medical service providers, hospitals and the U.S. Department of the Interior. Suggestions were also received at meetings with the Health Insurance Association of America and other representatives of the health insurance industry.

Definition of Private Insurer

One commenter recommended a change in the definition of private insurer to include all types of self-insurance that meet requirements published by the United States Department of Labor under title I of the Employee Retirement Income Security Act of 1974. Some of the large labor unions have such self-insurance for their memberships. Under section 1902(a)(25) of the Social Security Act, State Medicaid agencies may seek reimbursement from third parties who are liable to pay for medical care and services to beneficiaries. This language is broad enough to cover all forms of insurance. This suggestion would further HEW's goal of maximizing use of third party resources. The regulation at § 433.136 has been changed accordingly.

Medicaid Provider Reimbursement Process

Seven commenters were concerned that the regulations would reduce total reimbursement to institutional providers by changing the normal claims payment procedures. They thought that providers would not be permitted to bill third parties first and then bill the Medicaid agency for any remaining amount. They were confusing the assignment of benefits under § 433.145 and the payment of claims under § 433.139. The final regulations at § 433.139 authorize two basic methods for claims payments:

(1) The provider bills the third party directly and bills the agency for the amount not covered by the third party; and

(2) The Medicaid agency pays the provider and seeks reimbursement from the third party.

The first method results in somewhat larger payments to providers because insurance companies pay claims on the basis of charges rather than cost. The second method results in prompter payments to providers. This is particularly important for solo and small group physician providers, because they usually lack the clerical resources needed for billing the various companies. Institutions are better staffed for claims processing and as a result favor direct negotiations with third parties.

Since the intent of this regulation is to assure utilization of available third party resources of Medicaid patients, States may use either method of payment. Section 433.139 of the final regulation clarifies this.

If the State chooses to pay the provider before seeking reimbursement from a liable third party, it must seek reimbursement within 30 days after the end of the month in which it makes the payment. If the State agency learns of the existence of a liable third party after it has paid a claim, the agency must seek reimbursement from the third party within 30 days after the end of the month it learned of the existence of the liable third party. We believe the time allowed is sufficient for what the agency

must do and will ensure that reimbursement is not delayed too long.

Timely Payment of Claims

One hospital and one State hospital association requested that States pay Medicaid claims more quickly. Timely payment of "clean" claims (those that require no additional information or verification) is required by section 2(b) of Pub. L. 95–142. HCFA published final rules on this requirement on May 25, 1979 (44 FR 30341).

Refund of Excess Collections

One State welfare agency, two provider representatives and a health insurance group objected to refunding to the individual any amount remaining after third parties reimburse the Medicaid agency. The overage occurs when providers are paid by the agency at State rates and reimbursement is obtained from third parties, usually at a higher rate (based on charges). Section 1912(b) of the Act specifically requires that any overage be paid to the individual, who is usually a person of limited resources.

Good Cause for Failure to Cooperate

Three State health or welfare agencies and two legal advocacy groups commented on the "good cause" issue. Basically, commenters wanted the good cause provisions for Medicaid to coincide with the provisions for AFDC. The NPRM provided that "good cause" for refusal to cooperate in establishing paternity or obtaining medical care support and payments exists if it is anticipated that cooperation will result in possible reprisal, and cause physical or emotional harm to the individual or child.

In May of 1978, HEW held a public hearing and obtained numerous written comments with respect to this policy when it was developed by the OCSE for collection of financial support from absent parents for AFDC children. The NPRM specified procedures for Medicaid that differed in minor respects from policies followed for AFDC. In the final regulation, we have responded to the "good cause" comments by adopting for Medicaid the same policies as the AFDC policies in 45 CFR Part 232 published on October 3, 1978 (43 FR 45742).

One of the State agencies was concerned that services would not be available for an unborn child because of the failure of the mother to cooperate in establishing paternity or obtaining medical care support. Nothing in the regulation precludes a State from providing services for an eligible unborn child even though the mother has refused to cooperate and therefore loses her own eligibility. Several States have administrative mechanisms to limit the services rendered to the mother on behalf of the unborn child to obstetrics and prenatal care, for example, while not authorizing the payment of services which are of benefit only to the mother (e.g., eyeglasses).

A legal advocacy group commented that the definition of "cooperation" in § 433.147(b) should be amended to accommodate the physical or other limitations of aged, blind and disabled applicants and recipients. The group suggested that we require home visits to obtain information, reimbursement for costs incurred for court appearances and provision of transportation services. While we strongly urge States to provide these services to individuals in need of them, we have not mandated them in this regulation because of our efforts to focus on outcome rather than process requirements.

State Relationships With the Supplemental Security Income Program

Approximately three-fifths, of the States have agreements with the Social Security Administration (SSA) under section 1634 of the Act providing for SSA determinations of Medicaid eligibility for persons who are eligible for cash assistance under the Supplemental Security Income (SSI) program for the aged, blind and disabled. Five States have expressed concern that these agreements may be cancelled by SSA since the conditions of the agreement prohibit the imposition of any additional eligibility requirements such as assignment of rights to medical support or insurance benefits. After discussions between HCFA and SSA, SSA has agreed to amend its regulations to allow imposition of additional eligibility requirements without potential cancellation of the agreements.

Assignment of Rights to Medicare Benefits

In the final regulation, we have specifically excluded assignment of rights to Medicare benefits, because the assignment would carry with it a right for the State to appeal adverse Medicare decisions on claims. Current Medicare regulations at 42 CFR 405.710 allow only Medicare beneficiaries or providers of services, when the beneficiary has signed a statement that he will not appeal the decision, to file a request for reconsideration. Thus, § 405.710 currently precludes appeals by the State unless the State is the provider of services. Rather than allow assignment of such a limited right at this time, HCFA is reviewing this issue to determine what effects allowing a State appeal would have. We welcome comments on this point.

Incentive Payments to Two or More Jurisdictions

The proposed rule required that the agency make incentive payments to two or more jurisdictions in accordance with instructions issued by OCSE. To avoid the necessity of Medicaid agencies obtaining the instructions from OCSE, we incorporated OCSE's instructions in the final regulation to specify the method of payment agencies must use in this situation.

Technical Changes

The final regulation reflects the recodification of Medicaid regulations published September 29, 1978 (43 FR 45176), including renumbering and terminology. In addition, § 450.32(f) of the proposed regulation, regarding compliance with safeguarding of information requirements, has been deleted as redundant with the basic safeguarding regulation in 42 CFR Subpart F, which applies to all activities of the Medicaid agency.

Responses to NPRM—Child Support Enforcement Regulations

The OCSE regulations, which define the role of IV–D agencies in assisting State Medicaid agencies in collecting medical support obligations, have been revised to make them simpler and clearer. The proposed Part 306 contained both Title IV–D State plan requirements and requirements for cooperative agreements with the Medicaid agency. The final regulations add a new State plan requirement at § 302.80 and Part 306 now deals exclusively with requirements for the cooperative agreement. Major policy changes are discussed below.

Establishment of Medical Support Obligation. The proposed regulation (45 CFR 302.31) would have required the State IV–D agency to undertake to secure health insurance as part of a child support order, if there would be no additional cost to the absent parent or if the additional cost would not reduce the absent parent's ability to pay child support by more than 10 percent. Under the proposed rule, this provision was mandatory on the IV–D agency even when the State Medicaid agency did not enter into a cooperative agreement with the IV–D agency or did not otherwise implement the provisions of Section 11.

Several comments criticized this new requirement. They felt that the provision should only be effective if the Medicaid agency implemented the medical support program. Obtaining insurance

coverage without an effective collection mechanism, would be a hollow requirement without potential benefit to the families or the State.

Many comments also discussed the 10 percent limitation as being arbitrary, difficult if not impossible to administer, and inevitably resulting in decreased child support collections. Many IV–D agencies requested that the 10 percent provision be deleted entirely and that health insurance should be pursued only when there will be no decrease in the ability of the absent parent to pay child support.

In response to these comments, the final regulations delete the 10% limitation and require pursuit of health insurance only under a cooperative agreement with the Medicaid agency and only when the health insurance coverage does not reduce the parent's ability to pay child support.

Parent Locator Service. Under the proposed regulations, any State or local agency enforcing medical support obligations would have been allowed to request the State IV–D agency to access the Federal Parent Locator Service (FPLS). Commenters requested that such access be provided only when the requesting agency has a cooperative agreement with the IV–D agency. The final regulations require all medical support enforcement activities to be conducted under a cooperative agreement between the Medicaid agency and the IV–D agency (§ 302.80). Therefore, in order to be under the IV–D State plan, all applications to use the FPLS for Medical support enforcement activities would have to be covered by such a cooperative agreement. Pursuant to a cooperative agreement, application for EPLS information could be made directly by the Medicaid agency to the IV–D agency, or by any other State or local agency conducting medical support enforcement activities.

Federal Financial Participation. Comments suggested that the Medicaid and IV–D provisions on the availability and rate of Federal financial participation (FFP) are not equitable. The Medicaid program rate of FFP for medical support activities performed by or for the Medicaid agency is 50 percent, while the IV–D program provides a 75 percent rate for child support enforcement activities. Pub. L. 95–142 amended the Medicaid statute only, it did not amend the IV–D statute. Therefore, the Department does not have the statutory authority to match the Medical Support Enforcement program at 75 percent.

Under regulations (45 CFR 433.152(b)(2) and 45 CFR 306:30), a cooperative agreement between the Medicaid agency and the IV–D agency must provide for full reimbursement to the IV–D agency for all functions performed under the agreement. It is then the Medicaid agency's responsibility to obtain Federal matching payments at the rate that is available under the Medicaid program.

Maintenance of Effort. Several IV–D agencies expressed concern regarding the maintenance of effort requirements contained in the proposed regulations (§ 306.40). Particular concern was expressed regarding the requirement that the IV–D agency hire additional staff to be used solely in the Medical Support Enforcement program and that this staff will be prohibited from working simultaneously on medical and child support enforcement. We agree that this requirement could result in inefficient use of personnel and have deleted it.

The final regulation requires that the IV–D agency obtain the necessary additional staff to carry out its responsibilities under the cooperative agreement, but does not limit the activities of this staff to medical support enforcement activities. The IV–D agency is required to properly allocate costs of the medical support enforcement activities.

At this time, regulations do not contain a specific mechanism for enforcing the maintenance of effort requirement. However, OCSE intends to closely monitor activities under this regulation to insure that the medical support enforcement program does not diminish the primary IV–D agency function of collecting child support. Also, OCSE audits of each State's IV–D program under Part 305 will be conducted without regard to the State's efforts at medical support enforcement. If a State diverts staff to enforce medical support and thereby fails to meet any of the audit requirements of Part 305, the State could be found not to have an effective IV–D program and could be penalized.

A. 42 CFR Part 433 is amended as set forth below:

1. The table of contents for Subpart D is amended to read as follows:

Subpart D—Third Party Liability

Sec.
433.135 Basis and purpose.
433.136 Definitions.
433.137 State plan requirements and options.
433.138 Determining liability of third parties.
433.139 Payment of claims.
433.140 FFP and repayment of Federal share.

Assignment of Rights to Benefits

Sec.
433.145 Assignment of rights to benefits—State plan option.
433.146 Rights assigned; assignment method.
433.147 Cooperation in establishing paternity and obtaining support.
433.148 Denial or termination of eligibility.
433.149 Restoration of rights.

Cooperative Agreements and Incentive Payments

433.151 Cooperative agreements and incentive payments—State plan options.
433.152 Requirements for cooperative agreements for third party collections.
433.153 Incentive payments to States and political subdivisions.
433.154 Distribution of collections.

Authority: Secs. 1102, 1902(a)(25), 1903(d)(2), 1903(o), 1903(p), and 1912 of the Social Security Act (42 U.S.C. 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396k).

2. Subpart D is revised as set forth below:

Subpart D—Third Party Liability

§ 433.135 Basis and purpose.

This subpart implements secs. 1902(a)(25), 1903(d)(2), 1903(o), 1903(p), and 1912 of the Act by setting forth State plan requirements and options concerning—

(a) The legal liability of third parties to pay for services provided under the plan;

(b) Assignment to the State of an individual's rights to third party payments; and

(c) Cooperative agreements between the Medicaid agency and other entities for obtaining third party payments.

§ 433.136 Definitions.

For purposes of this subpart—"Private insurer" means:

(1) Any commercial insurance company offering health or casualty insurance to individuals or groups (including both experience-rated insurance contracts and indemnity contracts);

(2) Any profit or nonprofit prepaid plan offering either medical services or full or partial payment for the diagnosis or treatment of an injury, disease, or disability; and

(3) Any organization administering health or casualty insurance plans for professional associations, unions, fraternal groups, employer-employee benefit plans, and any similar organization offering these payments or services, including self-insured and self-funded plans.

"Third party" means any individual, entity or program that is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient.

"Title IV–D agency" means the organizational unit in the State that has the responsibility for administering or supervising the administration of a State plan for child support enforcement under title IV–D of the Act.

§ 433.137 State plan requirements and options.

(a) A State plan must provide that requirements in §§ 433.138 and 433.139 of this subpart are met.

(b) A plan may provide for assignment of rights to benefits and, if it does, for cooperative agreements and incentive payments for collection of benefits. See §§ 433.146–433.154 for plan requirements if a State elects these options.

§ 433.138 Determining liability of third parties.

The agency must take reasonable measures to determine the legal liability of third parties to pay for services under the plan.

§ 433.139 Payment of claims.

(a) The agency has the following options for payment of claims:

(1) It may pay the amount remaining, under the agency's payment schedule, after the amount of the third party's liability has been established. Under this method, the agency may not withhold payment for services provided to a recipient if third party liability or the amount of liability cannot be currently established or is not currently available to pay the recipient's medical expense.

(2) It may pay the full amount allowed under the agency's payment schedule for the claim and seek reimbursement from any liable third party to the limit of legal liability. If the agency chooses this option, it must seek reimbursement from the third party within 30 days after the end of the month in which payment is made.

(b) If, after a claim is paid, the agency learns of the existence of a liable third party, it must seek reimbursement from the third party within 30 days after the end of the month it learned of the existence of the liable third party.

§ 433.140 FFP and repayment of Federal share.

(a) FFP is not available in Medicaid payments if—

(1) The agency failed to fulfill the requirements of §§ 433.138 and 433.139 with regard to establishing liability and seeking reimbursement from a third party;

(2) The agency received reimbursement from a liable third party; or

(3) A private insurer would have been obligated to pay for the service except that its insurance contract limits or excludes payments if the individual is eligible for Medicaid. (b) FFP is available at the 50 percent rate for the agency's expenditures in carrying out the requirements of this subpart. (c) If the State receives FFP in Medicaid payments for which it receives third party reimbursement, the State must pay the Federal government a portion of the reimbursement determined in accordance with the FMAP for the State. This payment may be reduced by the total amount needed to meet the incentive payment in § 433.153.

Assignment of Rights to Benefits

§ 433.145 Assignment of rights to benefits—State plan option.

A plan may provide that, as a condition of eligibility, each legally able applicant and recipient assign his rights to medical support or other third party payments to the Medicaid agency and cooperate with the agency in obtaining medical support or payments. If a plan requires this assignment, it must provide that the requirements of § 433.146 through § 433.149 are met.

§ 433.146 Rights assigned; assignment method.

(a) Except as specified in paragraph (b) of this section, the agency must require the individual to assign to the State—

(1) His own rights to any medical care support available under an order of a court or an administrative agency, and any third party payments for medical care; and

(2) The rights of any other individual eligible under the plan, for whom he can legally make an assignment.

(b) Assignment of rights to benefits may not include assignment of rights to Medicare benefits.

(c) If assignment of rights to benefits is automatic because of State law, the agency may substitute such an assignment for an individual executed assignment, as long as the agency informs the individual of the terms and consequences of the State law.

§ 433.147 Cooperation in establishing paternity and obtaining support.

(a) *Scope of requirement.* The agency must require the individual who assigns his rights to cooperate in—

(1) Establishing paternity of a child born out of wedlock for whom he can legally assign rights; and

(2) Obtaining medical care support and payments for himself and any other individual for whom he can legally assign rights.

(b) *Essentials of cooperation.* As part of a cooperation, the agency may require an individual to—

(1) Appear at a State or local office designated by the agency to provide information or evidence relevant to the case;

(2) Appear as a witness at a court or other proceeding;

(3) Provide information, or attest to lack of information, under penalty of perjury;

(4) Pay to the agency any support or medical care funds received that are covered by the assignment of rights; and

(5) Take any other reasonable steps to assist in establishing paternity and securing medical support and payments.

(c) *Waiver of cooperation for good cause.* The agency must waive the requirements in paragraphs (a) and (b) of this section if it determines that the individual has good cause for refusing to cooperate.

(1) With respect to establishing paternity of a child born out of wedlock or obtaining medical care support and payments for a child for whom the individual can legally assign rights, the agency must find that cooperation is against the best interests of the child, in accordance with factors specified for the Child Support Enforcement Program at 45 CFR Part 232. If the State title IV–A agency has made a finding that good cause for refusal to cooperate does or does not exist, the Medicaid agency must adopt that finding as its own for this purpose.

(2) With respect to obtaining medical care support and payments for an individual in any case not covered by paragraph (c)(1) of this section, the agency must find that cooperation is against the best interests of the individual or other person to whom Medicaid is being furnished, because it is anticipated that cooperation will result in reprisal against, and cause physical or emotional harm to, the individual or other person.

(d) *Procedure for waiving cooperation.* With respect to establishing paternity or obtaining medical care support and payments for a child for whom the individual can legally assign rights, the agency must use the procedures specified for the Child Support Enforcement Program at 45 CFR Part 232. With respect to obtaining medical care support and payments for any other individual, the agency must adopt procedures similar to those specified in 45 CFR Part 232, excluding those procedures applicable only to children.

§ 433.148 Denial or termination of eligibility.

In administering the assignment of rights provision, the agency must:

(a) Deny or terminate eligibility for any applicant or recipient who—

(1) Refuses to assign his own rights or those of any other individual for whom he can legally make an assignment; or

(2) Refuses to cooperate as required under § 433.147(a) unless cooperation has been waived;

(b) Provide Medicaid to any individual who—

(1) Cannot legally assign his own rights; and

(2) Would otherwise be eligible for Medicaid but for the refusal, by a person legally able to assign his rights, to assign his rights or to cooperate as required by this subpart; and

(c) In denying or terminating eligibility, comply with the notice and hearing requirements of Part 431, Subpart E of this subchapter.

§ 433.149 Restoration of rights.

If an individual's Medicaid eligibility ends, the agency must immediately restore to him any future rights to benefits assigned under § 433.146, using whatever method is least burdensome to the individual.

Cooperative Agreements and Incentive Payments

§ 433.151 Cooperative agreements and incentive payments—State plan options.

A plan that provides for assignment of rights may provide for written cooperative agreements for enforcement of rights to, and collection of, third party benefits. These agreements may be with the State title IV–D agency, any other State agency, courts, law-enforcement officials, and other States. If a plan provides for cooperative agreements, it must provide that the specific agreement requirements in § 433.152, and the incentive payment requirements in §§ 433.153 and 433.154 are met.

§ 433.152 Requirements for cooperative agreements for third party collections.

(a) All agreements must specify—

(1) The terms for referral of cases;

(2) How and by whom priorities will be set for collection activities;

(3) Which agency will make collections and distribute them;

(4) The terms of reimbursement by the agency for functions performed under the agreement by another agency;

(5) The duration of the agreement; and

(6) Provisions governing any other matters of common concern to the agencies.

(b) Agreements with title IV–D agencies must also specify that the Medicaid agency will—

(1) Refer only absent parent cases; and

(2) Provide full reimbursement of all functions performed by the IV–D agency under the agreement.

(c) The Medicaid agency must retain final responsibility for third party liability collection functions that are not covered by cooperative agreements.

§ 433.153 Incentive payments to States and political subdivisions.

(a) *When payments are required.* The agency must make an incentive payment to a political subdivision, a legal entity of the subdivision such as a prosecuting or district attorney or a friend of the court, or another State that enforces and collects medical support and payments for the agency.

(b) *Amount and source of payment.* The incentive payment must equal 15 percent of the amount collected, and must be made from the Federal share of that amount.

(c) *Payment to two or more jurisdictions.* If more than one State or political subdivision is involved in enforcing and collecting support and payments:

(1) The agency must pay all of the incentive payment to the political subdivision, legal entity of the subdivision, or another State that collected medical support and payments at the request of the agency.

(2) The political subdivision, legal entity or other State that receives the incentive payment must then divide the incentive payment equally with any other political subdivisions, legal entities, or other States that assisted in the collection, unless an alternative allocation is agreed upon by all jurisdictions involved.

§ 433.154 Distribution of collections.

The agency must distribute collections as follows—

(a) To itself, an amount equal to State Medicaid expenditures for the individual on whose right the collection was based.

(b) To the Federal Government, the Federal share of the State Medicaid expenditures, minus any incentive payment made in accordance with § 433.153.

(c) To the recipient, any remaining amount. This amount must be treated as income or resources under Part 435 or Part 436 of this subchapter, as appropriate.

B. Part 435, Subpart G, is amended as follows:

1. The title and table of contents are revised as set forth below:

PART 435—ELIGIBILITY IN THE STATES AND DISTRICT OF COLUMBIA

* * * * *

Subpart G—General Financial Eligibility Requirement and Options

Sec.
435.600 Scope.
435.602 Limitation on the financial responsibility of relatives.
435.603 Applications for other benefits.
435.604 Assignment of rights to benefits.

2. Section 435.600 is revised to read as follows:

Subpart G—General Financial Eligibility Requirements and Options

§ 435.600 Scope.

This subpart prescribes general financial requirements and options for determining the eligibility of both categorically and medically needy individuals specified in subparts B, C, and D of this part. Subparts H and I prescribe additional financial requirements

3. A new § 435.604 is added to read as follows:

§ 435.604 Assignment of rights to benefits.

(a) As a condition of eligibility, in addition to other requirements of this part, the agency may require legally able applicants and recipients to assign rights to medical support or other third party payments and to cooperate with the agency in obtaining medical support or payments. See Part 433, Subpart D, for specific requirements.

(b) If an agency requires assignment of rights, it must do so uniformly for all groups covered under the plan.

C. Part 436, Subpart G, is amended as follows:

1. The title and table of contents are revised as set forth below:

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

* * * * *

Subpart G—General Financial Eligibility Requirements and Options

Sec.
436.600 Scope.
436.602 Limitation on the financial responsibility of relatives.
436.603 Applications for other benefits.
436.604 Assignment of rights to benefits.

2. Section 436.600 is revised to read as follows:

Subpart G—General Financial Eligibility Requirements and Options

§ 436.600 Scope.

This subpart prescribes general financial requirements and options for determining the eligibility of both categorically needy and medically

needy individuals specified in subparts B, C, and D of this part. Subparts H and I prescribe additional financial requirements.

3. A new § 436.604 is added to read as follows:

§ 436.604 Assignment of rights to benefits.

(a) As a condition of eligibility, the agency may require legally able applicants and recipients to assign rights to medical support and other third party payments and to cooperate with the agency in obtaining medical support or payments. See Part 433, Subpart D, for specific requirements.

(b) If an agency requires assignment of rights, it must do so uniformly for all groups covered under the plan.

D. 45 CFR Part 302 is amended as follows.

1. The table of contents is revised to read as follows:

PART 302—STATE PLAN REQUIREMENTS

* * * * *

Sec.
302.80 Medical support enforcement.

2. Section 302.35 is amended by revising paragraph (c)(1) to read as follows:

§ 302.35 State parent locator service.

The State plan shall provide that:

* * * * *

(c) The IV–D agency will accept applications to utilize the Federal PLS from:

(1) Any State or local agency or official seeking to collect child support or medical support obligations under the State plan.

3. Section 302.50 is amended by adding a new paragraph (e) to read as follows:

§ 302.50 Support obligations.

The State plan shall provide as follows:

* * * * *

(e) No portion of any amounts collected which represent a support obligation assigned under § 232.11 of this title may be used to satisfy a medical support obligation unless the court or administrative order requires a specific amount for medical support.

4. A new § 302.80 is added to read as follows:

§ 302.80 Medical support enforcement.

The State plan may provide for the IV–D agency to secure and enforce medical support obligations under a cooperative agreement between the IV–D agency and the State Medicaid agency. Cooperative agreements must comply with the requirements contained in Part 306 of this chapter.

E. 45 CFR Part 304 is amended by revising § 304.23 to add a new paragraph (g) to read as follows:

§ 304.23 Expenditures for which Federal financial participation is not available.

* * * * *

(g) Medical support enforcement activities. (See Part 306 of this chapter and 42 CFR 433.140(b) concerning the availability of funding for these activities.)

F. 45 CFR Chapter III is amended by adding a new Part 306 to read as follows:

PART 306—MEDICAL SUPPORT ENFORCEMENT

Sec.
306.0 Scope of this part.
306.1 Definitions.
306.2 Cooperative agreement.
306.10 Functions to be performed under a cooperative agreement.
306.11 Administrative requirements of cooperative agreements.
306.20 Prior approval of cooperative agreements.
306.21 Subsidiary cooperative agreements with courts and law enforcement officials.
306.22 Purchase of service agreements.
306.30 Source of funds.
306.40 Maintenance of effort.

§ 306.0 Scope of this part.

This part defines the requirements for a cooperative agreement between the IV–D agency and the Medicaid agency for the purpose of enforcing medical support obligations under Section 1912 of the Act.

§ 306.1 Definitions.

When used in this part, unless the context indicates otherwise:

(a) The definitions found in § 301.1 of this chapter also apply to this part.

(b) "Medicaid agency" means the single State agency that has the responsibility for the administration of, or supervising the administration of, the State plan under title XIX of the Act.

(c) "Medicaid" means medical assistance provided under a State plan approved under title XIX of the Act.

§ 306.2 Cooperative agreement.

The cooperative agreement between the IV–D agency and the Medicaid agency shall be a written agreement for the IV–D agency to assist the Medicaid agency by securing and enforcing the medical support obligation of an absent parent to a child for whom an assignment of medical support rights has been executed under 42 CFR 433.146. The functions that the IV–D agency may perform under the cooperative agreement are set forth in § 306.10. The administrative requirements are set forth at § 306.11.

§ 306.10 Functions to be performed under a cooperative agreement.

The functions that the IV–D agency may perform under a cooperative agreement with the Medicaid agency are limited to one or any combination of the following activities.

The agency may:

(a) Receive referrals from the Medicaid agency.

(b) Locate the absent parent, using the State Parent Locator Service and the Federal Parent Locator Service, as needed.

(c) Establish paternity if necessity.

(d) Determine whether the parent has a health insurance policy or plan that covers the child.

(e) Obtain sufficient information about the health insurance policy or plan to permit the filing of a claim with the insurer.

(f) File a claim with the insurer; or transmit the necessary information to the Medicaid agency, or to the appropriate State agency or fiscal agent for the filing of the claim; or require the absent parent to file a claim.

(g) Secure health insurance coverage through court or administrative order, when it will not reduce the absent parent's ability to pay child support.

(h) Take direct action against the absent parent to recover amounts necessary to reimburse medical assistance payments when the absent parent does not have health insurance and the amounts collected will not reduce the absent parent's ability to pay child support.

(i) Receive medical support collections.

(j) Distribute the collections as required by 42 CFR 443.154 including calculation and payment of the incentives provided for by 42 CFR 433.153.

(k) Perform other functions as may be specified by instructions issued by the Office of Child Support Enforcement.

§ 306.11 Administrative requirements of cooperative agreements.

(a) *Organizational structure.* The cooperative agreement must:

(1) Describe the organizational structure of the unit or units within the IV–D agency that are responsible for medical support enforcement activities.

(2) List the medical support enforcement functions that are to be performed outside of the IV–D agency

with the name of the organization responsible for performance.

(3) Provide that the IV–D agency shall have responsibility for securing compliance with the requirements of the cooperative agreement by individuals or agencies outside the IV–D agency performing medical support enforcement functions.

(b) *Maintenance of records.* The cooperative agreement must specify that the IV–D agency will establish and maintain case records of medical support enforcement activities in accordance with the provisions of § 302.15 of this chapter.

(c) *Safeguarding information.* The cooperative agreement must provide that the use or disclosure of information concerning applicants for, or recipients of, medical support enforcement services is subject to the limitations in § 302.18 of this chapter.

(d) *Fiscal policies and accountability.* (1) The cooperative agreement must provide that the IV–D agency will maintain an accounting system and supporting fiscal records adequate to assure that claims for reimbursement from the Medicaid agency are in accordance with applicable Federal requirements in 45 CFR Part 74.

(2) The cooperative agreement must provide for the establishment of a method for properly allocating those costs that cannot be directly charged to the medical support enforcement effort.

§ 306.20 Prior approval of cooperative agreements.

(a) Prior to implementation, the IV–D agency must submit two copies of any cooperative agreement entered into under this part to the Regional Representative for approval.

(b) The Regional Representative will review the cooperative agreement for conformity with the requirements of this part and 42 CFR 433.152.

(c) The Regional Representative will promptly notify the State of approval or disapproval. The State may consider the agreement approved if notification is not received within 60 days after the agreement is received by the Regional Representative.

§ 306.21 Subsidiary cooperative agreements with courts and law enforcement officials.

The IV–D agency will enter into subsidiary written cooperative agreements with appropriate courts and law enforcement officials to the extent necessary to perform those functions specified in the cooperative agreement between the IV–D agency and the Medicaid agency. These agreements must be made in accordance with the requirements of § 302.34 (Cooperative arrangements).

§ 306.22 Purchase of service agreements.

The IV–D agency will enter into written purchase of service agreements to the extent necessary to fulfill the requirements of its cooperative agreement with the Medicaid agency.

§ 306.30 Source of funds.

The cooperative agreement must specify that the IV–D agency will receive full reimbursement from the Medicaid agency for all medical support enforcement activities performed under the agreement. (See § 306.11(d) for requirements on fiscal policies and accountability.)

§ 306.40 Maintenance of effort.

A title IV–D agency entering into a cooperative agreement with a State Medicaid agency shall insure that as a result of its effort under the agreement there will be no decrease in Child Support Enforcement program activities, personnel or resources from the level allocated for the quarter in which these regulations become effective. If necessary to carry out its responsibilities under the cooperative agreement, the IV–D agency must obtain additional personnel and resources. The IV–D agency must be able to document continued compliance with this maintenance of effort requirement.

(Sections 1102, 1902(a)(25), 1903(d)(2), 1903(o), 1903(p), and 1912 of the Social Security Act (42 U.S.C. 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396k))

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program, and No. 13.714, Medical Assistance Program)

Dated: November 14, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Stanford G. Ross,

Director, Office of Child Support Enforcement.

Approved: January 29, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80–4030 Filed 2–8–80; 8:45 am]

BILLING CODE 4110–35–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free (800) 424–9080), Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a) (presently appearing at its former Title 24, Chapter 10, Part 1917.4(a) of the Code of Federal Regulations). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60 (formerly 24 CFR Part 1910).

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Montana	Glendive (City), Dawson County (Docket No. FI-5104).	Yellowstone River	Interstate Highway 94 Bridges 325 feet upstream from centerline	*2,062
			Towne Street Bridge 25 feet upstream from centerline	*2,066
			Bell Street Bridge 50 feet upstream from centerline	*2,068
	Maps available at the City Hall, 300 South Merrill, Glendive, Montana.			
New York	Erwin, Town, Steuben County (Docket No. FI-5316).	Chemung River	Downstream Corporate Limits	*934
		Tioga River	At confluence with Cohocton River	935
			Conrail Bridge Upstream	*941
			Mulholland Road (Upstream)	*950
			Confluence with the Canisteo River	*953
			Upstream Corporate Limits	*958
		Canisteo River	At confluence with Tioga River	*953
			Old U.S. Route 15 Upstream	*958
			U.S. Route 15 Upstream	*963
			Upstream Corporate Limits	*977
		Cohocton River	Downstream Corporate Limits	*937
			Upstream U.S. Route 15	*938
			Confluence with Meads Creek	*953
			Upstream Corporate Limits	*974
		Meads Creek	Confluence with Cohocton River	*953
			New York Route 415	*956
			Access Road Ford	*965
			Upstream Corporate Limits	*970
	Maps available at Town Hall, Erwin, New York.			

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: January 25, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-4084 Filed 2-8-80; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 4 and 5

[CGD 79-080]

Marine Investigation Regulations; Suspension and Revocation Proceedings; Witness Fees and Allowances; Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction.

SUMMARY: On January 10, 1980 the Coast Guard published a final rule in the Federal Register (45 FR 2045) which contained an incorrect effective date. This error is corrected by deleting the words "11 Feb. 1980" and subsfituting "January 10, 1980."

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Douglas M. Miller, Chief, Merchant Marine Personnel Action Branch (G-MMI-2/24), 2100 Second St., S.W., Washington, D.C. 20593 (202) 426-2215.

(46 U.S.C. 239(f); 49 CFR 1.46(b))

Henry H. Bell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

January 31, 1980.

[FR Doc. 80-4433 Filed 2-8-80; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 83

[PR Docket No. 79-232; FCC 80-37]

Permitting the Certification on an Expired Ship Station License To Be Recognized as a Valid Attachment to a Renewal Station License for a Short Period of Time

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This rule amendment concerns the statutorily required endorsement on a ship radio station license, an endorsement which certifies that the vessel's radio equipment is in compliance with all applicable FCC rules; it permits such a certification, after expiration of the license on which it was entered, to be recognized as a part of the renewal license until such time as a new certification (following upon the first subsequent required annual inspection) can be entered thereon.

EFFECTIVE DATE: March 17, 1980.

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

FOR FURTHER INFORMATION CONTACT: Irvin Hurwitz, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 83 of the rules to permit the certification on an expired ship station license to be recognized as a valid attachment to a renewal station license for a short period of time.

Report and Order (Proceeding Terminated)

Adopted: January 30, 1980.

Released: February 6, 1980.

By the Commission:

1. On September 13, 1979, the Commission adopted a Notice of Proposed Rule Making looking towards amending its rules in the matter of ship station license certifications. This amendment would permit the certification on an expired ship station license to be recognized as a valid attachment to the renewal station license for a short period of time.

namely, from the date of expiration of the old license until the first subsequent annual inspection.

2. Section 362 of Title III Part II of the Communications Act of 1934, as amended, requires that, after completion of a required yearly inspection of compulsory radio equipment, the Commission shall certify on the station license that the station complies with all FCC requirements. Normally this is accomplished by having the Commission engineer, at the completion of his annual inspection, endorse the station license to that effect.

3. However, when a license is endorsed during the last year of its effective term (normally a period of five years, the renewal that is issued to replace it will not bear this endorsement; the information as to when the station was last found to be in compliance will not be immediately available to the interested government inspector aboard the vessel, whether FCC, Coast Guard, or other. This condition may persist until the next FCC annual inspection at which time, of course, the engineer will recertify compliance of the station.

4. It was therefore proposed that, during this period between posting of the renewal license and the first FCC annual inspection thereafter, the licensee continue the posting of the expired license so that the intent of the statutory requirement could be met and the information it contained be made immediately available to concerned personnel.

5. The period for receiving comments ended October 29, 1979. No comments were received during the comment period. The Commission is therefore proceeding to amend its rules in the manner spelled out in the Appendix to the Notice of Proposed Rule Making.

6. Any questions concerning the contents of this Report and Order may be referred to Irvin Hurwitz at telephone number (202) 632-7175 or care of the Federal Communications Commission, Washington, D.C. 20554.

7. Accordingly, it is ordered, That, pursuant to the authority contained in Sections 4(i), 303(f), and 303(r) of the Communications Act of 1934, as amended, the Commission's rules are amended, as set forth in the attached Appendix, effective March 17, 1980.

8. It is further ordered, That this proceeding is terminated.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.339, paragraph (a)(1) is amended to read as follows:

§ 83.339 Station documents.

(a) The compulsorily fitted ship radiotelegraph station shall be provided with the following documents:

(1) A valid station license; after expiration the expired license shall remain posted alongside the renewal license until the first Commission detailed inspection subsequent to the expiration has been completed;

* * * * *

2. In § 83.367, paragraph (a)(1) is amended to read as follows:

§ 83.367 Station documents.

(a) Ship radiotelephone stations subject to the radio provisions of the Safety Convention shall be provided with the following documents:

(1) A valid station license; after expiration the expired license shall remain posted alongside the renewal license until the first Commission detailed inspection subsequent to the expiration has been completed;

* * * * *

[FR Doc. 80-4314 Filed 2-8-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 97

[Docket No. 20777; RM-2429; RM-2550; and RM-2771; FCC 80-35]

Deregulation of Part 97 of the Rules Regarding Emissions Authorized in the Amateur Radio Service

AGENCY: Federal Communications Commission.

ACTION: Third report and order.

SUMMARY: The Commission adopts rules allowing amateur radio operators to use the American Standard Code for Information Interchange (ASCII) for radioteleprinter communications, remote control operations, the operation of data networks, and other uses consistent with the amateur rules.

EFFECTIVE DATE: March 17, 1980.

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

FOR FURTHER INFORMATION CONTACT: John B. Johnston, Chief, Personal Radio Branch, Private Radio Bureau, (202) 254-6884.

SUPPLEMENTARY INFORMATION:

Third Report and Order

Adopted: January 30, 1980.

(Released: February 7, 1980.

By the Commission:

1. On August 8, 1978, the Commission adopted a Notice of Inquiry and Further Notice of Proposed Rule Making which was published in the **Federal Register** (43 FR 36984) on August 11, 1978. This Notice proposed deregulating the emissions authorized in the Amateur Radio Service by providing for the use of the American Standard Code for Information Interchange (ASCII)[1] by amateur radioteleprinter operators. Section 97.69 of the Commission's Rules, which regulates radioteleprinter transmissions in the Amateur Radio Service, presently allows only the use of the International Telegraphic Alphabet No. 2 (often referred to as the "Baudot Code") under carefully specified technical parameters. Since 1968, ASCII has largely replaced the Baudot Code as the teleprinter code in common commercial usage in the United States. The Commission felt it appropriate, therefore, that it make provision for the use of ASCII in the Amateur Radio Service.

2. In the above-mentioned Notice, the Commission discussed the composition of ASCII and various factors which make its use desirable. In addition, we raised a number of questions concerning the technical limitations which should be applicable to its use, such as the maximum permissible bandwidth, sending speed, frequency deviation and modulating frequency, permissible emission types, the use of parity bits, synchronous and asynchronous transmission, and the order of the data bits.

Summary of Comments

3. Approximately 55 comments were filed, including 2 reply comments. Almost 80 percent of those filing comments expressed the belief that if the Commission was to be true to the spirit of § 97.1 of the amateur rules (which explains the basis and purpose of the Amateur Radio Service), particularly in reference to the provisions concerning "continuation and extension of the amateur's proven

[1] The term "ASCII", used throughout this proceeding, refers to the USA Standard Code for Information Interchange as defined in the United States of America Standards Institute Standard X3.4-1968.

ability to contribute to the advancement of the radio art,"[2] and "advancing skills in both the communications and technical phases of the art,"[3] then it should adopt few, if any, restrictions or standards relating to radioteleprinter operation. The comments generally reflect the view that any standards adopted should be as broad as possible (such as the specification of maximum permissible bandwidth) and should not be concerned with specific radioteleprinter code types or the transmission parameters normally associated with the use of such codes. A number of those filing comments expressed the belief that in raising such detailed questions about the specifics of radioteleprinter operation, the Commission was in fact proposing a "reregulation" of the Amateur Radio Service, not the "deregulation" which was represented. Thus, in the face of what was perceived as conflicting and contradictory intentions on the Commission's part, many of those filing comments, after initially arguing for only the most minimal or necessary technical standards, went on to make specific recommendations in response to the questions raised by the Commission in the Notice.

4. There was virtually unanimous agreement that the Commission should not concern itself with (or adopt rules relating to) the use of a parity bit, the order of the bits (in terms of most or least significant), or the use of synchronous or asynchronous transmission. There was also general agreement that the permissible bandwidths of ASCII or other radioteleprinter signals should be similar to the traditional bandwidths associated with the use of the Baudot Code in the various frequency bands. In most cases, these traditional radioteleprinter bandwidths were taken as the basis for calculating maximum permissible sending speeds (but not "standard" sending speeds), inasmuch as operation within such maximum specified limits is very easily ascertained (thus facilitating compliance); and provides amateur radioteleprinter operators with some latitude in sending speed which would be lost with little, if any, advantage, if we were to specify or require the use of "standard" speeds within certain tolerances. Thus, there appeared to be a general consensus of opinion that the speed between 3.5 and 29.7 MHz should be limited to 300 bauds where the use of F1 emission is authorized, 1200 bauds between 50.1 and 225 MHz where the use of F1, F2 and A2 emissions are authorized, and no limit above 420 MHz. Several of those filing comments, however, pointed out the dual "wideband" and "narrowband" nature of the 10 meter band (28.0–29.7 MHz), and argued that the use of up to 1200 bauds would appear to be appropriate. There were also some comments suggesting that 19.6 kilobauds would be an appropriate limit in the higher (i.e., above 420 MHz) amateur frequency bands. There were many indications, in the comments, that while amateur operators, in general, favored flexible rules which fostered experimentation; many would none the less use conventional codes and sending speeds in conjunction with traditional or generally accepted frequency shifts or modulating frequencies, or with technical parameters chosen with more of a view toward more efficient, spectrum conserving operation.

5. In other comments, amateur operators expressed interest in using radioteleprinter codes other than Baudot or ASCII. Frequently cited examples were the Binary Coded Decimal (BCD), Extended Binary Coded Decimal Interchange Code (EBCDIC), Moore and Correspondence (IBM Selectric) codes. It was also felt that the Commission should allow the use of various "computer" or "machine" languages for computer-to-computer communication; and that the rules should provide for experimentation in the use of "packet switching" techniques. Recognizing that under such an approach, it would be impossible for the Commission's enforcement personnel to intercept all radioteleprinter transmissions, several of those filing comments pointed out that amateurs have repeatedly demonstrated their ability to enforce self-imposed standards, and recommended that the Commission take an approach of adopting generalized and non-specific rules which deal only with the general form, and not the content of transmissions. Reference is made to the generally high degree of amateur operator compliance with the rules relating to permissible communications as the foundation for this deregulatory approach.

6. About the only comments at variance with the general amateur operator consensus on this matter were filed by the National Communications System (NCS).[4] NCS argued that the Commission should adopt relatively detailed technical standards (based on ANSI, CCITT and CCIR standards[5] in order to foster what it terms "interoperability." NCS views the Amateir Radio Service as a valuable national resource of potentially great significance in augmenting commercial and Federal Government communications networks. It feels that "interoperability" or communications system compatibility would be best ensured by the Commission's adoption of technical limitations on radioteleprinter operation. While these limitations would be specified in rather considerable detail, NCS nevertheless feels that they would still allow ample room for technological innovation and advancement in performance.

Conclusions

7. Our intent in this proceeding was simply to expand the operating capabilities available to amateur radioteleprinter operators by providing for the use of ASCII. We find, however, that the comments generally go beyond our proposal and seek more or less total deregulation in the area of radioteleprinter operation. We are not necessarily opposed to such extensive deregulation; and we agree that it would be in perfect harmony with the basis and purpose of the Amateur Radio Service as articulated in § 97.1 of the rules. However, it is not clear that such an action would be consistent with Article 41 of the International Telecommunications Union (ITU) Regulations.[6] Additional exploration is needed to verify the literal and implied intent of Article 41 in relation to international radioteleprinter communications.

8. Past experience with the use of the Baudot code in the Amateur Radio Service indicates that the vast majority

[2] See Section 97.1, Paragraph (b) of the Commission's Rules.

[3] Ibid, Paragraph (c).

[4] The National Communications System is a confederation in which certain Federal Agencies participate with their assets to provide necessary communications for the Federal Government under all conditions raging from a normal situation to national emergencies and international crises, including nuclear attacks. The primary assets of the NCS include the telecommunications networks of the Departments of State, Defense, Interior, Commerce, Energy and the Federal Aviation Administration, the General Services Administration, the Central Intelligence Agency, the National Aeronautics and Space Administration, and the International Communications Agency.

[5] ANSI—American National Standards Institute, CCIR—International telegraph and telephone consultative committee, CCIR—International Radio Consultative Committee.

[6] A preliminary opinion on this matter is that Article 41, section 2(1) (which states, in part, that "transmissions between amateur stations of different countries . . . shall be made in plain language") could be construed to allow the use of "standard" radioteleprinter codes for international communications, but no other type of radioteleprinter code, whether it be used for experimental purposes or otherwise. However, Article 41 does not appear to prohibit the use of an unlimited number of radioteleprinter codes domestically.

of operatore use common radioteleprinter standards, thus simplifying enforcement monitoring both by amateurs and our monitoring personnel. Accordingly, we are not adopting further standards at this time with regard to the use of the ASCII radioteleprinter code.

9. On the matter of "interoperability" raised by the National Communications System, the Commission feels that even if no standards were being adopted, most amateur radioteleprinter operators would communicate with conventional equipment and operate in accordance with generally accepted technical standards. Even those operators who may be heavily involved in experimentation would certainly provide themselves with the capability of conventional operation within a very short time frame. We feel, then, that NCS's concern about "interoperability" is needless, particularly in view of the record of amateur operator preparedness in past emergencies.

10. In view of the foregoing discussion, we have decided to amend § 97.69 of the amateur rules to provide for the use of ASCII in the Amateur Radio Service. The only limitation we are placing on the use of ASCII is a sending speed limit applicable to each band.[7] The Commission recognizes that ASCII, as a means of digital communication, may have uses other than as a means of radioteleprinter communication (such as, but not restricted to, control of a station or object, transfer of computer programs or direct computer-to-computer communications and communication in data networks). To the extent that such uses do not conflict with other provisions set forth in rules, they are permissible.

11. Accordingly, it is ordered, that effective, March 17, 1980, Part 97 of the Commission's rules is amended as shown in the Appendix, pursuant to the authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended. Further information on this matter may be obtained by contacting John B. Johnston, Private Radio Bureau, Rules Division, Personal Radio Branch, at (202) 254–6884.

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

[7] Recognizing that the use of slower speeds is likely to be the norm, we have, in order to provide maximum flexibility, decided to permit speeds up to 300 bauds between 3.5 and 28 MHz, 1200 bauds between 28 and 225 MHz, and 19.6 kilobauds above 420 MHz. (See the Appendix, revised 97.69 for additional details.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

I. Part 97 of the Commission's Rules and Regulations is amended as follows:

1. in § 97.69, is re-entitled "Digital transmissions" and is amended to read as follows:

§ 97.69 Digital transmissions.

Subject to the special conditions contained in paragraphs (a) and (b) below, the use of the International Telegraphic Alphabet No. 2 (also known as the Baudot Code) and the American Standard Code for Information Interchange (ASCII) may be used for such purposes as (but not restricted to) radio teleprinter communications, control of amateur radio stations, models and other objects, transfer of computer programs or direct computer-to-computer communications, and communications in various types of data networks (including so-called "packet switching" systems); provided that such operation is carried out in accordance with the other regulations set forth in this Part.

(a) Use of the International Telegraphic Alphabet No. 2 (Baudot Code) is subject to the following requirements:

(1) Transmission shall consist of a single channel, five-unit (start-stop) teleprinter code conforming to International Telegraphic Alphabet No. 2 with respect to all letters and numerals (including the slant sign or fraction bar); however, in "figures" positions not utilized for numerals, special signals may be employed for the remote control of receiving printers, or for other purposes indicated in this section.

(2) The transmitting speed shall be maintained within 5 words per minute of one of the following standard speeds: 60 (45 bauds), 67 (50 bauds), 75 (56.25 bauds) or 100 (75 bauds) words per minute.

(3) When frequency shift keying (type F1 emission) is utilized, the deviation in frequency from the mark signal to the space signal, or from the space signal to the mark signal, shall be less than 900 Hertz.

(4) When audio frequency shift keying (type A2 or F2 emission) is utilized, the highest fundamental modulating frequency shall not exceed 3000 Hertz, and the difference between the modulating audio frequency for the mark signal and that for the space signal shall be less than 900 Hertz.

(b) Use of the American Standard Code for Information Interchange (ASCII) is subject to the following requirements:

(1) The code shall conform to the American Standard Code for Information Interchange (ASCII) as defined in American National Standard Institute (ANSI) Standard X3.4–1968.

(2) F1 emission shall be utilized on those frequencies between 3.5 and 21.25 MHz where its use is permissible; and the sending speed shall not exceed 300 bauds.

(3) F1, F2 and A2 emissions may be utilized on those frequencies between 28 and 225 MHz where their use is permissible; and the sending speed shall not exceed 1200 bauds.

(4) F1, F2 and A2 emissions may be utilized on those frequencies above 420 MHz where their use is permissible; and the sending speed shall not exceed 19.6 kilobauds.

[FR Doc. 80–4312 Filed 2–8–80; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. No. 1–137]

Organization and Delegation of Powers and Duties; Delegation to the Commandant of the Coast Guard

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to delegate to the Commandant of the Coast Guard functions vested in the Secretary of Transportation by the statute authorizing the admission of foreign nationals to the Coast Guard Academy.

EFFECTIVE: The amendment is effective February 11, 1980.

FOR FURTHER INFORMATION CONTACT: Lieutenant Michael J. Wensman, Office of Public and International Affairs (G–AIA/21), U.S. Coast Guard, Room 2100, Coast Guard Headquarters Building, 2100 Second Street, SW., Washington, D.C. 20593, (202) 425–2280.

SUPPLEMENTARY INFORMATION: Since this amendment relates to departmental management, procedures, and practices, it is excepted from notice and public procedure requirements. It is made effective immediately because it is not a substantive rule.

Drafting Information

The principal person involved in drafting this proposal is Michael N. Mervin, Project Manager and Project

Attorney, Office of Chief Counsel, U.S. Coast Guard.

Discussion of Delegation

Pub. L. 91–278, enacted June 12, 1970, and amended in 1976 (Pub. L. 94–468, October 11, 1976), added section 195 to Title 14, United States Code, (14 U.S.C. 195) to authorize admission of foreign nationals to the Coast Guard Academy. The statute also vested in the Secretary of Transportation the following authority:

1. To determine the rate of reimbursement by foreign countries for the costs of providing such instruction;

2. To grant a waiver of reimbursement to individual countries; and

3. To promulgate any special regulations governing attendance of foreign nationals at the Academy. This proposal would delegate the functions vested by 14 U.S.C. 195 to the Commandant of the Coast Guard as authorized by section 9(e), Department of Transportation Act (49 U.S.C. 1657(e)).

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended by adding to paragraph (n) of § 1.46 a new subparagraph (13), to read as follows:

§ 1.46 Delegations to the Commandant of the Coast Guard.

* * * * *

(n) * * *

(13) 14 U.S.C. 195, relating to instruction of foreign nationals at the Coast Guard academy.

Issued in Washington, D.C., on January 31, 1980.

Niel Goldschmidt,

Secretary.

[FR Doc. 80-4118 Filed 2-8-80; 8:45 am]

BILLING CODE 4910-14-M

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49 CFR Part 10

[OST Docket No. 39; Notice 80-1]

Maintenance of and Access to Records Pertaining to Individuals

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Final rules.

SUMMARY: These rules adopt minor amendments to DOT's Privacy Act regulations. They reflect organizational changes within the Department, establish three limited exemptions for certain investigatory files, and change the special procedures relating to the disclosure of medical records.

DATE: These regulations are effective on February 11, 1980.

FOR FURTHER INFORMATION CONTACT: John J. Windsor, Privacy Act Coordinator, M–341, Department of Transportation, Washington, D.C. 20590, 202/426–1887.

ADDRESSES: Background information on this rulemaking is available from Docket Clerk, OST Docket No. 39, Office of the General Counsel, Department of Transportation, 400 7th Street, SW., Washington, DC 20590.

SUPPLEMENTAL INFORMATION: The amendments to the Department's regulations are being published pursuant to Pub. L. 93–579, 5 U.S.C. 552a, the Privacy Act of 1974. Comments were not received from the public on the Notice of Proposed Rulemaking that was published on December 4, 1978 (43 FR 56682).

The amendments to the Department's regulations are minor in nature: reflecting organizational changes within the Department; establishing three limited exemptions from the Act's requirements for certain investigatory files; and changing the special procedures relating to the disclosure of medical records.

Revisions of DOT's Privacy Act Regulations

The revisions make the following changes:

(1) All pronouns become gender neutral.

(2) Research and Special Programs Administration (RSPA) becomes identified as an operating administration in lieu of the Material Transportation Bureau, which is now part of RSPA.

(3) The special procedures regarding medical records will change to provide greater flexibility to DOT in deciding whether to release medical information directly to the subject. Current procedures deny the DOT the opportunity to disclose information directly to a subject if competent medical authority believes it may be harmful to the subject to do so.

(4) Two limited exemptions from the Act's requirements are created in addition to those already in effect. One is for the Federal Aviation Administration (FAA) and the other is for the National Highway Traffic Safety Administration (NHTSA).

The FAA proposal exempts all criminal investigatory information maintained by headquarters and field security offices from a number of Privacy Act requirements. Principally, it allows the FAA to disclose the fact that the FAA has information on an individual, grants them access to it, and the opportunity to seek its amendment. Similar exemptions already exist within the Office of the Secretary (OST) and the United States Coast Guard (USCG).

The NHTSA proposal exempts the files which it maintains on people's suitability for employment with NHTSA from a number of Privacy Act requirements. Similar exemptions already exist for files in OST, USCG, FAA, and the Federal Railroad Administration.

(5) The USCG's marine pollution case files will no longer be listed among the records specifically exempted since it has been determined that this system of records is not subject to the Privacy Act.

(6) Finally, the regulations are amended to reflect an organizational change that places DOT's Investigations Record System in the Office of the Inspector General.

Note.—The Office of the Secretary 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 the Department of the Transportation Regulatory Policies and Procedures published in the **Federal Register** on February 26, 1979 (44 FR 11034). Furthermore, the economic impact of the proposed regulation is so minimal that a full Regulatory Evaluation is not warranted.

Issued in Washington, D.C. on January 30, 1980.

Neil Goldschmidt,

Secretary of Transportation.

Part 10 of Title 49, Code of Federal Regulations, is amended to read as follows:

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

PART 10—MAINTENANCE OF AND ACCESS TO RECORDS PERTAINING TO INDIVIDUALS

Subpart A—Applicability and Policy

Sec.
10.1 Applicability.
10.3 Policy.
10.5 Definitions.

Subpart B—General

10.11 Administration of part.
10.13 Privacy Act Officer.
10.15 Protection of records.

Subpart C—Maintenance of Records

10.21 General.
10.23 Accounting of disclosures.
10.25 Mailing lists.
10.27 Government contractors.
10.29 Social Security numbers.

Subpart D—Availability of Records

10.31 Requests for records.
10.33 Acknowledgement and access.
10.35 Conditions of disclosure.
10.37 Identification of individual making request.

Sec.

10.39 Location of records.

Subpart E—Correction of Records

10.41 Requests for correction of records.
10.43 Time limits.
10.45 Statement of disagreement.

Subpart F—Procedures for Reconsidering Decisions Not to Disclose or Amend Records

10.51 General.

Subpart G—Exemptions

10.61 General exemptions.
10.63 Specific exemptions.

Subpart H—Fees

10.71 General.
10.73 Payment of fees.
10.75 Fee schedule.
10.77 Services performed without charge.

Subpart I—Criminal Penalties

10.81 Improper disclosure.
10.83 Improper maintenance of records.
10.85 Wrongfully obtaining records.

Appendix A—Exemptions.
Appendix B—Office of the Secretary.
Appendix C—United States Coast Guard.
Appendix D—Federal Aviation Administration.
Appendix E—Federal Highway Administration.
Appendix F—Federal Railroad Administration.
Appendix G—National Highway Traffic Safety Administration.
Appendix H—Urban Mass Transportation Administration.
Appendix I—Saint Lawrence Seaway Development Corporation.
Appendix J—Research and Special Programs Administration.

Authority: Pub. L. 93-579, sec. 9, Department of Transportation Act, Pub. L. 89-670; 49 U.S.C. 1657.

Subpart A—Applicability and Policy

§ 10.1 Applicability.

(a) This part implements section 552a of Title 5, United States Code, as well as other provisions of the Privacy Act of 1974, and prescribes rules governing the availability of those records of the Department of Transportation which relate to citizens of the United States and aliens lawfully admitted for permanent residence.

(b) Appendices B through J to this part:

(1) Describe the places and times at which records are available for inspection and copying;

(2) Indicate the systems of records located at each facility;

(3) Identify the officials having authority to deny requests for disclosure of records under this part;

(4) Describe the procedures to be followed in requesting correction of a record in accordance with § 10.41 of this part; and

(5) List additional personal identification requirements in accordance with § 10.37 of this part.

(c) The Assistant Secretary for Administration may amend Appendix B to this part to reflect any changes in the items covered by that appendix, relating to the Office of the Secretary of Transportation. The Administrator concerned may amend the appendix applicable to that administration to reflect any changes in the terms covered by that appendix.

(d) Appendix A to this part identifies systems of records which are exempt from some of the requirements of this part, in accordance with Subpart G and 5 U.S.C. 552a (j) and (k). Appendix A may be amended by the General Counsel upon the request of the Assistant Secretary for Administration in the case of a system of records maintained by the Office of the Secretary or the Administrator concerned in the case of a system of records maintained by an operating administration.

§ 10.3 Policy.

It is the policy of the Department of Transportation to comply with the letter and the spirit of the Privacy Act (the Act). Therefore, personal data contained in each system of records is afforded adequate protection against unauthorized access, is as accurate as is feasible, and is limited to that necessary to accomplish the stated use or uses of the system. Further, no system of records is exempted from the requirements of the Act unless it is determined that to do so is in the best interest of the government with due concern for individual rights.

§ 10.5 Definitions.

Unless the context requires otherwise, the following definitions apply in this part:

"Administrator" means the head of an operating administration and includes the Commandant of the Coast Guard.

"Department" means the Department of Transportation, including the Office of the Secretary and the following operating administrations:

(a) The United States Coast Guard.

(b) The Federal Aviation Administration.

(c) The Federal Highway Administration.

(d) The Federal Railroad Administration.

(e) The National Highway Traffic Safety Administration.

(f) The Urban Mass Transportation Administration.

(g) The St. Lawrence Seaway Development Corporation.

(h) The Research and Special Programs Administration.

"General Counsel" means the General Counsel of the Department.

"Includes" means "includes but is not limited to;"

"Individual" means a citizen of the United States or an alien lawfully admitted;

"Maintain" includes maintain, collect, use, or disseminate;

"May" is used in a permissive sense to state authority or permission to do the act prescribed;

"Record" means any item, collection, or grouping of information about an individual that is maintained by the Department including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the name of, or an identifying number, symbol, or other identifying particular assigned to, the individual, such as a finger or voice print or a photograph;

"Secretary" means the Secretary of Transportation or any person to whom has been delegated authority in the matter concerned;

"System of records" means a group of any records under the control of the Department from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

"Statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of Title 13, United States Code; and

"Routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

Subpart B—General

§ 10.11 Administration of part.

Except as provided in subpart F of this part, authority to administer this part in connection with the records of the Office of the Secretary is delegated to the Assistant Secretary for Administration. Authority to administer this part in connection with records in each operating administration is delegated to the Administrator concerned. An Administrator may redelegate to officers of that administration the authority to administer this part in connection with defined systems of records. An Administrator, however, may redelegate his or her duties under Subparts F and G

of this part only to his or her deputy and to not more than one other officer who reports directly to the Administrator and who is located at the headquarters of that administration or at the same location as the majority of that administration's systems of records.

§ 10.13 Privacy Act Officer.

(a) To assist in the oversight of the implementation and continuing administration and in evaluating the effectiveness of compliance with the Act, the Assistant Secretary for Administration appoints a principal coordinating official with the title Privacy Act Officer, and one Privacy Act Coordinator from his staff.

(b) Inquiries concerning Privacy Act matters, or requests for assistance, may be addressed to the Privacy Act Officer (M-30), Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

(c) Administrators may designate Privacy Act Officers or Coordinators to act as central coordinators within their administrations to assist them in administering the Act.

§ 10.15 Protection of records.

(a) No person may, without permission, remove any record made available for inspection or copying under this part from the place where it is made available. In addition, no person may steal, alter, mutilate, obliterate, or destroy, in whole or in part, such a record.

(b) Section 641 of Title 18 of the United States Code provides, in pertinent part, as follows:

Whoever * * * steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record * * * or thing of value of the United States or of any department or agency thereof * * * shall be fined not more than $10,000 or imprisoned not more than 10 years or both; but if the value of such property does not exceed the sum of $100, he shall be fined not more than $1,000 or imprisoned not more than one year or both * * *.

(c) Section 2071 of Title 18 of the United States Code provides, in pertinent part, as follows:

Whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing, filed or deposited * * * in any public office, or with any * * * public officer of the United States, shall be fined not more than $2,000 or imprisoned not more than 3 years, or both.

Subpart C—Maintenance of Records

§ 10.21 General.

Except to the extent that a system of records is exempt in accordance with Subpart G of this part, the Department, with respect to each system of records:

(a) Maintains in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the Department required to be accomplished by statute or by executive order of the President;

(b) Collects information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, or privileges under Federal programs;

(c) Informs each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual of:

(1) The authority (whether granted by statute, or by excecutive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(2) The principal purpose or purposes for which the information is intended to be used;

(3) The routine uses, as published pursuant to paragraph (d)(4) of this section, which may be made of the information; and

(4) The effects, if any, on the individual of not providing all or any part of the requested information;

(d) Publishes in the **Federal Register** at least annually a notice of the existence and character of the system of records, including;

(1) The name and location of the system;

(2) The categories of individuals on whom records are maintained in the system;

(3) The categories of records maintained in the system;

(4) Each routine use of the records contained in the system, including the categories of users and the purpose of such use;

(5) The policies and practices regarding storage, retrievability, access controls, retention, and disposal of the records;

(6) The title and business address of the official responsible for the system of records;

(7) The procedures whereby an individual can be notified upon request if the system of records contains a record pertaining to that individual;

(8) The procedures whereby an individual can be notified upon request how to gain access to any record pertaining to that individual contained in the system of records, and how to contest its content; and

(9) The categories of sources of records in the system;

(e) Maintains all records which are used in making any determination about any individual with such accuracy, relevancy, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;

(f) Prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to section 10.35(a)(2), makes reasonable efforts to assure that such records are accurate, complete, timely, and relevant for the Department's purposes;

(g) Maintains no record describing how any individual exercises rights guaranteed by the First Amendment unless—

(1) Expressly authorized by the General Counsel; and

(2) Expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;

(h) Makes reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record.

§ 10.23 Accounting of disclosures.

Each operating administration and the Office of the Secretary, with respect to each system of records under its control:

(a) Except for disclosures made under § 10.35(a) (1) or (2) of this part, keep an accurate accounting of:

(1) The date, nature, and purpose of each disclosure of a record to any person or to another agency made under § 10.33; and

(2) the name and address of the person or agency to whom the disclosure is made;

(b) Retains the accounting made under paragraph (a) of this section for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made;

(c) Except for disclosures made under § 10.33(a)(7) of this part, makes the accounting made under paragraph (a)(1) of this section available to the individual named in the record at his request; and

(d) Informs any person or other agency about any correction or notation of dispute made by the agency in accordance with § 10.45 of any record that has been disclosed to the person or

agency if an accounting of the disclosure was made.

§ 10.25 Mailing lists.

An individual's name and address is not sold or rented unless such action is specifically authorized by law. This provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.

§ 10.27 Government contractors.

When the Department provides by a contract for the operation by or on behalf of the Department of a system of records to accomplish a function of the Department, the requirements of this part are applied to such system. For purposes of Subpart I, CRIMINAL PENALTIES, any such contractor and any employee of the contractor are considered, in accordance with section 3(m) of the Privacy Act, to be employees of the Department.

§ 10.29 Social Security numbers.

(a) No individual is denied any right, benefit, or privilege provided by law because of such individual's refusal to disclose his Social Security account number.

(b) The provisions of paragraph (a) of this section do not apply to:

(1) Any disclosure which is required by Federal statute; or

(2) The disclosure of a Social Security number when such disclosure was required under statute or regulation adopted prior to January 1, 1975, to verify the identity of an individual.

(c) When an individual is requested to disclose his or her Social Security account number, that individual is informed whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, what uses are made of it, and what detriments, including delay in the location of records, are incurred if the number is not provided.

Subpart D—Availability of Records

§ 10.31 Requests for records.

(a) Ordinarily, each person desiring to determine whether a record pertaining to him or her is contained in a system of records covered by this part or desiring access to a record covered by this part, or to obtain a copy of such a record, shall make a request in writing as provided in the pertinent appendix to this part. In exceptional cases oral requests are accepted.

(b) Each request shall specify the name of the requesting individual and the system of records in which the subject record is located or thought to be located. If assistance is required to determine the system of records identification number assigned in the systems notices, such assistance may be obtained from the appropriate Privacy Act Officer or his Assistant. Refer to § 10.13 for procedures for requesting assistance.

§ 10.33 Acknowledgment and access.

(a) Requests by an individual to determine whether he or she is the subject of a record in a system of records, or requesting access to a record in a system of records, should be acknowledged within 10 working days, where the request is by mail. For requests in person, an immediate response is given, either granting access or informing such individual when notification or access may be expected.

(b) If the response granting access or copies of the record is made within 10 working days, separate acknowledgment is not required.

(c) Although requests for access to a record are normally in writing, *e.g.*, by filing a written form or letter, it is the option of the individual to mail or present the request form in person.

§ 10.35 Conditions of disclosure.

(a) No record which is contained within a system of records within the Department is disclosed by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be:

(1) To those officers and employees of the Department who have a need for the record in the performance of their duties;

(2) Required under Part 7 of this title which implements the freedom of Information Act;

(3) For a routine use as defined in § 10.5 and described pursuant to § 10.21(d)(4);

(4) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13, United States Code;

(5) To a recipient who has provided the Department with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(7) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) To either House of the Congress, or to the extent of matters within its jurisdiction, any committee or subcommittee thereof, any joint committee of the Congress or subcommittee of any such joint committee;

(10) To the Comptroller General, or any authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) Pursuant to the order of a court of competent jurisdiction.

(b) Any individual requesting access to his or her record or to any information pertaining to that individual which is contained within a system of records within the Department has access to that record or information unless the system of records within which the record or information is contained is exempted from disclosure in accordance with Subpart G, provided, however, that nothing in this part is deemed to require that an individual be given access to any information compiled in reasonable anticipation of a civil action or proceeding. No exemption contained in Subpart G of Part 7 of the Regulations of the Office of the Secretary is relied upon to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this part. Any individual who is given access to a record or information pertaining to him is permitted to have a person of his or her own choosing accompany him and to have a copy made of all or any portion of the record or information in a form comprehensible to the individual. When deemed appropriate, the individual may be required to furnish a written statement authorizing discussion of his record in the accompanying person's presence.

(c) Medical Records—Where requests are for access to medical records, including psychological records, the

decision to release directly to the individual, or to withhold direct release, shall be made by a medical practitioner. Were the medical practitioner has ruled that direct release will do harm to the individual who is requesting access, normal release through the individual's chosen medical practitioner will be recommended. Final review and decision on appeals of disapprovals of direct release will rest with the General Counsel.

(d) Any person requesting access to records or to any information pertaining to other individuals is not granted such access unless that person can show that he or she has obtained permission for such access from the individual to whom the record pertains, unless the request comes within one of the exceptions of § 10.35(a).

§ 10.37 Identification of individual making request.

No record or information contained in a system of records is disclosed to an individual nor is any correction of a record in accordance with Subpart E made at the request of an individual unless that individual demonstrates that he or she is who he or she claims to be. Normally, identity can be proven for individuals who appear in person by the presentation of an identifying document issued by a recognized organization (*e.g.*, a driver's license or a credit card) and which contains a means of verification such as a photograph or a signature. For requests by mail, the unique identifier used in the system should be included if known. Responses to mail requests are normally sent only to the name and address listed in the system of records. In the case of particularly sensitive records, additional identification requirements may be imposed. In such cases, these additional requirements are listed in the public notice for the system and in the appropriate appendix to this part.

§ 10.39 Location of records.

Each record made available under this subpart is available for inspection and copying during regular working hours at the place where it is located or, upon reasonable notice, at the document inspection facilities of the Office of the Secretary or each administration as set forth in the appendix applicable to that office or administration. Original records may be copied but may not be released from custody. Upon payment of the appropriate fee, copies are mailed to the requester.

Subpart E—Correction of Records

§ 10.41 Requests for correction of records.

Any person who desires to have a record pertaining to that person corrected shall submit a written request detailing the correction and the reasons the record should be so corrected. Requests for correction of records shall be submitted in accordance with the procedures of the organization set forth in Appendices B through J to this part for the appropriate operating element of the Department.

§ 10.43 Time limits.

Within ten days (excluding Saturday, Sunday, and legal holidays) of the receipt in accordance with § 10.41 of a request by an individual to amend a record pertaining to him, the receipt of the request is acknowledged in writing. If a determination is made to correct the record as requested, the correction is promptly made. If a determination is made not to correct a record the individual is informed promptly of the right to appeal in accordance with Subpart F. If an appeal of a refusal to correct a record is in accordance with Subpart F, a determination whether to correct the record is made within thirty days (excluding Saturday, Sunday and legal holidays) of the receipt of the appeal unless, for good cause shown the Administrator concerned, or in the case of the Office of the Secretary, the General Counsel, extends such period. Where an extension is taken, the party taking the appeal is promptly notified of such fact.

§ 10.45 Statement of disagreement.

If a determination is made not to amend a record, the requester is informed of the right to file a concise statement setting forth the reasons for disagreement with the refusal to amend. In any disclosure containing information about which an individual has filed such a statement of disagreement, the portions of the record which are disputed are noted clearly and copies of the statement of disagreement provided. If the Administrator concerned or his or her delegee, or in the case of the Office of the Secretary, the General Counsel or his or her delegee, deems it appropriate, copies of a concise statement of the reasons for not making the amendments requested may be provided along with the statement of disagreement.

Subpart F—Procedures for Reconsidering Decisions Not To Grant Access to or Amend Records

§ 10.51 General.

(a) Each officer or employee of the Department who, upon a request by a member of the public for a record under this part, makes a determination that access is not to be granted or who determines not to amend a record in a requested manner, gives a written statement of the reasons for that determination to the person making the request and indicates the name and title or position of each person responsible for the denial of such request and the procedure for appeal within the Department.

(b) Any person:

(1) Who has been given a determination pursuant to paragraph (a) of this section, that access will not be granted; or

(2) Who has been informed that an amendment to a requested record will not be made;

may apply to the Administrator concerned, or in the case of the Office of the Secretary, to the General Counsel for review of that decision. A determination that access will not be granted or a record amended is not administratively final for the purposes of judicial review unless it was made by the Administrator concerned or his or her delegee, or the General Counsel or his or her delegee, as the case may be. Upon a determination that an appeal will be denied, the requester is informed in writing of the reasons for the determination, and the names and titles or positions of each person responsible for the determination, and that the determination may be appealed to the District Court of the United States in the district in which the complainant resides, or has his or her principal place of business, or in which the records are located, or in the District of Columbia.

(c) Each application for review must be made in writing and must include all information and arguments relied upon by the person making the request. It is recommended that such request be made within 180 days of the date of the initial denial; however, exceptions to this time period are considered in the event that a longer time is required for good reasons.

(d) Upon a determination that a request for the correction of a record will be denied, the requester is informed that he may file a concise statement in accordance with § 10.45.

(e) Each application for review must indicate that it is an appeal from a denial of a request made under the Privacy Act. The envelope in which the

application is sent should be marked prominently with the words "Privacy Act." If these requirements are not met, the time limits described in § 10.43 do not begin to run until the application has been identified by an employee of the Department as an application under the Privacy Act and has been received by the appropriate office.

(f) The Administrator concerned, or the General Counsel, as the case may be, may require the person making the request to furnish additional information, or proof of factual allegations, and may order other proceedings appropriate in the circumstances. The decision of the Administrator concerned, or the General Counsel, as the case may be, as to the availability of the record or whether to amend the record is administratively final.

(g) The decision by the Administrator concerned, or the General Counsel, as the case may be, not to disclose a record under this part is considered a determination for the purposes of section 552a(g) of Title 5, United States Code, "Civil Remedies."

(h) Any final decision by an Administrator or his or her delegee, identified in Appendices B through J of this part, not to grant access to or amend a record under this part, is subject to concurrence by the General Counsel or his or her delegee.

Subpart G—Exemptions

§ 10.61 General exemptions.

(a) The Assistant Secretary for Administration, with regard to the Investigations Divisions; the Federal Aviation Administrator, with regard to the FAA's Investigative Record System (DOT/FAA 815) and also with regard to the police functions of the National Capital Airport Police; the Commandant of U.S. Coast Guard, with regard to the Intelligence and Security Division; and the Federal Railroad Administrator, with regard to the Alaska Railroad Special Agents, may exempt from any part of the Act and this part except subsections (b), (c)(1) and (2), (e)(4)(A), through (F), (e)(6), (7), (9), (10), and (11), and (i) of the Act, and implementing §§ 10.35, 10.23(a) and (b), 10.21(d)(1) through (6), 10.81, 10.83, and 10.85, any systems of records, or portions thereof, which they maintain which consist wholly of:

(1) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status;

(2) Information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or

(3) Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

(b) The requirements (including general notice) of sections 553(b)(1), (2) and (3), and (c) and (e) of Title 5, United States Code, will be met by publication in Appendix A to this part, which must, at a minimum, specify:

(1) The name of the system; and

(2) The specific provisions of the Act from which the system is to be exempted and the reasons therefor.

(c) Any decision to exempt a system of records under this section is subject to concurrence by the General Counsel.

(d) Any person may petition the Secretary in accordance with the provisions of Part 5 of this Title, to institute a rulemaking proceeding for the amendment or repeal of any exemptions established under this section.

§ 10.63 Specific exemptions.

The Secretary or his or her delegee, in the case of the Office of the Secretary, or the Administrator or his or her delegee, in the case of an operating administration, may exempt any system of records which is maintained by the Office of the Secretary or the administration, as the case may be, from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Act and implementing §§ 10.23(c); 10.35(b); 10.41; 10.43; 10.45; 10.21(a) and 10.21(d)(6), (7) and (8) of this part, under the following conditions;

(a) The system of records must consist of;

(1) Records subject to the provisions of section 552(b)(1) of Title 5, United States Code;

(2) Investigatory material compiled for law enforcement purposes, other than material within the scope of paragraph (a)(2) of § 10.61: Provided, however, That if any individual is denied any right, privilege, or benefit to which that individual would otherwise be entitled by Federal law, or for which that individual would otherwise be eligible, as a result of the maintenance of such material, such material is provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, the effective date of the Privacy Act of 1974, under an implied promise that the identity of the source would be held in confidence;

(3) Records maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of Title 18, United States Code;

(4) Records required by statute to be maintained and used solely as statistical records;

(5) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, the effective date of the Privacy Act of 1974, under an implied promise that the identity of the source would be held in confidence;

(6) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) Evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

(b) The requirements (including general notice) of sections 553 (b) (1), (2) and (3), and (c) and (e) of Title 5, United States Code, will be met by publication in Appendix A to this part, which must, at a minimum, specify:

(1) The name of the systems; and

(2) The specific provisions of the Act from which the system is to be exempted and the reasons therefor.

(c) Any decision to exempt a system of records under this section is subject to the concurrence of the General Counsel.

(d) Any person may petition the Secretary in accordance with the provisions of 49 CFR Part 5, to institute a rule making for the amendment or repeal of any exemptions established under this section.

Subpart H—Fees

§ 10.71 General.

This subpart prescribes fees for services performed for the public under this part by the Department.

§ 10.73 Payment of fees.

The fees prescribed in this subpart may be paid by check, draft, or postal money order payable to the Treasury of the United States.

§ 10.75 Fee schedule.

(a) Copies of documents by photocopy or similar method:	
Each page not larger than 11 x 17 inches:	
First page	.25
Each page	.05
(b) Copies of documents by typewriter:	
Each page	2.00
(c) Certified copies of documents:	
(1) With Department of Transportation seal	3.00
(2) True copy, without seal	1.00
(d) Photographs:	
(1) Black and white print (from negative)	1.25
(2) Black and white print (from print)	3.15
(3) Color print (from negative)	3.50
(4) Color print (from print)	6.25
(e) Duplicate data tapes—each reel of tape or fraction thereof	36.00

The applicant must furnish the necessary number of blank magnetic tapes. The tapes must be compatible for use in the supplier's computer system, ½ inch wide and 2,400 feet long, and must be capable of recording data at a density of 556 or 800 characters per inch. Unless otherwise designated, the tapes will be recorded at 556 CPI density. The Department of Transportation is not responsible for damaged tape. However, if the applicant furnishes a replacement for a damaged tape, the duplication process is completed at no additional charge.

(f) Microreproduction fees are as follows:	
(1) Microfilm copies, each 100 foot roll or less.	3.75
(2) Microfiche copies, each standard size sheet (4" x 6" containing up to 65 frames)	.15
(3) Apertune card to hard copy, each copy	.50
(4) 16mm microfilm to hard copy:	
First	.25
Additional	.07
(g) Computerline printer output, each 1,000 lines or fraction thereof	1.00

§ 10.77 Services performed without charge.

(a) No fee is charged for time spent in searching for records or reviewing or preparing correspondence related to records subject to this part.

(b) No fee is charged for documents furnished in response to:

(1) A request from an employee or former employee of the Department for copies of personnel records of the employee;

(2) A request from a Member of Congress for official use;

(3) A request from a State, territory, U.S. possession, county or municipal government, or an agency thereof;

(4) A request from a court that will serve as a substitute for the personal court appearance of an officer or employee of the Department;

(5) A request from a foreign government or an agency thereof, or an international organization.

(c) Documents are furnished without charge or at a reduced charge, if the Assistant Secretary of Administration or the Administrator concerned, as the case may be, determines that waiver or reduction of the fee is in the public interest, because furnishing the information can be considered as primarily benefiting the general public.

(d) When records are maintained in computer-readable form rather than human-readable form, one printed copy is made available which has been translated to human-readable form without a charge for translation but in accordance with § 10.75(g), regarding computer line-printed charges.

Subpart I—Criminal Penalties

§ 10.81 Improper disclosure.

Any officer or employee of the Department who by virtue of his or her employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this part and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, is guilty of a misdemeanor and fined not more than $5,000 in accordance with 5 U.S.C. 552a(i)(1).

§ 10.83 Improper maintenance of records.

Any officer or employee of the Department who willfully maintains a system of records without meeting the notice requirements of § 10.21(d) of this part is guilty of a misdemeanor and fined not more than $5,000 in accordance with 5 U.S.C. 552a(i)(2).

§ 10.85 Wrongfully obtaining records.

Any person who knowingly and willfully requests or obtains any record concerning an individual from the Department under false pretenses is guilty of a misdemeanor and fined not more than $5,000 in accordance with 5 U.S.C. 552a(i)(3).

Appendix A—Exemptions

Part I. General exemptions. Those portions of the following systems of records that consist of (a) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (b) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (c) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision, are exempt from all parts of 5 U.S.C. 552a except subsections (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i):

A. The Investigative Records System maintained by the Assistant Inspector General for Investigations, Office of the Inspector General, Office of the Secretary (DOT/OST 100).

B. Police Warrant Files and Central Files maintained by the Police Branches, Washington National and Dulles International Airports, Federal Aviation Administration (DOT/FAA 807).

C. Intelligence and Security Investigative Case Systems (DOT/CG 611), maintained by the Intelligence and Security Division, U.S. Coast Guard, at headquarters and district offices.

D. The Investigative Records System maintained by the Federal Aviation Administration regarding criminal investigations conducted by offices of Investigations and Security at headquarters and FAA Regional and Center Security Divisions (DOT/FAA 815).

E. Administrative Action and Legal Enforcement System, maintained by the Chief Counsel, Federal Aviation Administration (DOT/FAA 805).

The purpose of these exemptions is to prevent the compromise or impairment of criminal investigations conducted by the Office of Investigations and Security, OST; the Airport Police Branches; and the Investigations and Security Division, USCG; and the Office of Investigation and Security, Regional and Center Security Division of FAA.

Part II. Specific exemptions. A. The following systems of records are exempt from subsection (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4) (G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a, to the extent that they contain investigatory material compiled for law enforcement purposes, in accordance with 5 U.S.C. 552a(k)(2):

1. Investigative Record System maintained by the Federal Aviation Administration at FAA Regional and Center Air Transportation Security Divisions; the Investigations and Security Division, Aeronautical Center; and Office of Investigations and Security, FAA Headquarters, Washington, D.C. (DOT/FAA 815).

2. FHWA Investigations Case File System, maintained by the Office of Program Review and Investigations, Federal Highway Administration (DOT/FHWA 214).

3. FHWA Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases, maintained by the Bureau of Motor Carrier Safety, Federal Highway Administration (DOT/FHWA 204).

4. Recreational Boating and Law Enforcement Cases (DOT/CG 505).

maintained by the Office of Boating Safety, U.S. Coast Guard.

5. Port Safety Reporting System—Individual Violation Histories (DOT/CG 561), maintained by the Office of Marine Environment and Systems, U.S. Coast Guard.

6. Merchant Vessel Casualty Reporting System (DOT/CG 590), maintained by the Office of Merchant Marine Safety, U.S. Coast Guard.

7. U.S. Merchant Seaman's Records (DOT/CG 589), maintained by the Office of Merchant Marine Safety, U.S. Coast Guard.

8. Intelligence and Security Investigative Case Systems (DOT/CG 611), maintained by the Office of Operations, U.S. Coast Guard.

9. Port Security Case System (DOT/CG 612), maintained by the Office of Operations, U.S. Coast Guard.

10. DOT/NHTSA Investigations of Alleged Misconduct or Conflict of Interest, maintained by the Associate Administrator for Administration, National Highway Traffic Safety Administration (DOT/NHTSA 458).

11. Investigations of Violations of Marine Safety Laws (DOT/CG 587), maintained by the Office of Merchant Marine Safety, U.S. Coast Guard.

12. Civil Aviation Security System (DOT/FAA 813), maintained by the Civil Aviation Security Service, Federal Aviation Administration.

The purpose of these exemptions is to protect investigatory materials compiled for law enforcement purposes. Disclosure of such material would hamper law enforcement by prematurely disclosing the knowledge of illegal activity and the evidentiary basis for possible enforcement actions.

B. The following systems of records are exempt from subsections (c)(3) (Accounting of Certain Disclosures), and (d) (Access to Records) of 5 U.S.C. 552a:

1. Alaska Railroad Security and Freight Claims Investigatory Files maintained by the Alaska Railroad, Federal Railroad Administration (DOT/FRA 102).

2. Administrative Action and Legal Enforcement System, maintained by the Chief Counsel, Federal Aviation Administration (DOT/FAA 805).

3. Investigative Records System, maintained by the Assistant Inspector General for Investigations in the Office of the Inspector General (DOT/OST 100).

The purpose of these exemptions is to prevent the compromise or impairment of law enforcement investigations by alerting individuals that they are the subject of investigation, and to prevent the disclosure of the identity or sources of information promised confidentiality, in accordance with 5 U.S.C. 552a(k)(2).

C. The system of records known as the Alaska Railroad Examination of Operating Personnel, maintained by the Alaska Railroad, Federal Railroad Administration (DOT/FRA 100), is exempt from the provisions of subsection (d) of 5 U.S.C. 552a. The release of these records would compromise their value as impartial measurement standards for appointment and promotion within the Federal Service.

D. Those portions of the following systems of records consisting of investigatory material compiled for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, or access to classified information or used to determine potential for promotion in the armed services, are exempt from sections (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4) (G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a to the extent that disclosure of such material would reveal the identity of a source who provided information to the Government under an express or, prior to September 27, 1975, an implied promise of confidentiality (5 U.S.C. 552a(k) (5) and (7)):

1. Investigative Records System, maintained by the Assistant Inspector General for Investigations in the Office of the Inspector General (DOT/OST 100).

2. Intelligence and Security Investigative Case System (DOT/CG 611), maintained by the Office of Operations, U.S. Coast Guard.

3. Officer Selection and Appointment System (DOT/CG 625), maintained by the Office of Personnel, U.S. Coast Guard.

4. Official Officer Service Records (DOT/CG 626), maintained by the Office of Personnel, U.S. Coast Guard.

5. Enlisted Recruiting Selection Record System maintained by the Office of Personnel, U.S. Coast Guard.

6. Officer, Enlisted, and Recruiting Selection Test Files (DOT/CG 628), maintained by the Office of Personnel, U.S. Coast Guard.

7. Enlisted Personnel Record System, (DOT/CG 629), maintained by the Office of Personnel, U.S. Coast Guard.

8. Coast Guard Personnel Security Program (DOT/CG 633), maintained by the Office of Personnel, U.S. Coast Guard.

9. Official Coast Guard Reserve Service Record System (DOT/CG 676), maintained by the Office of Reserve, U.S. Coast Guard.

10. Investigative Record System, maintained by the Federal Aviation Administration at FAA Regional and Center Air Transportation Security Divisions; the Investigations and Security Division, Aeronautical Center; and Office of Investigations and Security, Headquarters, Washington, D.C. (DOT/FAA 815).

11. Military Training and Education Records (DOT/CG 622), maintained by the Office of Personnel, U.S. Coast Guard.

12. Files pursuant to suitability for employment with National Highway Traffic Safety Administration (DOT/NHTSA–457) containing confidential investigatory reports.

The purpose of these exemptions is to prevent disclosure of the identities of sources who provide information to the government concerning the suitability, eligibility, or qualifications of individuals for Federal civilian employment, contracts, access to classified information, or appointment or promotion in the armed services, and who are expressly or, prior to September 27, 1975, implied promised confidentiality (5 U.S.C. 552a(k) (5) and (7)).

E. Those portions of the following systems of records consisting of testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal Service are exempt from subsections (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4) (G), (H) and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a:

1. Officer, Enlisted and Recruiting Selection Test Files (DOT/CG 628), maintained by the Office of Personnel, U.S. Coast Guard.

2. Official Coast Guard Reserve Service Record System (DOT/CG 676), maintained by the Office of Reserve, U.S. Coast Guard.

3. Military Training and Education Records (DOT/CG 622), maintained by the Office of Personnel, U.S. Coast Guard.

4. Reference Files (DOT/NHTSA 457), maintained by the National Highway Traffic Safety Administration personnel offices to determine fitness for employment prior to hiring.

The purpose of these exemptions is to preserve the value of these records as impartial measurement standards for appointment and promotion within the Federal service.

F. Those portions of the following systems of records which consist of information properly classified in the interest of national defense or foreign policy in accordance with 5 U.S.C. 552(b)(1) are exempt from sections (c)(3) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(4) (G), (H) and (I) (Agency Requirements), and (f) (Agency Rules) of 5 U.S.C. 552a:

1. Investigative Record System maintained by the Assistant Inspector General for Investigations in the Office of the Inspector General (DOT/OST 100).

2. Personnel Security Records System, maintained by the Office of Investigations and Security, Office of the Secretary (DOT/OST 016).

3. Civil Aviation Security System (DOT/FAA 813), maintained by the Civil Aviation Security Service, Federal Aviation Administration.

The purpose of these exemptions is to prevent the disclosure of material authorized to be kept secret in the interest of national defense or foreign policy, in accordance with 5 U.S.C. 552(b)(1) and 552a(k)(1).

G. Those portions of the following systems of records which consist of information properly classified in the interest of national defense or foreign policy in accordance with 5 U.S.C. 552a(b)(1) are exempt from subsections (c)(3) (Accounting of Certain Disclosures) and (d) (Access to Records) of 5 U.S.C. 552a:

1. Investigative Records System (DOT/FAA 815), maintained by the Federal Aviation Administration at FAA Regional and Center Air Transportation Security Divisions; the Investigations and Security Division, Aeronautical Center; and Office of Investigations and Security, Headquarters, Washington, D.C.

The purpose of these exemptions is to prevent the disclosure of material authorized to be kept secret in the interest of national defense or foreign policy, in accordance with 5 U.S.C. 552(b)(1) and 552a(k)(1).

Appendix B—Office of the Secretary

1. *Introduction.* This Appendix, with respect to the Office of the Secretary:

a. Describes the places and times at which records are available for inspection and copying;

b. Indicates the systems of records maintained in the Office of the Secretary;

c. Identifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 10.35 of these regulations.

An individual requiring assistance, concerning this Appendix or systems maintained in the Office of the Secretary, may contact the Privacy Act Officer, or Privacy Act Coordinator, Office of the Assistant Secretary for Administration, M–20, 400 Seventh Street, SW., Washington, D.C. 20590.

2. *Availability for Inspection and Copying.*

a. Records in systems maintained in the Office of the Secretary (OST) are available at 400 Seventh Street SW., Washington, D.C., except where otherwise noted:

(1) Records are maintained at 2100 Second Street SW., Washington, D.C., for the following systems:

(a) DOT/OST 011 Discrimination Complaint Investigative Files;

(b) DOT/OST 042 Technical Pipeline Safety Standards Committee.

(2) DOT/OST 013 Employee Management Files: Records for the employees at each location are located as delineated in the system notice.

(3) DOT/OST 015 Funds Management Records: Central records are maintained at 400 Seventh Street SW., Washington, D.C. Records for the applicable region are maintained in the office of each of the eleven Regional Emergency Transportation Coordinators, as delineated in the system notice.

(4) DOT/OST 022 National Defense Executive Reserve File: Complete records are maintained at 400 Seventh Street SW., Washington, D.C. Applicable records are maintained in a wide variety of field offices as delineated in the system notice.

(5) DOT/OST 028 Personnel Convenience Files: Employee records applicable to the Complaints Division of the Office of Civil Rights of the Office of the Secretary are located at 2100 Second Street SW., Washington, D.C. All other records are located at 400 Seventh Street SW., Washington, D.C.

(6) DOT/OST 043 Telephone Directory and Locator System: Records are stored on magnetic tape at 13 Massachusetts Avenue NW., Washington, D.C. However, access is controlled by the System Manager: Chief, Accounting Operations Center, Room 2228, 400 Seventh Street SW., Washington, D.C.

(7) DOT/OST 048 Transportation Research Activities Information System: Records are stored on magnetic tape at the Transportation Systems Center, Cambridge, Massachusetts. Individuals desiring access to their own personal data should contact the System Manager: Chief, Resources Management Division, DPA–20, Department of Transportation, 400 Seventh Street SW., Washington, D.C.

(8) DOT/OST 049 Transportation Research Information System: Records are maintained on magnetic tape at the Battelle Laboratories, Columbus, Ohio. Individuals desiring access to their own personal data should contact the System Manager: Chief, Resources Management Division, DPA–20, Department of Transportation, 400 Seventh Street SW., Washington, D.C.

(9) DOT/OST 050 Executive Team Cadre Listings: Records are maintained at 400 Seventh Street SW., Washington, D.C., and at the offices of the Regional Emergency Transportation Coordinators, as delineated in the system notice.

(10) Records are maintained at the Transportation Systems Center, Kendall Square, Cambridge, Massachusetts, for the following systems:

(a) DOT/TSC 700 Automated Management Information Systems;

(b) DOT/TSC 701 Employee Travel Records;

(c) DOT/TSC 702 Legal Counsel Information Files;

(d) DOT/TSC 703 Occupational Safety and Health Reporting System;

(e) DOT/TSC 704 Stand-by Personnel Information;

(f) DOT/TSC 706 Automated Planning System;

(g) DOT/TSC 707 Automated Manpower Distribution System;

(h) DOT/TSC 708 Combined Federal Campaign Information;

(i) DOT/TSC 709 Minority Information Files;

(j) DOT/TSC 711 Blood Donor Information File;

(k) DOT/TSC 712 Automated Payroll/Personnel/Communications/Security System;

(l) DOT/TSC 713 Employee Payroll-Manpower Distribution System;

(m) DOT/TSC 714 Health Unit Employee Medical Records;

(n) DOT/TSC 715 Bi-Weekly Personnel Status Report.

b. Records are available for inspection and copying at the applicable locations delineated above between the hours of 9 A.M. and 5:30 P.M., except Saturdays, Sundays, and holidays. Access to certain records may be restricted in accordance with exemptions applied and noticed in accordance with sections 3 (j) and (k) of the Privacy Act of 1974. Individuals desiring access to their own records should follow the instructions contained in the system notice published for each system of records. Requests for access shall be submitted to the System Manager having responsibility for the system in which the records are maintained, unless the system notice describing the system prescribes or permits submission to some other official or officials.

3. *Systems of Records.* A compilation of notices describing the systems of records maintained in the Department of Transportation is published annually in the **Federal Register.** The notices describing the systems maintained in the Office of the Secretary are published in a block within the overall compilation and each is identified by a three-digit number preceded by the acronym, OST; e.g., OST 013 (except those maintained at the Transportation Systems Center which uses the acronym, TSC; e.g., TSC 701). The basic compilation of system notices, for systems subject to the Privacy Act of 1974, which are maintained in the Office of the Secretary, is published in the **Federal Register** annually.

4. *Access to Records.* Requests for access to records are processed in accordance with the rules provided in Subpart D of these regulations.

a. A request from an individual for access to a record pertaining to such individual is granted promptly unless:

(1) The record was compiled in reasonable anticipation of a civil action or proceeding; or

(2) The system of records is one which has been exempted from the notification and access provisions of the Privacy Act by rulemaking; or

(3) The record is not part of a system of records required to be noticed in accordance with the provisions of the Privacy Act and is not otherwise required to be made available by a law or regulation; or

(4) The System Manager or other cognizant official determines that the particular circumstances justify denial of access; or

(5) The information requested is contained in and is inseparable from another individual's record.

b. When information sought from a system of records in the Office of the Secretary includes information that has been furnished by an operating element of the Department or by another agency, as the case may be, the Systems Manager or other cognizant official consults the operating element or the other agency, as the case may be, before granting access. If referral of the request to the operating element or the other agency, as the case may be, will provide a more expeditious decision with resulting probable access, the request may be referred to the operating element or the other agency, as the case may be, but the requester is notified of the referral.

c. When a Systems Manager or other cognizant official in the Office of the Secretary determines that a request for access should be denied, the request and the reason(s) for the determination are referred to the Assistant Secretary for Administration for decision. In the event of a decision to deny access, the Office of the Assistant Secretary for Administration notifies the requester in writing in accordance with section 10.51 of these regulations.

5. *Requests To Correct or Alter Records.* An individual may request that a record pertaining to such individual be amended to correct any portion thereof which such individual believes is not accurate, relevant, timely, or complete.

a. A request to amend a record must:

(1) Be in writing and signed by the individual to whom the record pertains;

(2) Be clearly marked "Request for Amendment of Record";

(3) Contain a statement that the request is being made under the provisions of the Privacy Act of 1974;

(4) Contain the name and address of the individual making the request;

(5) Specify the name and location of the systems of records, as set forth in the system notice, in which the record is maintained;

(6) Specify the title and business address of the official designated in the "Contesting Record Procedures" paragraph of the applicable system notice;

(7) Specify the particular record in the system which the individual is seeking to amend;

(8) Clearly state the specific changes which the individual wishes to make in the record and a concise explanation of the reason for the changes. If the individual wishes to correct or add any information, the request shall contain specific language making the desired correction or addition; and

(9) Be addressed to or delivered in person to the office of the official designated in the "Contesting Records Procedures" paragraph of the applicable system notice. A request delivered to an office in person must be delivered during the regular office hours of that office.

6. *Personal Identification Requirements.* Generally, the identification rules in paragraph 10.35 of these regulations apply to systems maintained in the Office of the Secretary. In addition, specific requirements for some systems are delineated below:

a. The notarized signature of the requester is required for requests by mail for notification and access to records in the following systems:

(1) OST 001 General Empolyee Records System;

(2) OST 030 Personal Management Convenience Files.

(**Note.**—An individual's social security number is an optional means of identification, which may be supplied in lieu of notarization. Social security numbers are used on these records as authorized under the provisions of Executive Order 9397, dated November 22, 1943.)

b. The notarized signature of the requester is required for requests by mail for notification and access to records in the following systems:

(1) OST 006 Confidential Statement of Employment and Financial Interests; and

(2) OST 037 Records of Confirmation Proceeding Requirements.

c. The number of the Federal Emergency Assignee Identification Card (SF 138) issued to the requester is required for requests by mail for notification and access to records in the following systems:

(1) OST 022 National Defense Executive Reserve File;

(2) OST 036 Planning Officials for Emergency Functions and;

(3) OST 050 Executive Team Cadre Listings.

d. The name of the applicable advisory committee is required for notification and access to records in the following system: OST 008 Departmental Advisory Committee Files.

Appendix C—U.S. Coast Guard

1. *Introduction.* This Appendix supplements the procedures set forth for the Department of Transportation in Subparts A through I of 49 CFR Part 10.

2. *Availability for Inspection and Copying.*

a. Individuals who wish the Coast Guard to examine a system of records covered by this part to determine whether any records in the system contain information about them or who wish to gain access to or receive copies of records which contain information about them, should address written requests either to the appropriate system manager as listed in the annual description of Coast Guard record systems appearing in the **Federal Register** or to: Commandant (G–CMA), U.S. Coast Guard Headquarters, 400 Seventh Street SW., Washington, D.C. 20590. Requests may also be delivered in person to the above address between 7:30 A.M. and 4 P.M. (Monday through Friday, excluding holidays).

b. The Coast Guard acknowledges requests for notification of the existence of a record within ten working days (excluding Saturdays, Sundays and holidays) after receipt of a completed request. The Coast Guard makes every effort within 30 days of the receipt of a request for access to a record to:

(1) make the record available;

(2) notify the requester of the need for additional information; or

(3) notify the requester of any denial, either in whole or in part, of access to a record. Para. 3 of this Appendix sets forth the addresses of Coast Guard district offices and headquarters units where records in decentralized systems may be located.

3. *Systems of Records.* The annual notice of systems of records required by 5 U.S.C. 552a(e)(4) with respect to records maintained by the Coast Guard is set forth in the **Federal Register.** Assistance may be requested in exercising his or her rights by an individual addressing the Privacy Act Coordinator at one of the following U.S. Coast Guard offices nearest his residence:

a. Commander, 1st Coast Guard District, 150 Causeway Street, Boston, MA 02114.

b. Commander, 2nd Coast Guard District, Federal Building, 1520 Market Street, St. Louis, MO 63013.

c. Commander, 3rd Coast Guard District, Governors Island, New York, NY 10004.

d. Commander, 5th Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, VA 23705.

e. Commander, 7th Coast Guard District, Federal Building, 51 S.W. 1st Avenue, Miami, FL 33130.

f. Commander, 8th Coast Guard District, Customhouse, New Orleans, LA 70130.

g. Commander, 9th Coast Guard District, 1240 East 9th Street, Cleveland, OH 44199.

h. Commander, 11th Coast Guard District, Heartwell Building, 19 Pine Avenue, Long Beach, CA 90802.

i. Commander, 12th Coast Guard District, 630 Sansome Street, San Francisco, CA 94126.

j. Commander, 13th Coast Guard District, Federal Building, 915 Second Avenue, Seattle, WA 98174.

k. Commander, 14th Coast Guard District, P.O. Box 48, FPO San Francisco 96610.

l.Commander, 17th Coast Guard District, FPO Seattle 98771.

m. Superintendent, U.S. Coast Guard Academy, New London, CT 06320.

n. Commanding Officer, U.S. Coast Guard Yard, Curtis Bay, Baltimore, MD 21225.

o. Commanding Officer, U.S. Coast Guard Training Center, Governors Island, New York, NY 10004.

p. Commanding Officer, U.S. Coast Guard Training Center, Cape May, NJ 08204.

q. Commanding Officer, U.S. Coast Guard Training Center, Government Island, Alameda, CA 94501.

r. Commanding Officer, U.S. Coast Guard Supply Center, 830 3rd Avenue, Brooklyn, NY 11232.

s. Commanding Officer, U.S. Coast Guard Institute, P.O. Substation 18, Oklahoma City, OK 73169.

t. Commanding Officer, U.S. Coast Guard Aircraft Repair & Supply Center, Elizabeth City, NC 27909.

u. Commanding Officer, U.S. Coast Guard Aviation Training Center, Mobile, AL 36608.

v. Commanding Officer, U.S. Coast Guard Radio Station (NMH), 7223 Telegraph Road, Alexandria, VA 22310.

w. Commanding Officer, U.S. Coast Guard Reserve Training Center, Yorktown, VA 23490.

x. Officer in Charge, Record Depot, U.S. Coast Guard Air Station, Elizabeth City, NC 27909.

y. Commander, Coast Guard Activities, Europe, London, Box 50, FPO New York 09510.

z. Commanding Officer, U.S. Coast Guard Training Center, Petaluma, CA 94952.

aa. Commander, U.S. Coast Guard Air Base, Elizabeth City, NC 27909.

bb. Commanding Officer, U.S. Coast Guard Electronics, Engineering Center, Wildwood, NJ 08260.

cc. Commanding Officer, Research & Development Center, Avery Point, Groton, CT 06340.

dd. Commanding Officer, U.S. Coast Guard Oceanographic Unit, Building 159E, Navy Yard Annex, Washington, D.C. 20590.

4. *Access to Records.*

a. The Coast Guard honors only those requests for notification, access, or amendment made by:

(1) the individual to whom the record pertains;

(2) the parent or guardian of a minor to whom the record pertains;

(3) the legal guardian of a person to whom the record pertains when that person has been declared incompetent by reason of physical or mental disability by a court having jurisdiction of the matter; or

If made by a person other than the individual to whom the record pertains, the request must specify the relationship of the requester to that individual.

b. Written requests for information or amendment must be signed by the requester. Requests for access to records containing sensitive or detailed personnel information (including, but not limited to, earnings and tax statements, employee payroll records, employee grievance and appeal files, civilian, officer, and enlisted personnel files, and health and medical records (subject to the conditions of 49 CFR 10.33 (b)) may be required to contain the following notarized certification:

I, ————, do hereby certify that I am the individual to whom the record in question pertains.

(or)

I am the parent or guardian of the minor to whom the record in question pertains.

(or)

I am the legal guardian of the individual determined by a court to be incompetent to whom the record in question pertains.

Notarization

(Signature)

(Date)

5. *Requests to Correct or Alter Records.* The official responsible for administering a system of records, in consultation as appropriate with the System Manager, Privacy Act Coordinator, and Privacy Act Officer, initially determines whether to grant requests under 49 CFR § 10.41 to amend records. Requests must be made as provided in paragraph 2a. of this Appendix. Requests for amendment must contain a complete description of the item sought to be changed and documentation to substantiate the grounds for the requested change. The Coast Guard acknowledges the receipt of completed requests for amendment within ten working days. As promptly as possible the Coast Guard advises the requester whether or not the change has been made, and in cases where a change has been made, transmits a copy of the amended record to the requester.

a. When a request for access to a record or amendment of a record is denied, in whole or in part, the manager of the system of records involved notifies the requester in writing, of the reasons for the denial and furnishes the requester a statement of the name and position or title of each person responsible for the denial. The requester also is advised of the right to file a written appeal of the adverse decision within 180 days of receipt of the initial denial. Appeals must be addressed to: Commandant (G–CMA), U.S. Coast Guard Headquarters, 400 Seventh Street, SW., Washington, D.C. 20590.

b. Within 30 working days of the receipt of a written appeal, the Commandant or his designee makes an independent review of the record and decides whether or not to make the requested disclosure or amendment. If the appeal is granted, the Coast Guard promptly notifies the requester of the decision in writing and transmits to the requester a copy of the record or amended record. If the appeal is denied, the Coast Guard promptly notifies the requester, in writing, of the reasons for the denial and furnishes the requester a statement of the name and position or title of each person responsible for the denial. The Coast Guard also informs the requester of the right to seek judicial review of the adverse decision pursuant to 5 U.S.C. 552a(g)(1).

c. In addition to appealing an adverse determination of a request to amend a record, the requester may file a concise "statement of disagreement" setting forth the reasons for disagreeing with the refusal of the Coast Guard to amend the record. The notification by the Coast Guard of the denial of an initial request for amendment or the denial of an administrative appeal for an amendment informs the requester of the right to file a statement of disagreement.

d. The Commandant of the Coast Guard, by Commandant Instruction 5212.11 (26 September 1975), has redelegated to the Chief of Staff the authority under 49 CFR Part 10 to:

(1) exempt systems of records from certain provisions of the Privacy Act;

(2) make final administrative determinations not to disclose or amend a record; and

(3) issue extensions of review time.

This authority may not be redelegated further.

6. *Personal Identification Requirements.*

a. When an individual requests notification, access, or amendment in person, he or she must show identification such as a driver's license, military or employment identification card, credit card, or medicare card. An individual requesting in person information about or amendment to a "sensitive" record may be required to complete the notarized certification set forth in paragraph 4.b of this Appendix.

b. The Coast Guard may require more specific information in order to establish the identify of a requester. For example, the Coast Guard may require that a legal guardian or personal representative produce certified copies of court documents appointing him to his position. The Coast Guard may independently verify the identity of a requester by telephone contact with the requester, personal identification by Coast Guard employees who may know the requester, or any other lawful means considered appropriate under the circumstances.

c. An individual may be accompanied by a person of the individual's choosing while reviewing records to which he or she has been granted access, provided that the individual signs a statement authorizing the accompanying person to do so. An individual granted access to a record may be required to sign and notarize a statement authorizing the Coast Guard to release the record to a person (e.g., his attorney) designated by the individual.

d. No request for information or amendment is considered complete until all necessary identification material has been provided. No copies of records are provided to individuals until they pay appropriate fees as set forth in 49 CFR Subpart H.

Appendix D—Federal Aviation Administration

1. *Introduction.* This Appendix:

a. Describes the procedures for determining if an individual is the subject of a record maintained by the Federal Aviation Administration;

b. Describes the availability of records and prescribes requirements for identifying an individual who requests a record pertaining to him or her;

c. Prescribes procedures for granting access to an individual upon that individual's request for the record pertaining to him or her;

d. Prescribes procedures for reviewing a request from an individual concerning the amendment of any record pertaining to him or her;

e. Prescribes procedures for making a determination on the request of an individual for amendment of any record pertaining to him or her; and

f. Prescribes procedures for an appeal within the FAA of a determination not to grant access to or amendment of records.

2. *Availability for Inspection and Copying.* Records may be inspected at the FAA facility identified for the particular system of records appearing in the systems notices published in the **Federal Register.** These facilities are open to the public during regular business hours, except Saturdays, Sundays, and Federal holidays.

3. *Systems of Records.*

a. A list of FAA systems of records pertaining to the Privacy Act indicating the geographic locations and the responsible systems managers has been published in the **Federal Register** and appears as follows:

(1) September 19, 1977, on pages 47069–47088,

(2) August 28, 1978, on page 38511, and

(3) May 15, 1979, on pages 28439–28447.

b. Any individual who is unable to determine in which FAA-maintained system the records pertaining to him or her may be found may submit a written request for assistance to the attention of the Privacy Act Coordinator located at the region or center nearest to his residence. The addresses for the regional and center facilities of the FAA are listed below:

(1) FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591;

(2) Alaskan Region, 632 Sixth Avenue, Anchorage, AK 99501;

(3) Central Region, 601 East 12th Street, Kansas City, MO 64106;

(4) Southern Region, 3400 Whipple Street, East Point, GA (Mailing address: P.O Box 20636, Atlanta, GA 30320);

(5) Southwest Region, 4400 Blue Mound Road (Mailing address: P.O. Box 1689, Fort Worth, TX 76101);

(6) Western Region, 5651 West Manchester Avenue (Mailing address: P.O. Box 92007, Los Angeles, CA 90009);

(7) Eastern Region, Federal Building, JFK International Airport, Jamaica, NY 11430;

(8) Pacific Region, 1833 Kalakaua Avenue (Mailing address: P.O. Box 4009, Honolulu, HI 96813);

(9) Aeronautical Center, 6400 South MacArthur Boulevard (Mailing address: P.O. Box 25082, Oklahoma City, OK 73125);

(10) National Aviation Facilities Experimental Center, Tilton Road, Route 563 (near Pomona, NJ), (Mailing address: Atlantic City, NJ 08405);

(11) New England Region, 12 New England Executive Park, Burlington, MA 01803;

(12) Great Lakes Region, 2300 East Devon, Des Plaines, IL 60018;

(13) Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; and

(14) Northwest Region, FAA Building, 9010 East Marginal Way South, King County International Airport (Boeing Field), Seattle, WA 98108.

4. *Access to Records.*

a. Any individual desiring to inspect a record or obtain a copy of a record pertaining to him or her must present a written request in accordance with the provisions of this section. An individual making a request under this section may either appear in person or submit a request by mail to the address and attention of the system manager as it appears in the list of systems of records published in the **Federal Register.** The individual must first determine in which system of records he or she believes the particular records pertaining to him or her are

maintained by examining the categories of records and routine uses in the list of the systems of records published in the **Federal Register** and available at the addresses set forth in paragraph 3.b of this Appendix.

b. The individual must include in the request the information necessary to identify the specific system of records as it appears in the list of the systems of records of the FAA published in the **Federal Register.**

c. Upon request by any individual to gain access to an FAA record that contains information pertaining to him or her, the FAA official responsible for the record informs the individual whether the requested record is exempt under subpart G of this part.

d. An individual making a request under this section is permitted to inspect and have a copy made of any record pertaining to him or her in a form comprehensible to him or her, if—

(1) He or she has given identification in accordance with section 6 of this Appendix;

(2) The record is not exempt under subpart G of this part; and

(3) The record was not compiled in reasonable anticipation of a civil action or proceeding. For medical records see section 10.35(d).

e. Notwithstanding paragraph d of this section, if an individual requesting a record pertaining to him or her is accompanied by a person of his or her own choosing to review the record, the individual making the request must submit a signed statement authorizing the discussion of the record in the presence of the accompanying person.

f. Each request for a record determined to be releasable under paragraph d of this section is complied with within ten days, excluding Saturdays, Sundays, and Federal holidays. If additional time is necessary to make the requested record comprehensible to the individual requesting it, the FAA official responsible for the record notifies the individual within ten days of the request of the estimated time required to fill the request.

g. Any individual whose request for access to a record pertaining to him or her is denied may file a written appeal to the Administrator, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Appeals submitted under this section must comply with the requirements of § 10.51 of this part.

5. *Requests to Correct or Alter Records.*

a. Any individual may request an amendment of any record pertaining to him or her maintained by the FAA in a system of records, by submitting the request in writing to the attention of the FAA official responsible for the record at the address appearing in the list of systems of records published in the **Federal Register.**

b. Each request for an amendment of a record must be accompanied by a written explanation as to why the individual believes the present record is not accurate, timely, relevant, or complete. The individul making the request may submit any documentation he or she wishes in support of his request.

c. Upon receipt of a request for an amendment of a record, the FAA official responsible for the record reviews the record and supporting documentation and determines if there is a sufficient basis upon which to make a decision to make the requested amendment. In any case, the request must be acknowledged within 10 days.

d. If the FAA official responsible for the record determines under paragraph c of this section that additional information is necessary before a decision can be made as to whether to make the requested amendment, the official notifies the individual making the request to amend specifying what additional information is necessary.

e. If the FAA official responsible for the record determines that the requested amendment should be made, the official amends the record, notifies the individual making the request, and sends to that individual a copy of the corrected record, as well as to other persons or agencies to whom the record may have been disclosed (See 49 CFR 10.23(d)).

f. If the FAA official responsible for the record determines that the requested amendment should be denied, the official forwards to his supervisor the request for amendment with all supporting documentation and reasons for the denial.

g. If the supervisor determines that the requested amendment should be made, the supervisor follows the procedures in paragraph e of this section.

h. If the supervisor determines that the requested amendment should be denied, the supervisor notifies the individual making the request of the denial, the reasons therefor, and informs the individual of the FAA procedures for appealing the denial.

i. Any individual whose request for correction or alteration of a record pertaining to him or her is denied may file a written appeal to the Administrator, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Appeals submitted under this section must comply with the requirements of § 10.51 of this part.

6. *Personal Identification Requirements.*

a. Each individual making a request under this Appendix for a record pertaining to him or her must present appropriate identification before the requested record is released. Types of appropriate identification include—

(1) For requests made in person, a driver's license or employee identification card; and

(2) For requests made by mail, name (printed or typed, and signature) and date of birth, or the unique identifier used in the system of records.

b. If an individual cannot provide appropriate identification as required in paragraph 6.a of this Appendix, or if the record requested is particularly sensitive, the FAA official responsible for the record may require the individual to sign a statement certifying his or her identity and understanding that knowingly and willfully to request or obtain any record concerning an individual from the FAA under false pretenses is a misdemeanor punishable by a fine of up to $5,000 as provided in 5 U.S.C. 552a(i)(3).

Appendix E—Federal Highway Administration

1. *Introduction.* This Appendix, with respect to the Federal Highway Administration (FHWA);

a. Describes the places and times at which records are available for inspection and copying;

b. Indicates the systems of records maintained in the FHWA;

c. Identifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 10.35 of these regulations.

2. *Availability for Inspection and Copy.* Places and times at which records are available for inspection and copying, and the system of records and systems managers having authority at each place.

a. *Headquarters:* The Federal Highway Administration, 400 7th Street SW., Washington, D.C. 20590. Time: 7:45 a.m.—4:15 p.m.

Systems of Records and Responsible Systems Managers:

1. Accounts Receivable DOT/FHWA-Chief General Ledger and Funds Control Section.

2. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Occupational Safety Engineer.

3. Driver Waiver File (BMCS) DOT/FHWA—Chief, Driver Requirements Branch.

4. Employee Utilization Monthly Report DOT/FHWA—Chief, Data Systems Division.

5. Investigation Case File DOT/FHWA—Chief, Investigations and Special Inquiry Division.

6. Medal of Honor File DOT/FHWA—Chief, Compliance Division.

7. Memorandum of Monthly Performance of Key Punch Operators DOT/FHWA—Chief, TCC Operation (Groups A and B).

8. Motor Carrier Accident File (BMCS) Property and Passenger—Chief, Accident Analysis Branch.

9. Occupational Safety and Health Accident Reporting System DOT/FHWA—Occupational Safety Engineer.

10. Payroll Administration DOT/FHWA—Chief, Payroll and Employee Records Section.

11. Personnel Records—(CSC Governmentwide) DOT/FHWA—Chief, Personnel Programs Division.

12. Travel Advance File DOT/FHWA—Chief, Voucher Review and Disbursement Section.

13. Travel Order (Change of Duty Station) DOT/FHWA—Chief, Voucher Review and Disbursement Section.

14. University and Industry Programs Coding and Filing Systems DOT/FHWA—Administrative Assistant—National Highway Institute.

15. Panel for Santa Monica Demonstration Project DOT/FHWA—Chief, Urban Planning Division.

b. *Regional Offices:* Region 1—Federal Highway Administration, Leo W. O'Brien Federal Building, Albany, New York 12207. Time: 8:00 a.m.–4:30 p.m.

Systems of Records and Responsible System Managers.

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License)— DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases DOT/FHWA—Regional Counsel.

3. Travel Advance File— DOT/FHWA Executive Officer, Region 3—Federal Highway Administration, George H. Fallon Federal Office Building, 31 Hopkins Plaza, Baltimore, Maryland 21201. Time: 8:00 a.m.–4:30 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases— DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA—Executive Officer, Region 4—Federal Highway Administration, 1720 Peachtree Road, NW., Atlanta, Georgia 30309. Time: 7:45 a.m.–4:15 p.m.

Systems or Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA Executive Officer, Region 5—Federal Highway Administration, 18209 Dixie Highway, Homewood, Illinois 60430. Time: 7:30 a.m.–4:00 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA—Executive Officer. Region 6—Federal Highway Administration, 819 Taylor Street, Fort Worth, Texas 76102. Time: 8:00 a.m.–4:30 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA—Executive Officer, Region 7—Federal Highway Administration, 6301 Rockhill Road, Kansas City, Missouri 64131. Time: 7:45 a.m.–4:15 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File—DOT/FHWA—Executive Officer. Region 8—Federal Highway Administration, P.O. Box 25246, Denver Federal Building Center, Denver, Colorado 80225. Time: 7:45 a.m.–4:15 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Payroll Administration DOT/FHWA—Appropriate Finance Officer.

4. Travel Advance File—DOT/FHWA—Executive Officer. Region 9—Federal Highway Administration, 2 Embarcadero Center, P.O. Box 7616, San Francisco, California 94120. Time: 7:45 a.m.–4:15 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License)—DOT/FHWA—Executive Officer.

2. Motor Carrier Safety Proposed Civil and Criminal Enforcement Cases—DOT/FHWA—Regional Counsel.

3. Travel Advance File DOT/FHWA—Executive Officer. Region 10—Federal Highway Administration, 222 SW. Morrison Street, Portland, Oregon 97204. Time: 8:00 a.m.–4:45 p.m.

Systems of Records and Responsible Systems Managers:

1. Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License)—DOT/FHWA—Executive Officer.

2. Travel Advance File—DOT/FHWA—Executive Officer. Region 15—Federal Highway Administration, 1000 North Glebe Road, Arlington, Virginia 22201. Time: 7:45 a.m.–4:15 p.m.

Systems of Records and Responsible Systems Managers:

Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Executive Officer.

c. Division Offices (For location and hours of duty see 49 CFR Part 7).

Systems of Records and Responsible Systems Managers:

Applications for U.S. Government Motor Vehicle Operator's Identification Card (U.S. Government Drivers License) DOT/FHWA—Administrative Managers.

3. *Access to Records:*

a. Each individual desiring to determine whether a record pertaining to him or her is contained in a system of records, or desiring access to such record, or to obtain a copy of such record, shall make request to the appropriate System Manager. In appropriate circumstances, oral requests are acted upon. Each request must specify the name of the requesting individual and the system of records in which the subject record is located or thought to be located.

4. *Requests to Correct or Alter Records:*

a. The FHWA allows individuals to request amendment of their personal records to the extent that such amendment does not violate existing statutes, regulations, or administrative procedures. Requests to amend personnel records of active employees should be addressed to the responsible system managers specified in paragraph 2 above.

b. The System Managers provide written acknowledgment of the receipt of a request to amend a record to the individual within 10 days. However, if the request can be reviewed, processed and the individual notified of compliance or denial within the 10-day working period, no acknowledgment is required.

c. If the System Manager agrees with an individual's request to amend the person's record, the following steps are taken:

1. Correct the record accordingly,

2. Advise the individual in writing, and

3. If an accounting of disclosure has been made, advise all previous recipients of the record of the fact that the correction was made and the substance of the correction.

d. If the System Manager disagrees with all or any portion of the request to amend a record, he or she:

1. Proceeds as described above with respect to those portions of the record which will be amended.

2. Advises the individual of the refusal and the reason for not amending a record, indicating the name and title or position of each person responsible for the denial, and

3. Informs the individual of the right to appeal the decision not to amend a record to: Associate Administrator for Administration, Federal Highway Administration, Washington, D.C. 20590.

e. If after this review the FHWA refuses to amend the record on the individual requested, the FHWA advises the individual:

1. Of the refusal and the reason for it,

2. Of the individual's right to file a concise statement of the reasons for disagreeing with the decision of the FHWA,

3. The procedures for filing the statement of disagreement,

4. That the statement which is filed will be made available to anyone to whom the record is subsequently disclosed, and

5. Of the individual's right to seek judicial review of the FHWA's refusal to amend a record.

f. The final FHWA determination on the individual's request is concluded within 30 days of the receipt of the appeal unless for good cause shown, the Associate Administrator for Administration extends such period. Such final administrative decision addresses all information and arguments relied upon by the individual.

g. Each application for review by FHWA must indicate that it is an appeal from a denial of a request made under the Privacy Act. The envelope in which the application is sent should be marked prominently with the words "Privacy Act".

If these requirements are not met, the time limits described in section 10.43 do not begin until the application has been identified by an employee of the FHWA as an application under the Privacy Act and has been received by the appropriate office.

h. The Associate Administrator for Administration may require the person making a request to furnish additional information, or proof of factual allegations, and may order other appropriate proceedings.

His or her decision as to the availability of a record or whether to amend a record is administratively final subject to the concurrence of the DOT General Counsel or his or her delegate. However, requests for review of denials of information contained in Government-wide systems of personnel records, which includes the FHWA Personnel Records System, are handled by the Civil Service Commission in accordance with 5 CFR 294.108 and 5 CFR 297.108.

i. If the Associate Administrator for Administration also refuses to grant access or to correct the individual's record, he or she advises the individual of:

1. the reason(s) for the refusal and the names, and titles or positions of each person responsible for the denial;

2. the individual's right to file a statement of disagreement; that the statement will be made available to anyone to whom the record is subsequently disclosed, and to prior recipients of the record (see Section 10.23(d)), and

3. the right to bring suit in the District Court of the United States in the district in which the individual resides, the district in which his principal place of business is located, the district in which the record(s) is located, or the District of Columbia.

5. *Personal identification Requirements:*

a. When a record is applied for in person, the person so applying must, unless personally known to the custodian of the records, furnish adequate identification. Such identification may consist of an employee identification card, Medicare Card, driver's license, or a similar document.

b. When a record is applied for by mail, sufficient information to identify the individual must be furnished, and a notarized statement as to the identity of the requester may be required in some instances when the record involved contains particularly sensitive information in the judgment of the systems manager.

Appendix F—Federal Railroad Administration

1. *Introduction.* This Appendix, with respect to the Federal Railroad Administration (FRA):

a. Describes the places and times at which records are available for inspection and copying;

b. Indicates the systems of records maintained in the Federal Railroad Administration;

c. Identifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 10.35 of these regulations.

2. *Availability for Inspection and Copying.* Places and times at which records are available for inspection and copying and the systems of records and systems managers having authority to deny requests for disclosure at each facility.

a. Records in systems maintained in the Federal Railroad Administration are available at the Alaska Railroad, Anchorage, Alaska 99510, 9:00 a.m.–4:00 p.m.

Systems of Records and Responsible Systems Managers:

1. Alaska Railroad Examination of Operating Personnel; DOT/FRA Operations Officer (System Manager).

2. Alaska Railroad Personnel and Pay Management Information System; DOT/FRA—General Manager (System Manager).

3. Alaska Railroad Security and Freight Claims Investigatory Files; DOT/FRA—Chief, Security and Claims Office (Systems Manager).

b. *Places:* The Alaska Railroad, Anchorage, Alaska 99510. Hours: 9:00 a.m.–4:00 p.m.

Systems of Records and Responsible Systems Managers:

1. Application for (Vehicle) Operator's Identification Card; DOT/FRA—Director, Office of Administrative Operations (System Manager).

2. Confidential Statement of Employment and Financial Interest; DOT/FRA—Chief Counsel, Office of the Chief Counsel (System Manager).

3. Employee Travel Records; DOT/FRA—Accounting Officer, Accounting Division (System Manager).

4. Occupational Safety and Health Reporting System; DOT/FRA—FRA Safety Manager, Office of Administrative Operations (System Manager).

5. Office of Safety Past Employees Files; DOT/FRA—Deputy Associate Administrator for Safety (System Manager).

6. Personnel and Pay Management Information Systems; DOT/FRA—Director, Office of Personnel and Training (System Manager).

7. Travel Advance Records; DOT/FRA—Director, Office of Administrative Operations (System Manager).

8. Work Measurement System; DOT/FRA—Director, Office of Management Systems.

c. *Places: Regional Offices as follows:*

Region 2, Federal Railroad Administration, Philadelphia, Pa. 19106.

Region 3, Federal Railroad Administration, College Park, Ga. 30337.

Region 4, Federal Railroad Administration, Chicago, Illinois 60605.

Region 5, Federal Railroad Administration, Ft. Worth, Texas 76102.

Region 6, Federal Railroad Administration, Portland, Oregon 97204.

Region 7, Federal Railroad Administration, San Francisco, California 94102.

Region 8, Federal Railroad Administration, Kansas City, Missouri 64106

Hours: 9:00 a.m.–4:00 p.m.

Systems of Records and Responsible Systems Managers at each Region:

Regional Personnel Convenience Files; DOT/FRA—Regional Directors (Systems Manager)

d. *Place: Transportation Test Center* (TTC) Pueblo, Colorado 81001. Hours: 9:00 a.m.–4:00 p.m.

System of Records and Responsible System Manager:

Transportation Test Center Employee Service Record File—Director, TTC (System Manager)

Transportation Test Center Cost Tracking System—Director TTC (System Manager)

3. *Access to Records.*

a. Each individual desiring to determine whether a record pertaining to him or her is contained in a system of records or to obtain a copy of such a record, shall make his request in writing to the appropriate official listed as responsible system manager in this Appendix. Each request shall specify the name of the requesting individual and the system of records in which the subject record is located or thought to be located.

b. FRA allows individuals to request amendment of their personal records to the extent that such amendment does not violate existing statutes, regulations, or administrative procedures. Requests to amend personal records of active employees should be addressed to the responsible system managers specified in 2.3A–D.

c. The system managers provide written acknowledgment of the receipt of a request to amend a record to the individual within ten days. However, if the request can be reviewed, processed and the individual notified of compliance or denial within the ten-day working period, no acknowledgment is required.

d. If FRA agrees with an individual's request to amend the person's record, the following steps are taken:

1. Advises the individual in writing;

2. Corrects the record accordingly; and

3. If a prior disclosure has been made, advises all previous recipients of the record of the correction and its substance.

e. If FRA, after an initial review by the system manager of a request to amend a personal record, disagrees with all or any portion of it, FRA:

1. Advises the individual of refusal and the reasons for it;

2. Informs the individual of procedures to request a further review;

f. If an individual disagrees with the initial determination, the individual may file a request for a further review of that determination. The request for a review should be addressed to:

Attn: Privacy Act of 1974, Office of the Chief Counsel, Federal Railroad Administration, Washington, D.C. 20590.

g. If after this review FRA refuses to amend the record as the individual requested, FRA advises the individual:

1. of refusal and the reasons for it;

2. of the individual's right to file a concise statement of the reasons for disagreeing with the decision of the Administration;

3. the procedures for filing the statement of disagreement;

4. that the statement which is filed will be made available to anyone to whom the record is subsequently disclosed;

5. of the individual's right to seek judicial review of the refusal to amend a record.

h. The final FRA determination on the individual's request is concluded within thirty (30) working days unless the FRA Administrator determines that a fair and equitable review cannot be completed in that time-frame. If additional time is required, the individual is informed in writing of reasons for the delay and of the estimated date on which the review is expected to be completed.

4. *Procedures for Establishing Indentity of Individual Making a Request:*

a. Disclosure of personnel records requires that the individual produce an identification

card: employee identification, annuitant identification, Medicare cards, or driver's license are examples. For records disclosed by mail, FRA requires identifying information to locate the record, i.e., employee identification number, name, date of birth or social security number. A comparison of the signature of the requester and those in the record is used to determine identity.

B. If an individual can provide no suitable documents for identification, FRA requires a signed statement asserting identity and stipulating that the individual understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of up to $5,000 under 5 U.S.C. 552a(i)(3).

Appendix G—National Highway Traffic Safety Administration

1. *Introduction.* This Appendix, with respect to the National Highway Traffic Safety Administration:

a. Describes the places and times at which records will be available for inspection and copying;

b. Indicates the systems of records maintained in the National Highway Traffic Safety Administration;

c. Identifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 10.35 of these regulations.

2. *Availability for Inspection and Copying.* Records of the National Highway Traffic Safety Administration, hereafter referred to as NHTSA, are located at NHTSA headquarters, Washington, D.C., and at regional office locations, both described below. Records created, collected, maintained and used in various demonstration and research projects as contract requirements of NHTSA are located at various points in the several States and the Commonwealth of Puerto Rico.

a. All NHTSA Headquarters offices are open from 7:45 A.M. to 4:15 P.M., each day except Saturdays, Sundays, and Federal legal holidays. The main headquarters Office is located at 400 Seventh Street SW., Washington, D.C. 20590. The Office of Vehicle Safety Compliance, Enforcement Programs; the National Driver Register, Traffic Safety Programs, and the Office of Research and Development are located at the Trans Point Building, 2100 2nd Street SW., Washington, D.C. 20590.

b. NHTSA Regional offices are located at the following addresses and are open during the indicated hours each day, except for Saturdays, Sundays, and Federal legal holidays:

(1) Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), 55 Broadway, Cambridge Massachusetts 02142 (7:45 A.M.–4:15 P.M.).

(2) Region II (New Jersey, New York, Puerto Rico, Virgin Islands), 222 Mamaroneck Avenue (Room 204), White Plains, New York 10601 (7:45 A.M.–4:15 P.M.).

(3) Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia), Airport Plaza Building, 6701 Elkridge Landing Road, Linthicum, Maryland 21090 (8:00 A.M.–4:30 P.M.).

(4) Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), Suite 501, 1720 Peachtree Road, N.W., Atlanta, Georgia 30309 (7:45 A.M.–4:15 P.M.).

(5) Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), Suite 214, Executive Plaza, 1010 Dixie Highway, Chicago Heights, Illinois 60411 (8:00 A.M.–4:30 P.M.).

(6) Region VI (Arkanasas, Louisiana, New Mexico, Oklahoma, Texas), 819 Taylor Street, Room 11A26 Fort Worth, Texas 76102 (8:00 A.M.–4:30 P.M.).

(7) Region VII (Iowa, Kansas, Missouri, Nebraska), 6301 Rockhill Road, Kansas City, Missouri 64111 (7:45 A.M.–4:15 P.M.).

(8) Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), 330 South Garrison Street, Lakewood, Colorado 80226 (7:45 A.M.–4:15 P.M.).

(9) Region IX (American Samoa, Arizona, California, Guam, Hawaii, Nevada), Suite 610, Two Embarcadero Center, San Francisco, California 94111 (7:45 A.M.–4:15 P.M.).

(10) Region X (Alaska, Idaho, Oregon, Washington), 3140 Federal Building, 915 Second Avenue, Seattle, Washington 98174 (7:45 A.M.–4:15 P.M.).

c. NHTSA demonstration and research project records may be created, collected, maintained, and used for the purposes of NHTSA contract requirements. These records are maintained at various points in the several States and the Commonwealth of Puerto Rico. Since these project contractors only act as agents for NHTSA, and to prevent unauthorized dsclosure of information that may be subject to the provisions of the Privacy Act of 1974, management of the systems has been retained by appropriate officials of NHTSA. Access to the published systems may be obtained by corresponding with the systems manager indicated for the system of records found in the citations in paragarph 3 of this appendix. Appropriate personal identification must be furnished in accordance with paragraph 4. These officials should be notified of any inaccuracy of the record and, also, are responsible for considering requests for correction or alteration of the record.

3. *Systems of Records.* A list of NHTSA systems of records pertaining to the Privacy Act indicating the geographic locations and the responsible systems managers has been published in the **Federal Register** and appears as follows: Vol. 42, No. 181, September 19, 1977, beginning on page 47099.

4. *Access to Records.*

a. Individuals desiring to determine whether records pertaining to them are contained in systems of records covered by this Appendix or desiring access to records covered by this Appendix, or to obtain copies of such records, shall make written requests providing appropriate identification of the system and proof of their identity in the same manner as former employees described in 4.c below. When an individual is not capable of personally providing the required information, a second party request may be honored if a duly attested authorization, power of attorney, or appropriate court order is submitted with the request.

b. Decision to release or deny requested records is made by the system manager, identified in the citations of paragraph 3 of this Appendix, within ten working days of the receipt of the request. A person seeking review of a denial of the disclosure of a record may appeal to the NHTSA Associate Administrator for Administration, 400 Seventh Street SW., Washington, D.C. 20590, preferably within 180 days of the initial denial. Decision on the request for review is made in writing within 30 working days from the receipt of the request for reconsideration of disclosure. For additional details see sections 10.45 and 10.51 of these rules.

c. Employees and former employees of NHTSA may obtain access to and consideration of the amendment of their records by providing a current Department of Transportation (DOT) identification card (Form D–1600.1.9), a DOT retired employee identification card (Form D–1680.2), Medicare card, attested signed request, or such other identification that may prove the validity of their claims.

d. Since nearly all NHTSA systems of records are maintained on electronic data processing equipment, it may require up to 48 hours to obtain individual records due to computer scheduling requirements. It is in the interest of the individual, therefore, to request information in writing rather than in person.

5. *Requests to Correct or Alter Records.*

a. Individuals may request correction or alteration of records pertaining to them by addressing such requests to the system managers or the NHTSA Privacy Act Coordinator, the addresses of whom are contained in the citation of paragraph 3 of this Appendix.

b. Since the records of the National Driver Register merely contain partial records of the States! motor vehicle records, they are susceptible to correction or alteration only to the extent that such records are at variance with the State records. Persons seeking to correct their State motor vehicle records should address requests to their respective States' motor vehicle licensing authorities.

c. The system manager, in accordance with 49 CFR 10.41, provides written acknowledgment of the receipt of a request to amend a record to the individual within ten working days. If the request can be reviewed, processed, and the individual notified of compliance or denial of the request within the ten working day period, no acknowledgment is required.

d. When decision is made by the system manager to comply with an individual's request to amend the person's record, the following steps are taken within 30 working days from the date of acknowledgment of the request:

(1) Advises the individual of the decision in writing;

(2) Corrects the record accordingly; and

(3) Advises all previous recipients of the record, if an accounting of disclosure has been made, of the correction.

e. When decision is made, after initial review by the system manager of a request to amend a personal record, to disagree with all or any portion of the requested amendment,

the following steps are taken within 30 working days from the date of acknowledgment of the request.

(1) Advises the individual of refusal and the reasons therefore; and

(2) Informs the individual of the procedures for appeal to the NHTSA Administrator for further review.

f. If the individual disagrees with the initial determination of the system manager, the individual may file a request for further review of that determination. This request for review should be addressed to the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590.

g. If after review the Administrator agrees to the amendment of the record, the procedures of subparagraph 5.d of this Appendix are followed. If amendment of the record is refused as requested by the individual, the individual is advised:

(1) Of the refusal and reasons therefore, and the names and titles of positions of each person responsible for the determination;

(2) Of the individual's right to file, together with the appropriate procedures, a concise statement of the reasons for disagreeing with the decision of the Administrator;

(3) Of the fact that the statement which is filed by the requester is made available to prior recipients and anyone to whom the record is subsequently disclosed; and

(4) Of the individual's right to seek judicial review of the administrator's refusal to amend a record.

h. The final determination to refuse an individual's request for amendment of a record is concluded within 30 working days after the receipt of the appeal to the Administrator. If a fair and equitable review cannot be completed by the stipulated time, the Administrator informs the individual in writing of the reasons for delay and provides an estimated date on which completion of the review is expected.

6. *Personal Identification Requirements.* The NHTSA does not demand any personal identification beyond that specified by § 10.35 of this part.

Appendix H—Urban Mass Transportation Administration

1. *Introduction.* This Appendix, with respect to the Urban Mass Transportation Administration (UMTA):

a. Describes the places and times at which records are available for inspection and copying;

b. Indicates the systems of records maintained in the Urban Mass Transportation Administration;

c. Identifies the officials having authority to deny requests for access for records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 1035 of these regulations.

2. *Availability for Inspection and Copying.* In accordance with Title 49, Part 10, Subpart A, Section 10.1, dealing with the maintenance of an access to records pertaining to individuals under the Privacy Act of 1974 (Pub. L. 93–579), the following places and times at which individual's records are available for inspection and copying, and the titles of the officials who are reponsible system managers are submitted.

a. Regional Offices as follows:

(1) Region I, Urban Mass Transportation Administration, Cambridge, MA 02142;

(2) Region II, Urban Mass Transportation Administration, New York, NY 10007;

(3) Region III, Urban Mass Transportation Administration, Philadelphia, PA 19106;

(4) Region IV, Urban Mass Transportation Administration, Atlanta, GA 30309;

(5) Region V, Urban Mass Transportation Administration, Chicago, IL 60606;

(6) Region VI, Urban Mass Transportation Administration, Ft. Worth, TX 76102;

(7) Region VII, Urban Mass Transportation Administration, Kansas City, MO 64131;

(8) Region VIII, Urban Mass Transportation Administration, Denver CO 80202;

(9) Region IX, Urban Mass Transportation Administration, San Francisco, CA 94111; and

(10) Region X, Urban Mass Transportation Administration, Seattle, WA 98174.

b. Hours: 8:30 A.M. to 5 P.M., local time.

c. System of Records: Regional Personnel Convenience Files at each location.

d. System Managers: Regional Directors or Chiefs are System Managers

e. Headquarters: Urban Mass Transportation Administration, Washington Headquarters, Washington, D.C. 20590; Hours: 8:30 A.M. to 5 P.M.

3. *Systems of Records.*

a. Confidential Statement of Employment and Financial Interest—DOT/UMTA, Chief Counsel, Office of the Chief Counsel;

b. Occupational Safety and Health Reporting System, Director of Personnel Division;

c. Litigation and Claims File—Chief Counsel, Office of Chief Counsel;

d. Grant Applicants List, Director, Grant Management Division;

e. Contract Information System, Director, Procurement Division;

f. Unsolicited Research and Development Grants, Director, Grant Management Division;

g. Complaints of Discrimination, Director, Office of Civil Rights;

h. Employee Travel Vouchers, Chief, Accounting Branch;

i. Accounts Receivable, Chief, Accounting Branch;

j. Equal Employment Opportunity, Minority/Female Statistical Reporting System, Director, Office of Civil Rights;

k. Minority Recruitment File, Director, Office of Civil Rights;

l. UMTA Sponsored Reports—Authors File, Director, Office of Transit Management;

m. Blood Donors File, Director, Administrative Services Division;

n. Approved Grants, Director, Administrative Services Division;

o. Closed-Out Grants, Director, Administrative Services Division; and

p. Docket DOT/UMTA, Chief Counsel, Office of Chief Counsel.

4. *Access to Records.* Each individual desiring to determine whether a record pertaining to him or her is contained in a system of records or to obtain a copy of such a record, shall make request in writing to the official specified in paragraph 1 of this Appendix. Each request shall specify the name of the requesting individual and the system of records in which the subject record is located or thought to be located.

5. *Requests to Correct or Alter Records.*

a. The Administration allows individuals to request amendment of their personal records to the extent that such amendment does not violate existing statutes, regulations, or administrative procedures. Requests to amend personal records of active employees should be addressed to the responsible system manager specified in paragraph 1.

b. The system manager provides a written acknowledment of the receipt of a request to amend a record to the individual within ten days. However, if the request can be reviewed and processed and the individual notified of compliance or denial within the ten-day working period, no separate acknowledgment is required.

c. If UMTA agrees with an individual's request to amend the person's record, the following steps are taken:

(1) advises the individual in writing;

(2) corrects the record accordingly; and

(3) advises all previous recipients of the record which was corrected of the correction and its substance.

d. If UMTA, after an initial review by the system manager of a request to amend a personal record, disagrees with all or any portion of it, it:

(1) advises the individual of refusal and the reasons for it; and

(2) informs the individual of procedures to request a further review.

e. If an individual disagrees with the initial determination, the individual may file a request for a further review of that determination. This request for a review should be addressed to: Privacy Act Officer, UAD–60, 400 Seventh Street SW., Washington, D.C. 20590.

f. If after this review UMTA refuses to amend the record as the individual requested, UMTA advises the individual:

(1) of refusal and the reasons for it;

(2) of the individual's right to file a concise statement of the reasons for disagreeing with the decision;

(3) the procedures for filing the statement of disagreement;

(4) that the statement which is filed is made available to anyone to whom the record is subsequently disclosed; and

(5) of the individual's right to seek judicial review of the Administration's refusal to amend a record.

g. The final determination on the individual's request is concluded within 30 working days unless the UMTA Administrator determines that a fair and equitable review cannot be completed in that period. If additional time is required, the individual is informed in writing of reasons for the delay and of the estimated date on which the review is expected to be completed.

h. For personnel-related records final Civil Service Commission determination may apply within 30 working days following the procedures explained above.

6. *Personal Identification Requirements.*

a. Disclosure of personal records requires that the individual produce an identification

card; employee identification, annuitant identification, Medicare card, and driver's license are examples. For records disclosed by mail, UMTA requires identifying information to locate the record, *i.e.*, employee identification number, name, date of birth, or social security number. A comparison of the signature of the requester and those in the record is used to determine identity.

b. If an individual can provide no suitable documents for identification, UMTA requires a signed statement asserting identity and stipulating that the individual understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of up to $5,000 under citation 3(i)3 of the Privacy Act.

Appendix I—Saint Lawrence Seaway Development Corporation

1. *Introduction.* This Appendix, with respect to the Saint Lawrence Seaway Development Corporation:

a. Describes the places and times at which records are available for inspection and copying;

b. Indicates the systems of records maintained;

c. Identifies the officials having authority to deny requests for access to records;

d. Describes the procedures to be followed in requesting correction of a record; and

e. Describes identification requirements which may be in addition to those delineated in paragraph 10.35 of these regulations.

2. *Availability for Inspection and Copying.*

a. Place and time for records inspection and copying: Saint Lawrence Seaway Development Corporation, Administration Building, Andrews Street, Massena, New York 13662; Massena Office: 9:00 a.m.–4:00 p.m.

b. Systems of records located at each facility: *Administration Building:* Claimants under Federal Tort Claims Act, Data Automation Program Records, Employees' Compensation Records, Emergency Operating Records (Vital Records).

c. Official having authority to deny requests for disclosure of records under this part:

Resident Manager, Saint Lawrence Seaway Development Corporation, Administration Building, Andrews Street, Massena, New York 13662.

3. *Systems of Records:* A complete listing of the systems of records maintained by the Saint Lawrence Seaway Development Corporation has been published in the Federal Register as follows: September 19, 1977, pages 47138–47140.

4. *Access to Records:* Each individual desiring to determine whether a record pertaining to him or her is contained in a system of records or to obtain a copy of such record, shall make request in writing to the address provided in Section 2 of this Appendix. Each request shall specify the name of the requesting individual and the system of records in which the subject record is located or thought to be located.

5. *Requests to Correct or Alter a Record:*

a. Any person who desires to have his or her own record corrected shall submit a written request.

b. Only the individual to whom the record pertains may make the written request and it shall be signed by that person.

c. Request should state the reasons that the record should be corrected and that the request is made pursuant to the Privacy Act; alternatively the requester may mark "Privacy Act Amendment Request" on the envelope in which the request is submitted.

d. Requests for correction of records shall be submitted to the Personnel Officer, Saint Lawrence Seaway Development Corporation, Administration Building, Andrews Street, Massena, New York 13662.

6. *Personal Identification Requirements:* Refer to subsection 10.35 for normal requirements. In those cases involving mail requests for sensitive records, *i.e.*—medical records, the requester's signature shall be notarized.

Appendix J—Research and Special Programs Administration

The Research and Special Programs Administration (RSPA) will operate under the general rules of Part 10 (49 CFR Part 10) until specific procedures are deemed necessary for the RSPA.

[FR Doc. 80–4100 Filed 2–8–80; 8:45 am]

BILLING CODE 4910–62–M

Proposed Rules

Federal Register
Vol. 45, No. 29
Monday, February 11, 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

Agricultural Marketing Service

7 CFR Part 971

Lettuce Grown in South Texas; Hearing on Proposed Amendment of Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and notice of hearing.

SUMMARY: Notice is hereby given of a public hearing to be held to consider a proposed amendment of the marketing agreement and order for lettuce grown in South Texas. The proposal was submitted by the South Texas Lettuce Committee, the industry group responsible for local administration of the program. The principal changes proposed are to authorize production research and add a public member to the committee. A prenotice release announcing the proposal, inviting public comment, and offering copies of the proposal to interested persons was released on November 27, 1979.

DATES: The hearing will begin on February 26, 1980, at 9:00 a.m.

ADDRESSES: The hearing will be held in Room B–203, Federal Bldg., 320 N. Main St., McAllen, Texas 78501.

FOR FURTHER INFORMATION CONTACT: James B. Wendland (202) 447–3823.

SUPPLEMENTARY INFORMATION: The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900). The proposed amendment has not received the approval of the Secretary of Agriculture.

The public hearing is for the purpose of:

(a) Receiving evidence about the economic and marketing conditions which relate to the proposed amendment and the program it would be effective under;

(b) Determining whether there is a need for an amendment to the South Texas lettuce marketing agreement and order.

(c) Determining whether the proposed amendment or an appropriate modification of it will tend to effectuate the declared policy of the act.

The proposals are as follows:

Proposal No. 1

§ 971.5 [Amended]

Revise § 971.5 *Lettuce* by deleting the words ", commonly known as iceberg type head lettuce,".

Proposal No. 2

Amend paragraphs (a) and (b) of § 971.20 to read:

§ 971.20 Establishment and membership.

(a) The South Texas Lettuce Committee is hereby established consisting of 12 members, including seven producers, four handlers and one public member. Each shall have an alternate who shall have the same qualifications as the member.

(b) Each committee member and alternate shall be a resident of the production area. Industry members shall be producers or handlers, or officers or employees of a producer or handler or of a producers' cooperative marketing organization. The public member shall be a person who has no financial interest in the commercial production or marketing of lettuce except as a consumer, nor be a director, officer or employee of any firm so engaged.

Proposal No. 3

§ 971.23 [Amended]

Add a new paragraph (f) to § 971.23 to read:

(f) The public member and alternate shall be nominated by the industry members of the committee. The committee shall prescribe additional qualifications and procedure for selection and voting for each candidate.

Proposal No. 4

Amend § 971.27 to read:

§ 971.27 Alternate members.

An alternate member of the committee shall act in the place and stead of the member during such member's absence or when designated to do so. In the event both a member of the committee and respective alternate are unable to attend a committee meeting, the member, alternate, or the committee, in that order, may designate another alternate from the same group (producer or handler) to serve in such member's stead. In the event of the death, removal, resignation, or disqualification of a member, the alternate shall act for the member until a successor for such member is selected and has qualified. The committee may request the attendance of alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members.

Proposal No. 5

Amend § 971.28 *Procedure* to read:

§ 971.28 Procedure.

(a) At assembled meetings seven members of the committee shall constitute a quorum and seven concurring votes shall be required to approve any committee action. Such votes shall be cast in person.

(b) The committee may meet by telephone, telegraph, or other means of communication. Such meetings shall be limited to nonregulatory provisions and packaging holidays only and any vote cast shall be promptly confirmed in writing. On such occasions nine concurring votes shall be required to approve any action.

Proposal No. 6

§ 971.42 [Amended]

Amend § 971.42(a) by adding the following sentence to it:

If a handler does not pay the assessment within the time prescribed by the committee, the assessment may be increased by a late payment charge and/or an interest charge.

Amend the first sentence of § 971.42(b) to read:

Assessments and late payment fees shall be levied upon handlers at rates established by the Secretary.

Proposal No. 7

§ 971.43 [Amended]

Amend § 971.43(a)(2) by revising the proviso in the first sentence to read as follows:

§ 971.43(a)(2) * * * Provided, That funds already in the reserve do not exceed approximately three fiscal periods' budgeted expenses. * * *

Proposal No. 8

Amend the first sentence of § 971.48 to read:

§ 971.48 Research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of lettuce. * * *

Proposal No. 9

Make such changes as may be necessary to make the entire marketing agreement and order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be obtained from the Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, or from David B. Fitz, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, 320 N. Main St., Rm. A–103, McAllen, Texas 78501, or phone (512) 682–2833.

Signed at Washington, D.C., on February 6, 1980.

William T. Manley,

Deputy Administrator Marketing Program Operations.

[FR Doc. 80–4442 Filed 2–8–80; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 292

[Docket No. RM79–55]

Designation of Officers of the Commission To Meet With Members of the Public on Staff Draft of the Final Rule in RM79–55

February 5, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Designation of Officers of the Commission to Meet with Members of the Public on Staff Draft of the Final Rule in RM79–55.

SUMMARY: On October 18, 1979, the Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking [1] under section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA). Section 210 requires the Commission to prescribe rules which the Commission determines necessary to encourage small power production and cogeneration, including small power production and cogeneration facilities.

Pursuant to the authority found in section 401 of the Department of Energy Organization Act, Pub. L. 95–91, Ross Ain, Bernard Chew, James Liles, John O'Sullivan, and Adam Wenner have been designated as officers of the Commission for the purposes of meeting with interested members of the public to discuss questions and comments on the staff draft final rule in RM79–55.

Copies of the draft rule are available in the Commission's Division of Public Information.

The designated officers will be available to meet with members of the public at the Commission beginning February 7 through February 12, 1980. Meetings with the officers should be arranged in advance by telephoning Ross Ain at 202–357–8446.

DATE: February 7 through February 12, 1980.

ADDRESS: Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Ross Ain, Associate General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8446.

Adam Wenner, Executive Assistant to the Associate General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8033.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–4257 Filed 2–8–80; 8:45 am]

BILLING CODE 6450–01–M

[1] Published October 24, 1979, 44 FR 61190.

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 161

[CGD 75–112]

New Orleans Vessel Traffic Service; Withdrawal of Advance Notice of Proposed Rulemaking

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of advance notice of proposed rulemaking.

SUMMARY: The Coast Guard has decided to discontinue this docket, concerning the New Orleans Vessel Traffic Service, pending the completion of the Lower Mississippi River Safety Study. Any future rulemaking action on this subject will be initiated under a new docket.

FOR FURTHER INFORMATION CONTACT:

(jg) George W. Molessa, Jr., Project Manager, Office of Marine Environment and Systems (G–WLE–4/11), Room 1608, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593, (202) 426–4958.

Discussion

On June 17, 1976 the Coast Guard published an advance notice of proposed rulemaking concerning the New Orleans Vessel Traffic Service (41 FR 24604). No further rulemaking action has been taken to date due to delays in resolving communications difficulties in the area. The Coast Guard does not intend to take any further rulemaking action until the Lower Mississippi River Safety Study, directed by Congress, is completed in late 1980. The objective of the study, which is being conducted by the Louisiana State University Center for Wetland Resources, is to develop recommendations to enhance marine transportation safety on the lower Mississippi River. These recommendations, together with all comments received on the advance notice, will be given full consideration in any future rulemaking action.

In consideration of the foregoing, the advance notice published in the **Federal Register** (41 FR 24604) on June 17, 1976 entitled "New Orleans Vessel Traffic Service" (CGD 75–112) is hereby withdrawn.

Dated: February 5, 1980.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 80–4434 Filed 2–8–80; 8:45 am]

BILLING CODE 4910–14–M

POSTAL SERVICE

39 CFR Part 111

Electronic Postage Meters

AGENCY: Postal Service.

ACTION: Proposed Rule.

SUMMARY: The proposed rule would amend postal regulations to include electonic meters in postage meter specifications. Since their introduction in 1920, all postage meters have performed their computations mechanically. Although existing regulations contain sufficient criteria to approve any meter based on endurance tests, the use of solid state electronics in postage meters requires additional criteria to more adequately assure the construction of electronic meters which are accurate and which protect postal revenue. The proposed regulations also establish requirements for authorized

meter manufacturers and anyone who proposes to become a meter manufacturer. These requirements were developed with the cooperation of meter manufacturers in the course of the development and approval of an electronic meter for the F.M.E. Corporation. In making the requirements, many things were taken into consideration, including the effects of temperature, humidity, altitude, vibration and shock, and electrical and electrostatic conditions which may be anticipated in transportation, handling, storage, and industrial use.

DATE: Comments must be received on or before March 27, 1980.

ADDRESS: Written comments should be addressed or delivered to: Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260. Copies of all comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 1640 at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT: Francis E. Gardner, (202) 245–4529.

SUPPLEMENTARY INFORMATION: To carry out the purposes described in the Summary above, we propose to add new 144.92i and 144.931 to the Domestic Mail Manual. There would also be conforming changes to 144.911b, 114.92, 144.92c, 144.92d, 144.92h, and 144.943 of the Manual, and renumbering of 144.931–.936.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comment on the following proposed revisions of the Domestic Mail Manual, which is incorporated by reference in the **Federal Register**. See 39 CFR 111.1.

Part 144—Postage Meters and Meter Stamps

1. In 144.911b and in the first sentence of 144.92, strike out the word "mechanical".

2. In 144.92c, add after the second sentence the following: "In electronic meters, the locking device must prevent printing if the amount that would be printed would reduce the descending register to less than zero."

3. In 144.92d, strike out the word "mechanism" in the first sentence and insert "meter" in lieu thereof; and strike out the word "mechanism" in the third and fifth sentences and insert "components" in lieu thereof.

4. In 144.92h, strike out the word "mechanism" and insert "meter" in lieu thereof.

5. In 144.93, renumber .931–.936 as .932–.937.

6. Add new 144.92i and 144.931 reading as follows:

144.92 Specifications

* * * * *

i. In addition to the features and safeguards described in a–h above, electronic meters must:

(1) Have either nonvolative ascending and descending registers or a solid state memory that stores the data for the ascending and descending registers. The memory must be powered by batteries that have a minimum support life of five years from date of battery renewal with no external power applied, and that have sufficient redundancy to be self checking.

(2) Be able to display the amounts in both the ascending and the descending registers (not necessarily at the same time).

(3) Be able to display—free from accidental changes—the amount of postage that will be printed next.

(4) Be resettable by postal employees, preferably without customized equipment.

(5) Contain a fault detection device for computational security that will automatically lock out the meter and prevent printing of additional postage in the event of malfunction.

(6) Meet Postal Service test specifications contained in United States Postal Service Specification, Postage Meters, Electronic, USPS–M–942(RCD). Persons wishing to manufacture electronic postage meters may obtain a copy of this Postal Service test specification from U.S. Postal Service, Office of Mail Classification, Washington, D.C. 20260.

.93 Test Plans, Testing and Approval

.931 Test Plans

To receive Postal Service approval, a postage meter must be tested. Manufacturers of electronic meters must submit a detailed test plan to the Office of Mail Classification for approval at least 60 days prior to the conduct of the tests. The test plan must include tests which, if passed by a meter, prove compliance by the meter with all postal requirements. The test plan must list the parameters to be tested, test equipment, procedures, test sample sizes, and test data formats. Also, it must include detailed descriptions, specifications, design drawings, schematic diagrams and explanations of the purposes of all special test equipment and nonstandard or noncommercial instrumentation.

7. In 144.943, revise the first sentence to read as follows:

"During the process of fabricating parts and assembling postage meters, the manufacturer must exercise due care to prevent loss or theft of keys or of serially numbered postage printing dies or component parts (such as denomination printing dies, or auxiliary power supply and meter setting equipment for electronic meters) which might be used in some manner to defraud the Government of postal revenues."

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposals are adopted.

(39 U.S.C. 401(2))

W. Allen Sanders,

Associate General Counsel for General Law and Administration.

[FR Doc. 80–4310 Filed 2–8–80; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[FRL 1408–7]

Proposed Revision of the State Implementation Plan for Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: Part D of the Clean Air Act, as amended in 1977, requires states to revise their State Implementation Plans (SIP) for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). The requirements for an approvable SIP are described in a general preamble published in the April 4, 1979, **Federal Register** (44 FR 20372) and supplemented on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 20372), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

On September 17, 1979, the State of Kansas submitted to EPA a proposed revision to the SIP for the attainment of the ozone standard in both Wyandotte and Johnson Counties. As of December 26, 1979, no revision to the SIP for the attainment of the particulate matter standard in Kansas City or a revision for the attainment of the carbon monoxide standard in Wichita, have been submitted to EPA.

On October 22, 1979, the state submitted to EPA a proposed revision to the SIP for the Douglas County ozone nonattainment area. Action on this submittal will be proposed at a later date.

On October 22, 1979, the state, purusant to the provisions of Section 110(b) of the Clean Air Act (CAA) and 40 CFR 51.31, submitted a request for an extension for submission of a SIP for the Topeka, total suspended particulate, secondary nonattainment area. EPA is proposing action concerning this request at this time.

The state has also submitted requests that the nonattainment designations for the carbon monoxide nonattainment area in Kansas City and the ozone nonattainment area in Sedgwick County

be changed. This notice proposes action on these requests.

In this notice the September 17, 1979, submission is summarized, and issues that affect SIP approval are discussed. An evaluation report which describes the submission in greater detail is available for inspection by interested persons.

EPA proposes to approve fully certain portions of the Kansas submittal and to approve other parts subject to certain conditions. Approval means that regulations adopted by the state will also become enforceable by the Federal Government.

EPA invites public comments on the revision, the identified issues, the suggested corrections and whether or not the revision should be approved, conditionally approved, or disapproved, especially with respect to the requirements of Part D of the Clean Air Act.

DATES: On October 12, 1979, the Regional Administrator, EPA, Region VII, published a Notice of Availability (44 FR 58921) concerning the proposed revision to the Kansas SIP.

Comments received within 30 days of publication of this proposed rulemaking will be considered in EPA's final decision on the SIP.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Support Branch, 324 East 11th Street, Kansas City, Missouri 64106.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Kansas Department of Health and Environment, Bureau of Air Quality and Occupational Health, Forbes Field, Topeka, Kansas 66620.

Kansas City-Wyandotte County Health Department, Air Pollution Control Division, 619 Ann Avenue, Kansas City, Kansas 66101.

Mid-America Regional Council, 20 West Ninth Street, Kansas City, Missouri 64105.

All comments on the proposed revision should be directed to: Mr. David Doyle, Air Support Branch, U.S. Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: David Doyle at 816–374–3791, (FTS 758–3791).

SUPPLEMENTARY INFORMATION:

A. General Discussion

The Clean Air Act as amended in 1977 contains requirements which must be addressed in a SIP submission. Part D (Sections 171–178) details the requirements for an approvable nonattainment plan. Section 110 contains the general requirements for a SIP. Section 120 requires noncompliance penalties. Section 121 requires the state to consult with local governments on various matters. Section 123 limits the availability of dispersion techniques for certain sources. Section 126 relates to interstate pollution abatement. Section 127 requires public notification of violations of health-related standards. Section 128 imposes requirements concerning conflicts of interest. Part C (Sections 160–169) requires plans to contain measures for the prevention of significant deterioration of air quality.

For general background, the reader may refer to the **Federal Registers** of April 4, July 2, August 28, and September 17, 1979, which consist of the general preamble to the proposed rulemaking for all nonattainment plan submissions. Section 172 of the Act requires states to submit to EPA plan revisions containing strategies to attain ambient air quality standards in all areas designated nonattainment. Nonattainment designations are codified in 40 CFR Part 81.

The State of Kansas has submitted revisions to its SIP as required by Part D. The state submittal also addresses Section 121 concerning consultation with local government. The remaining non-Part D items have not been addressed.

These revisions were submitted by the State of Kansas Department of Health and Environment at the request of the Governor, to EPA on September 17, 1979. Receipt of the Kansas revisions was first announced in the **Federal Register** of October 12, 1979 (44 FR 58921) and public comment on the revisions was requested at that time.

The EPA proposes to fully approve portions of the plan and conditionally approve where there are minor deficiencies. The EPA proposes to conditionally approve portions where the state provides assurances that it will submit corrections by specified deadlines. This notice solicits comment on what items should be conditionally approved, and on what deadlines should apply for meeting the conditions. A conditional approval will mean that the restrictions on new major source construction will not apply unless the state fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA.

B. Area Designations

The following areas are now designated in 40 CFR Part 81 as nonattainment for the indicated pollutants:

Total Suspended Particulates, Primary and Secondary-Wyandotte County (most of the area between I–635 and the Missouri state line), Topeka.

Total Suspended Particulates, Secondary Only-Wyandotte County (an area extending about three miles west of the above area).

Ozone-Wyandotte, Johnson, Sedgwick and Douglas Counties.

Carbon Monoxide-Kansas City and Wichita.

These designations were published in the **Federal Register** on March 3, 1978.

An attainment area is one in which measured air quality does not exceed the ambient air quality standards. A nonattainment area is one in which the air quality is worse than the standards. An unclassified area is one for which there are insufficient data to determine whether the area is attainment or nonattainment. The EPA allowed rural areas which experienced violations of the total suspended particulate matter standard which could be attributed to fugitive dust to be designated attainment, is such areas have: (1) a lack of major industrial development or an absence of significant industrial particulate emissions, and (2) low urbanized population; (44 FR 20378, April 4, 1979).

Those areas of the state not designated as nonattainment were designated as either attainement or unclassified. In order to designate an area as attainment, the state was required to examine at least two years of valid air quality data. If the most current year's data showed that standards were not exceeded, the state examined the data for the previous year. If there were two consecutive years showing the long and short term standards were not being exceeded, the area would be classified attainment based upon air quality data. However, certain rural or nonurban areas could also be designated attainment if the criteria for fugitive dust were met.

In addition, an attainment designation based on less than two years of ambient data for a nonattainment area can be approved, provided real emission reductions have taken place in the area and provided the emission reductions are commensurate with the air quality improvements. Also, all ambient data recorded since the reductions occurred must obviously show no ambient violations and the emission reductions

must be a result of legally enforceable measures.

Of the above areas, the state has submitted plan revisions to attain the ozone standard for Wyandotte, Johnson and Douglas Counties. The Douglas County submission will be acted upon at a later date. The state is planning to submit plan revisions for attainment of the particulate matter standard in Wyandotte County and the carbon monoxide standard in Sedgwick County. The state has submitted a request for an extension for submission of the SIP revision for the Topeka particulate secondary (as proposed for modification in Section C) nonattainment area. For the remaining areas, the state has submitted requests for redesignations as discussed in Section C.

Riverton-Sulfur Dioxide—EPA received one comment from the public concerning our March 3, 1978, promulgation of the list of nonattainment areas in Kansas. This commentor requested that Riverton, Kansas be classified as nonattainment for total suspended particulates and sulfur dioxide.

On June 12, 1978, EPA responded by letter to the commenter that the air quality standards for particulate matter and sulfur dioxide had not been violated in the Riverton area and redesignation of this area was not warranted. This response was based on the monitoring data submitted to EPA prior to the designation.

On August 14, 1978, EPA received from the Kansas Department of Health and Environment (KDHE) copies of data sheets from a special sampling study around the Empire District Electric Company (EDEC) power plant located in Riverton. This study was conducted from April 5, 1977, until June 30, 1978, and during this time six (6) violations of the primary ambient air quality standard and nine (9) violations of the secondary ambient air quality standard for sulfur dioxide were recorded.

On November 16, 1978, the EDEC was issued a delayed compliance order that required the company to achieve final compliance with Kansas Air Pollution Control Regulation 28–19–31C (sulfur) by June 30, 1979. This order also required that the EDEC, no later than ninety (90) days after the effective date of the order (December 1, 1978), operate at least two continuous ambient sulfur dioxide monitors according to methods and locations to be approved by EPA.

The company selected two montioring sites that were determined by dispersion modeling to be the points of highest sulfur dioxide concentration, the monitors utilized were determined by EPA to be equivalent monitors, and all calibration and data handling methods were approved by EPA.

The monitoring program started on March 1, 1979, and EPA has received the results of this monitoring through October 1979. The results for this eight months of monitoring show no violations of the ambient sulfur dioxide standard.

Preliminary results of a September 4–5, 1979, stack test at the company show that the company has reduced its SO_2 emissions and is in compliance with Kansas Regulation 28–19–13C, dealing with sulfur emissions.

Although violations of the NAAQS for SO_2 were recorded during the period from April 5, 1977, to June 1978, the most recent eight months of air quality data show no violations of either the primary or secondary standard for SO_2. EPA believes that these eight months of data indicate an actual improvement in air quality, since EDEC is now complying with EPA's order of November 16, 1978. EPA also believes, however, that eight months of data do not adequately indicate attainment of the NAAQS for SO_2 in the Riverton area. Therefore, EPA believes it does not presently have sufficient reliable data on which to base a designation, and is proposing that the Riverton area be reclassified from attainment to unclassified for the SO_2 NAAQS.

The boundaries of this area will be as follows: bounded on the east by a line extending from a point on U.S. Highway 66, exactly two miles east of Riverton (intersection of U.S. 66 and State Highway 26), two miles north along a line dividing township sections 15 and 16, and 9 and 10, and two miles south along a line dividing township sections 21 and 22, and 28 and 27. On the north by a line dividing township sections 4 and 9, 5 and 8, 6 and 7, and 1 and 12 (four miles). On the west by a line dividing township sections 11 and 12, 14 and 13, 23 and 24, and 26 and 25 (four miles). On the south by a line dividing township sections 25 and 36, 30 and 31, 29 and 32, and 21 and 28 (four miles).

EPA believes that real emission reductions resulting from legally enforceable measures have occurred. Thus for the designated area to be reclassified as attaining the NAAQS for sulfur dioxide, one year's worth of continuous sulfur dioxide ambient monitoring data (until February 29, 1980), showing no violations of the NAAQS for sulfur dioxide must be submitted by the state to EPA.

C. Redesignation Requests

The state's requested changes in attainment status and EPA's proposed action are discussed for each applicable pollutant in this section.

A request for redesignation to an attainment or unclassified status is also a request to not require a nonattainment plan for the applicable standard in that area. Areas that are redesignated as attainment or unclassified will not need nonattainment plans. Areas that remain classified as nonattainment will, of course, be required to submit nonattainment plans.

(1) Sedgwick County—This area is presently classified as not attaining the NAAQS for ozone. On April 6, 1979, EPA received a request from the Kansas Department of Health and Environment (KDHE) that this area by reclassified as attaining the NAAQS. The KDHE based their request on the fact that ambient air quality measurements made in the area during the years 1976 through 1978, which previously showed violations of the NAAQS for ozone, now indicated that the area meets the NAAQS for ozone, as revised by the Administrator on February 8, 1979 (44 FR 8202).

PROPOSED ACTION: EPA generally requires that before an attainment designation can be approved, the most recent eight quarters (24 months) of ambient air quality data, showing no violations, must be submitted. Since no violations of the ozone standard have taken place in this area since 1976, EPA is proposing that the designation for Sedgwick County, for ozone, be changed to attainment.

(2) Topeka—An area of Topeka bounded by the Kansas River on the east and south, Vail Avenue on the west and Lyman Avenue on the north, is designated as not attaining both the primary and secondary NAAQS for total suspended particulates (TSP). This designation was based on data received during the period 1974 through 1976.

On April 6, 1979, EPA received a request from the KDHE that the area be redesignated as attainment for both the primary and secondary NAAQS for TSP. The state contends that since no violations of the primary standard have occurred in the area since 1976 and that violations of the secondary standard are solely attributable to fugitive dust emissions, the area should be designated as attainment.

The EPA policy on accounting for fugitive dust in attainment status designations is described in the March 3, 1978, (43 FR 8962) rulemaking. Under the policy, rural areas experiencing TSP violations that could be attributed to fugitive dust can, in certain specific cases, be designated as attainment. The policy was written to recognize the relatively lower environmental impact of fugitive dust in rural versus urban

areas. This was based upon the belief that the toxic fraction of fugitive dust in rural areas, without the emissions from industrial sources, is likely to be small.

In order to be classified as rural under the policy, an area must meet two criteria: (1) lack of major industrial development or significant industrial sources of particulate emissions; and (2) have low urbanized population.

PROPOSED ACTION: Although the state has demonstrated that the area meets the first criterion stated above, with respect to major industrial development or significant industrial sources of particulate emissions, the area does not meet the second criterion with respect to population (which EPA interprets as requiring a population of less than 25,000 to 50,000). Since no violation of the primary standard has occurred since 1976, EPA is proposing to remove the primary particulate nonattainment designation for Topeka, and retain the secondary particulate designation.

On October 22, 1979, the state submitted to EPA a request, pursuant to section 110(b) of the Clean Air Act and 40 CFR 51.31, that the state be granted an extension, until July 1, 1980 for the submission of an implementation plan to provide for the attainment of the secondary particulate standard in the Topeka secondary nonattainment area.

PROPOSED ACTION: 40 CFR 51.31 (c) requires that before such an extension can be granted the state shall show that for the secondary standard to be attained emission reductions beyond those achievable through the application of reasonably available control technology (RACT) are required. Since the state has demonstrated that the eleven point sources impacting on the nonattainment area are controlled at a level considered to represent RACT, or better, EPA proposes that an extension, until July 1, 1980, be granted for the submission of a SIP to achieve the secondary particulate standard for this area.

(3) Kansas City—An area of Kansas City, Kansas, bounded by 6th Street on the east, Washington Street on the north, 18th Street on the west and Barnett Street on the south has been designated as not attaining the NAAQS for carbon monoxide (CO).

On April 6, 1979, the KDHE submitted a request to EPA that the nonattainment designation for this area be changed to attainment of the CO standard. This request is based on the fact that CO measurements in the area have indicated a steady decrease in the levels of CO over the past three years and no violations of the standard were recorded in 1978. The KDHE contends that levels of CO in the area are almost totally associated with mobile source emissions and estimates of reductions in these emissions during the period 1976 to 1979 demonstrate good correlation with the corresponding decrease in measured carbon monoxide levels.

As mentioned above, generally eight quarters of ambient air quality data are required, showing no violations, before an attainment designation can be approved. However, an attainment designation based on less than eight quarters of ambient data for a currently designated nonattainment area can be approved, provided real emission reductions have taken place in the area in question and provided the emission reductions are commensurate with measured air quality improvements. Also, all ambient data recorded since the reductions occurred must show no ambient violations.

The KDHE has shown that reductions in CO emissions from mobile sources do correlate with reductions in measured CO values. However, EPA contends that the location of the CO monitor utilized in the Kansas City, Kansas area is not acceptable or in accordance with the EPA probe siting criteria for maximum concentration level CO monitoring. EPA has suggested to the KDHE an alternate site which would meet the siting criteria. The KDHE has agreed to install a second CO monitor at the approved location and operate both sites simultaneously for a period of one year. At the end of this period, the data from each monitor will be compared with data from the other and the monitor which is located at the location with the higher CO levels will continue to be operated. The other monitor will be discontinued.

Thus, based on this situation, EPA proposes that the present CO nonattainment area designation be changed to unclassifed. This designation will remain until either there are recorded violations from one of the two CO monitors or enough data has been obtained, without violations of the standard, to reclassify the area as attaining the CO standard.

D. Nonattainment Plan Provisions

The state has submitted plan revisions addressing nonattainment problems in these areas:

Wyandotte County—ozone
Johnson County—ozone
Douglas County—ozone

The state intends to submit plan revisions for the following areas:

Kansas City—particulate
Wichita—carbon monoxide

The EPA is proposing that the remaining nonattainment areas be redesignated or modified as discussed above.

Section 172 of the Act contains the requirements for nonattainment plan revisions. The following list summarizes the basic requirements for a nonattainment area plan:

(1) Evidence that the proposed SIP revisions were adopted by the state after reasonable notice and public hearing.

(2) A provision for expeditious attainment of the standards.

(3) A determination of the level of control needed to attain the standards by 1982 and the criteria necessary for approval of any extension beyond that date.

(4) An accurate inventory of existing emissions.

(5) Provisions for reasonable further progress (RFP) as defined in section 171 of the Clean Air Act (CAA).

(6) An identification of emissions growth.

(7) A permit program for major new or modified sources, consistent with section 173 of the CAA.

(8) Use of Reasonably Available Control Technology (RACT) control measures as expeditiously as practicable.

(9) Inspection and Maintenance (I/M), if necessary, as expeditiously as practicable.

(10) Necessary transportation control measures, as expeditiously as practicable.

(11) Enforceability of the regulations.

(12) An identification of and commitment to the resources necessary to carry out the plan.

(13) State commitments to comply with schedules.

(14) Evidence of public, local government, and state involvement and consultation, and the analysis of effects.

In the following discussion there are several references to the terms "design value" and "rollback." To avoid confusion or misunderstanding, these terms are defined below:

Design Value: The level of existing air quality used as a basis for determining the amount of change of pollutant emissions necessary to attain a desired air quality level.

Rollback: A proportional model used to calculate the degree of improvement in ambient air quality needed for attainment of a national ambient air quality standard (NAAQS).

Where the plan submission is deficient with respect to some requirements, it will be discussed in detail under the heading, "F. Approvability Issues." Items which are

not identified as approvability issues are proposed to be approved as meeting the appropriate requirement.

General discussion. The State of Kansas officially submitted the revised ozone SIP for Wyandotte and Johnson Counties to the Regional Administrator, EPA, Region VII, on September 17, 1979. This revised SIP contains provisions for controlling volatile organic compound (VOC) emissions from stationary sources. The Kansas SIP proposes to regulate major sources in seven (7) RACT categories: surface coating of large appliances; surface coating of insulation of magnetic wire; control of VOC emissions from bulk gasoline plants; surface coating of metal furniture; control of VOC emissions from storage of petroleum liquids in fixed-roof tanks; control of refinery vacuum producing systems, wastewater separators, and process unit turnarounds; and control of VOC emissions from surface coating of cans, coils, paper, fabrics, automobiles and light duty trucks. Kansas did not include a regulation for control of cutback asphalt sources, which will be required. Regulations for the remaining categories were not included since no sources within these categories are located in Wyandotte or Johnson County.

The following discussion summarizes EPA's comments on various elements of the Kansas submittal:

(1) *Adoption After Reasonable Notice and Hearing*—The State of Kansas has adequately satisfied the requirements of this section. A public hearing was held on July 12, 1979, at the Johnson County Office Building in Mission, Kansas.

(2) *Attainment Date*—Based on the SIP submittal, the State of Kansas anticipates achieving the ozone standard before the December 31, 1982, deadline.

(3) *Control Strategy and Demonstration of Attainment*—The Kansas plan assumes a directly proportional relationship exists between estimated hydrocarbon emissions and measured ozone concentrations. Based on this assumption, the plan states that the control strategy utilized in reducing the measured ozone concentrations should be directed at controlling the emissions of reactive VOC (hydrocarbon) substances from identifiable sources of these pollutants. The design value utilized in the control strategy is a 1977 value of 260 ug/m^3. Utilizing a linear rollback model, an 11.4 percent reduction in emissions from existing VOC sources must be obtained to achieve the ozone standard. Using this reduction rate and 1977 emission inventory data, the maximum annual reactive VOC emission rate that can be allowed in the two-county area is 42,223 tons per year.

Projections show that, based on reductions projected from the Federal Motor Vehicle Control Program (FMVCP), 1982 reactive VOC emissions for the nonattainment area will total 41,634 tons per year, 589 tons per year below the maximum allowable emission rate. However, where the state uses linear rollback, EPA requires, as a minimum, that the SIP must also provide for control of all existing major sources (i.e., those which have the potential to emit 100 tons per year or more of VOC) for which the EPA has issued a control techniques guideline (CTG) and a commitment by the state to adopt and submit additional requirements for any sources covered by future CTG guidelines.

The Control Technique Guidelines (CTGs), provide information on available air pollution control techniques and provide recommendations of what EPA terms as the "presumptive norm" for RACT. Based on the information in the CTGs, EPA believes that the submitted regulations are consistent with the recommendations.

Projecting reductions from the four industries for which RACT will be applied, the KDHE projects an additional reduction of 10,518 tons per year from the nonattainment area.

(4) *Emission Inventory*—Kansas has submitted an emissions inventory based on emissions from 1977. This inventory is acceptable to EPA.

(5) *Reasonable Further Progress (RFP)*—Kansas has presented an RFP curve which predicts attainment of the ozone standard before the December 31, 1982, deadline. The RFP curve is based on reductions estimated to result from motor vehicle emission reductions. The state has noted that the RFP projection will be amended as individual compliance schedules are developed for the CTG covered sources-including those sources expected to be covered by documents issued after 1977.

(6) *Margin for Growth*—Growth projections for reactive VOC emissions include an allowance for anticipated increases in emissions from normal development of new "area" sources (i.e., those other than stationary sources) for a ten-year period. This allowance is based upon population and associated growth projections that have been developed by the local planning organization. The projections also include a specific allowance for an additional 184 tons of VOC emissions from a new can manufacturing plant proposed for Johnson County. The plan states that major new VOC emission sources, if proposed, will be subject to the new source review requirements of the plan and will be approved to the extent that the additional proposed emissions from it will not prevent the attainment or maintenance of the ozone standard.

EPA accepts these proposals as meeting the margin of growth requirements.

(7) *Preconstruction Review Permits*—Section 172 (b)(6) of the Clean Air Act (CAA) requires that the plan shall require permits for the construction and operation of new or modified major stationary sources in accordance with the requirements of Section 173 of the CAA.

The Kansas plan proposes new amendments to the Kansas Air Quality Regulations (Regulations 28–19–7, 28–19–8, and 28–19–14) be adopted to carry out the provisions of Section 173.

Regulation 28–19–7 contains a definition which defines the phrase "allowable contaminant emission rate." The phrase is defined as the maximum weight of a contaminant which may be emitted "from any source that is operating in compliance with the provisions of these regulations." EPA contends that this definition is too vague in that it does not encompass a source that is not operating in compliance with the regulations. This will be discussed further in Section F (1a).

Regulations 28–19–8 and 28–19–14 establish a construction and operating permit requirement for certain new, modified and reconstructed "emmission sources." Regulation 28–19–14 is applicable to any emission source which is "installed, altered or reconstructed" after the effective date of the regulation. Regulation 28–19–14(b) requires that an owner or operator of an emissions source that takes any "actions" required to be reported under Regulation 28–19–8(a) (which relates to installation or alteration of emission sources) obtain an air pollution control construction and operating permit. EPA believes that these regulations (28–19–8 and 28–19–14) do not adequately indicate what activities are prohibited with respect to the installation of an emissions source. This deficiency will be discussed further in Section F (1b).

Section 173(3) of the CAA requires that before a permit is issued, the owner of the source must demonstrate that all major stationary sources owned or operated by the permit applicant, in the state, are subject to emission limitations and are in compliance with all emission limitations and standards under the CAA. The Kansas plan states that the Kansas Attorney General's office has determined that this requirement cannot

be adopted at this time. Thus, Regulation 28–19–14 requires only that other sources owned or operated by the permit applicant must be in compliance with *state* regulations. This deficiency will be discussed further in Section F (1c).

(8) *Reasonably Available Control Technology*—The Kansas plan requires reasonably available control technology (RACT) for major VOC sources covered by Control Techniques Guidelines (CTGs) that EPA issued by January 1978, and a commitment by the state to adopt and submit additional requirements for any sources covered by CTGs issued in the future. These requirements are contained in the SIP as proposed amendments (Regulations 28–19–60, 28–19–61, 28–19–62, 28–19–64, 28–19–65, 28–19–68, and 28–19–69) to the Kansas Air Quality Regulations. EPA has determined that since emissions from cutback asphalt sources constitute a major source, a cutback asphalt regulation will be required. This deficiency will be discussed in Section F (2).

The plan includes a provision which exempts methyl chloroform (1,1,1 trichloroethane) and methylene chloride. These volatile organic compounds (VOC), while not appreciably affecting ambient ozone levels, are potentially harmful. Both methyl chloroform and methylene chloride have been identified as mutagenic in bacteria and mammalian cell test systems, a circumstance which raises the possibility of human mutagenicity and/or carcinogenicity.

Furthermore, methyl chloroform is considered one of the slower reacting VOCs which eventually migrates to the stratosphere where it is suspected of contributing to the depletion of the ozone layer. Since stratosphere ozone is the principal absorber of ultraviolet light (UV), the depletion could lead to an increase of UV penetration resulting in a worldwide increase in skin cancer.

With the exemption of these compounds some sources, particularly existing degreasers, will be encouraged to utilize methyl chloroform in place of other more photochemically reactive degreasing solvents. Such substitution has already resulted in the use of methyl chloroform in amounts far exceeding that of other solvents. Endorsing the use of methyl chloroform by exempting it in the SIP can only further aggravate the problem by increasing the emissions produced by existing primary degreasers and other sources.

EPA is concerned that the state has chosen this course of action without full consideration of the total environmental and health implications. The EPA does not intend to disapprove the state plan if the state chooses to maintain these exemptions. However, EPA is concerned that this policy not be interpreted as encouraging the increased use of these compounds nor compliance by substitution. EPA does not endorse such approaches. Furthermore, state officials and sources should be advised that there is a strong possibility of future regulatory action to control these compounds. Sources which choose to comply by substitution may well be required to install control systems as a result of these future regulatory actions.

(9) *Inspection and Maintenance*—Since the plan shows that the NAAQS for ozone will be attained before the December 31, 1982, deadline, an automobile inspection and maintenance program will not be required in this area.

(10) *Transportation Control Measures*—Since the plan shows that attainment of the ozone standard can be attained by the projected reduction from the FMVCP and control of major VOC sources, transportation control measures will not be required.

(11) *Enforceability of the Regulations*—The State Air Quality Control Act gives the Secretary of Health and Environment the authority to adopt, amend and repeal rules and regulations implementing and consistent with provisions of the Act. Other state statutes provide that such rules and regulations may be adopted on either a permanent or temporary basis. Permanent rules and regulations must be submitted to the state's Revisor of Statutes between May 1 and December 31 and become effective, as filed, on the following May 1, unless they are modified or rejected by the legislature prior to that date. Temprary rules and regulations become effective upon filing and remain effective until May 1 of the year following their filing.

The amended regulations submitted with the SIP have not been adopted by the state as final (temporary or permanent) regulations. The state presently plans to submit the amended regulations as "temporary" regulations. The primary reason for promulgating temporary regulations is that the state cannot meet the statutory deadlines for the filing of permanent regulations (i.e., filing with the Secretary of Administration prior to November 1, 1979, and filing adopted rules with the Revisor of Statutes prior to January 1, 1980).

The major statutory restraint relating to temporary rules and regulations is that a temporary rule cannot be effective after April 30 of the year succeeding the year in which a temporary rule is filed with the Revisor of Statutes. In addition, a permanent rule cannot be effective until after April 30 of the year following the year in which the rule is filed. Therefore, the state cannot, until after January 1, 1980, file a temporary rule which would be effective until a permanent rule can be adopted. Therefore the rule must be filed after January 1, 1980. This deficiency will be discussed further in Section F (3).

(12) *Commitment to Resources*—EPA has determined that the plan contains adequate commitments to the resources necessary to carry out the plan provisions.

(13) *Commitment to Comply with Schedules*—EPA has determined that the plan contains evidence that the state and other governmental bodies are committed to implement the appropriate elements of the plan.

(14) *Public, Local Government and State Involvement*—Section 172(b)(9) of the CAA requires that the plan contain evidence of involvement and consultation of the public, local government and state legislature in the planning process and an identification and analysis of the air quality, health, welfare, economic, energy and social effects of the revision and a summary of public comments on the analysis.

The plan does not satisfy the requirements of section 172(b)(9) since none of the requirements are discussed in the plan. This deficiency will be discussed in Section F (4).

ISSUES AND PROPOSED ACTION: A number of issues were identified above as issues which might interfere with plan approval. These will be discussed individually in Section F, Approvability Issues, and each one will have its own proposed action. For items which were discussed above, and which are not specifically identified as approvability issues, EPA is proposing to approve those elements as meeting the requirements of the CAA.

E. Other Provisions

This section discusses each requirement, other than those in Part D of the CAA, that a State Implementation Plan (SIP) must meet in order to be fully approvable under the CAA, as amended in 1977. This section also discusses whether or not the Kansas revision addresses these items and proposes what action EPA is taking concerning each non-Part D requirement.

(1) New Source Review—Section 110(a)(2)(D) requires the plan to include a program for enforcement of limitations on emission due to modification, construction or operation of stationary sources including a permit program for

new major sources. This permit, described in Section 110(a)(4), requires among other things, a preconstruction review of the proposed source.

PROPOSED ACTION: The plan submission does not address this issue. EPA proposes that no action be taken on this matter at this time.

(2) Interstate Air Pollution—Section 110(a)(2)(E)(i) requries the plan to contain provisions prohibiting stationary sources within the state from causing violations of standards, interfering with plans for the prevention of significant deterioration of air quality, or interfering with measures to protect visibility in another state. It also requires the plan to contain provisions insuring compliance with the requirements of Section 126. Section 126 requires each plan to contain requirements for each major proposed new source to provide written notice to all nearby states which may be affected at least 60 days prior to the day on which commencement of construction is to be permitted.

PROPOSED ACTION: The Kansas plan submission does not address these requirements.

The state has informed EPA that they will attempt to develop a formal agreement with the State of Missouri to provide for mutual reporting of new source proposals affecting the Kansas City interstate nonattainment area and resolving any disagreement concerning new growth and PSD increment consumption.

EPA proposes no action at this time.

(3) State Boards—Section 128 places requirements concerning conflict of interests on members of state bodies, or the head of an executive agency, which have the power to approve permits or enforcement orders under the CAA.

PROPOSED ACTION: The plan submission does not address this issue. EPA proposes no action be taken at this time.

(4) Permit Fees—Section 110(a)(2)(K) requires a permit fee for the issuance of any permit required under the CAA.

PROPOSED ACTION: The plan does not address this issue. EPA proposes no action on this item at this time.

(5) Noncompliance Penalties—Section 120 requires sources not in compliance with applicable emission limits to pay a penalty based on the economic benefits of not installing control equipment and provides that the state may assess the penalty if it has an approved plan to do so.

PROPOSED ACTION: The plan submission does not address this issue. EPA proposes no action be taken at this time.

(6) Consultation—Section 121 of the CAA requires the plan to contain a satisfactory process of consultation between the state and various officials affected by the plan.

The plan proposes that a special review process take place that will include a reexamination of ambient air quality data, further specification and evaluation of transportation measures under study, and an extensive program of local government, private sector and public group participation.

During this review, a presentation and opportunity to comment will be offered to the governing bodies of local governments and public and private groups interested in air quality.

PROPOSED ACTION: EPA proposes no action concerning this issue at this time.

(7) Stack Heights—Section 123 of CAA requires that the degree of emission limitation required for control of any air pollution source shall not be affected by so much of a stack height exceeding Good Engineering Practice or any other dispersion technique.

PROPOSED ACTION: The plan submission does not address this issue. EPA proposes that no action be taken on this issue at this time.

(8) Public Notification—Section 127 of the CAA states that each plan shall contain measures to notify the public of instances in which health-related standards were exceeded.

PROPOSED ACTION: The plan submission does not address this issue. EPA proposes that no action be taken on this isue at this time.

(9) Prevention of Significant Deterioration (PSD)—Section 161 requires that each plan contain emission limitations and other measures to prevent significant deterioration of air quality in each region which is designated attainment or unclassified under Section 107 of the CAA.

PROPOSED ACTION: The plan submission does not address this issue. EPA proposes no action be taken at this time.

F. Approvability Issues

This section contains a discussion of the issues identified above which could affect approval of the plan. The discussion includes a general description of the deficiency or issue and possible corrective actions. This section also sets forth alternative approaches to final rulemaking with respect to these issues. In some cases, EPA proposes to conditionally approve the plan where there are minor deficiencies and the state agrees to submit corrections by specified deadlines. This notice solicits comment on what items should be conditionally approved and on what deadlines should apply. A conditional approval will mean that the restrictions on new major source construction will not apply unless the state fails to submit the necessary plan revisions by the scheduled deadline, or unless the revision is not approved by EPA.

(1a) Preconstruction Review Permits—The proposed regulation 28–19–7 contains a definition which would identify the phrase "allowable contaminant emission rate." The phrase is defined as the maximum weight of a contaminant which may be emitted "from any source that is operating in compliance with the provisions of these regulations." The definition is vague in that it does not appear to encompass a source that is not operating in compliance with the regulations.

PROPOSED ACTION: As noted in Section D(11) and discussed further in Section F(3) the amendments to the Kansas Air Quality Regulations have not been adopted by the state as final regulations. The only option open to the state to allow them to have enforceable regulations is to adopt these regulations as temporary regulations after January 1, 1980. The state has informed EPA that the amended regulations can be adopted as temporary regulations no sooner than July 1, 1980. This leaves EPA with two options: (1) wait until the state has modified regulation (28–19–7) to state that the phrase "allowable contaminant emission rate" relate to the maximum weight of a contaminant which may be emitted from any source as required by the provisions of the air quality control regulations, and submit it to EPA before taking final action on the plan; or (2) disapprove the plan in regard to this issue and promulgate our own Section 173 provisions as allowed for under Section 110(c) of the CAA.

This is discussed further in Section F(3).

(1b) Regulations 28–19–8 and 28–19–14 do not clearly indicate the activities which are prohibited prior to obtaining a construction and operating permit for new, modified and reconstructed sources. EPA contends the state should consider using language, for its general permit requirements, similar to that used in regulation 28–19–63, relating to new sources of volatile organic compounds, which requires review of sources prior to any *construction* of such sources. EPA believes this language would be more consistent with the requirements of Section 172 and 173 of the Clean Air Act, requiring a preconstruction review program prior to the location of certain new or modified major stationary

sources in a nonattainment area. EPA believes that the state should apply the language in Regulation 28–19–63 to cover all sources which would be subject to the requirement of Section 173 of the CAA.

PROPOSED ACTION: Regulations 28–19–8 and 28–19–14, are also regulations that are not presently enforceable since they have not been adopted as final regulations by the state (this is discussed further in Sections D(11) and F(3)). The EPA believes that two options are available concerning this deficiency: (1) wait until the state modifies the regulations to better define what activities are prohibited prior to obtaining a permit, particularly with respect to the installation or construction of an emissions source and submit it to EPA before taking final action on the plan; or (2) disapprove the plan in regard to this issue and based on Section 110(c) promulgate our own Section 173 regulations. This is discussed further in Section F(3).

(1c) The plan states that the Kansas Attorney General's office has determined that the requirement that a permit applicant demonstrate that all major stationary sources owned or operated by the applicant, in the state, are subject to emission limitations and are in compliance, or on a schedule of compliance with all emission limitations and standards in the CAA cannot be adopted at this time.

PROPOSED ACTION: EPA believes that the following options are available: (1) since the state has indicated that they can presently require that all major stationary sources owned or operated by the applicant, in the state, are subject to emission limitations and are in compliance with all *state* emission limitations and standards, EPA can wait until this provision is adopted by the state before taking final action on the plan. The state has indicated that legislative action will be needed to fully comply with the requirements of Section 173(3). If this option is selected, EPA will approve the regulation with the condition that the state modify the regulation to require that the owner or operator of the proposed new or modified source has demonstrated that all major stationary sources owned or operated by such person in the state are subject to emission limitations and are in compliance, or on a schedule of compliance, with all applicable emission limitations and standards under the CAA by July 1, 1980. EPA plans to grant this conditional approval only of the KDHE agrees to, in the interim period before gaining this authority, notify EPA when a source is not in compliance with the provisions of section 173(3) of the CAA.

Option (2) would have EPA disapproving the plan in regard to this issue and based on Section 110(c) promulgating our own Section 173 regulations. This is discussed further in Section F(3).

(2) Reasonably Available Control Technology—The plan inventory states that more than 100 tons per year of VOC emissions can be expected from cutback asphalt sources in the nonattainment area. Based on this fact, EPA has classified cutback asphalt as a major source of VOC emissions and thus must be controlled at a level commensurate with reasonably available control technology (RACT).

PROPOSED ACTION: As noted in section D(11) and discussed further in section F(3), the amendments to the Kansas Air Quality Regulations have not been adopted by the State as final regulations. The State has indicated to EPA that the regulations cannot be adopted before approximately May 1, 1980. The EPA proposes that the State adopt a RACT regulation for cutback asphalt. This action should be accomplished before the State adopts the regulations as "temporary regulations." EPA proposes not to take final action on this proposal until this modification is accomplished and the regulation is officially adopted.

(3) Enforceability of the Regulations—As noted in section D(11), the amendments to the Kansas Air Quality Regulations that were part of the plan submission have not been adopted by the State as final regulations. The only option open to the State, to rectify this deficiency, is to file these regulations as temporary regulations as soon as possible after January 1, 1980. The State has recently indicated to EPA that due to the fact that State regulations require that a public hearing on the proposed amendments must be held, the proposed amendments must be approved by the State Attorney General and Department of Administration, and new State legislation must be passed (for the KDHE to have the authority to adopt a regulation that meets the requirements of section 173(3)); the proposed RACT regulations cannot be adopted as final (temporary) regulations until approximately May 1, 1980, and the proposed preconstruction review permit regulations cannot be adopted as final (temporary) regulations until approximately July 1, 1980. These regulations will be enforceable as temporary regulations until April 30, 1981. The State will file, sometime before November 1, 1980, for permanent status for each regulation. These regulations will then become effective as permanent regulations on May 1, 1981, unless they are modified or rejected by the State legislature prior to that date. These actions satisfy EPA that the State is committed to implement the proposed regulations.

PROPOSED ACTION: Since the proposed amendments to the regulations are not enforceable at this time, EPA cannot approve the regulatory portions of the plan submission.

Concerning the RACT regulations, the State has indicated to EPA that these regulations can be adopted, at the latest, by May 1, 1980. The State has indicated that this deadline is probably a conservative one and the regulations can probably be adopted by an earlier date.

EPA thus proposes to approve the RACT regulations when the regulations have been adopted (as temporary regulations) and the deficiency noted in section F(2) has been corrected.

Concerning the proposed amendments that apply to the requirements of sections 172(b)(6) and 173 (preconstruction review permits), EPA is seeking comments on the options discussed below, as well as any other alternatives, including conditional approval.

Option A. Delay approval until the regulations are adopted and submitted to EPA, with corrections made to the deficiencies as noted in sections F(1a), F(1b), and F(1c).

Discussion: This option is to take no action on this portion of the plan (as proposed for the RACT regulations) until the regulations have been adopted. The net result of this option is that restrictions imposed by the Act after July 1, 1979, will remain in effect until the State has adopted and EPA has approved the regulations.

Option B. Under section 10(c), promulgate plan provisions for Kansas tracking the language of Section 173. Since the language in the statute is mandatory, EPA would have no discretion and there would be no need for further public hearing.

EPA is thus not making a specific proposal on the permit requirements of sections 172(b)(6) and 173. EPA requests comments on the issue, and will take final action based on comments received and on a detailed evaluation of the situation.

(4) Public, Local Government and State Involvement—Section 172(b)(9) requires that the plan contain evidence of involvement and consultation of the public, local government and state legislature in the planning process and

analysis of the air quality, health, welfare, economic, energy and social effects of the revision and a summary of public comments on the analysis. The plan submission does not address these issues.

PROPOSED ACTION: EPA proposes to approve the plan with the condition that the state address these issues and submit the required evidence by May 1, 1980.

G. Conclusion

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination of whether or not the amendments meet the requirements of Part D and section 110(a)(2) of the CAA and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

Deficiencies in the state plan that are not corrected may be cause for disapproval of the proposed revisions to the SIP.

The measures proposed today, if finally approved by EPA, will be in addition to, and not in lieu of, existing state regulations. The present emission control regulations will remain applicable and enforceable to prevent a source from operating without controls or under less stringent controls, while it is moving toward compliance with the new regulations. Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability or enforceability of the new regulations, because of a court order or for any other reasons, the pre-existing regulations will be applicable and enforceable.

This notice of proposed rulemaking is proposed to advise the public of EPA's intended action on the Kansas SIP submission. EPA requests comments on all aspects of the Kansas SIP, not just those specifically identified above.

Comments received within 30 days will be considered in EPA's final decision on the SIP. EPA believes the available period for comments is adequate because:

(1) The SIP has been available for inspection and comment since October 12, 1979, so that the total comment period is more than 60 days; and

(2) EPA has a responsibility under the CAA to take final action as soon as possible after July 1, 1979, on that portion of the SIP that addresses the Part D requirements.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and, therefore, subject to the procedural requirements of the order, or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." EPA has determined that this is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under authority of section 110 of the Clean Air Act, as amended.

Dated: January 10, 1980.

Kathleen Q. Comin,

Regional Administrator.

[FR Doc. 80-4444 Filed 2-8-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 42

[Docket No. 20334; FCC 80-41]

Increasing the Period Required for Retention of Certain Records by Telephone or Telegraph Carriers; Proceeding Terminated

AGENCY: Federal Communications Commission.

ACTION: Termination of Rulemaking Proceeding concerning Amendments to Part 42 of the Commission's rules (Docket No. 20334)

SUMMARY: On February 3, 1975, the Commission adopted a Notice of Proposed Rulemaking in Docket No. 20334 in which it proposed to increase the carrier record retention period for certain telegraph and telephone records. In finding that the benefits to ratepayers would be negligible and the costs to carriers would be substantial the Commission concluded that the proposed increase in the retention period was not warranted. The instant proceeding is terminated without adopting the proposed rule changes.

EFFECTIVE DATE: Non-Applicable.

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

FOR FURTHER INFORMATION CONTACT: Richard Rubin, Common Carrier Bureau, (202) 632-6312.

SUPPLEMENTARY INFORMATION:

Report and Order

Adopted: January 30, 1980.

Released: February 8, 1980.

In the matter of amendment of § 42.9 of the Commission's rules and regulations to increase the period required for retention of certain records by telephone or telegraph carriers, Docket No. 20334. See 40 FR 13004, March 24, 1975.

1. This proceeding grows out of a notice in which we proposed to amend § 42.9 of the Commission's Rules 47 CFR 42.9, in order to increase from six months or one year to two years the period of time carriers are required to retain certain telegraph and telephone records.[1] The stated purpose of the proposed change was to have the retention period conform to the two-year limitation on actions against carriers contained in Section 415 of the Communications Act of 1934, as amended, 47 U.S.C. 415.[2] Specifically, our expressed concern was over "occasions where records have been unavailable to prove or disprove claims made more than six months after the transaction but prior to the expiration of the limitation period." See 51 FCC 2d at 181.

2. The Notice also addressed certain carrier tariffs which "limit liability of that carrier to claims presented within a specified period that is less than the statute of limitations." [3] It proposed that, upon adoption of the proposed amendment, such tariff "notice of claim" requirements should be extended to two years to match the limitation period in Section 415 of the Act and the proposed retention periods of § 42.9 of the rules.

Comments of the Parties

3. All told, thirteen parties—all carriers—have filed comments.[4] All but one of the thirteen opposed the proposed amendment. While the remaining carrier, United, expressed reservations about resulting

[1] Amendment of § 42.9 of the Commission's rules, Docket No. 20334, 51 FCC 2d 181 (1975). Section 42.9 contains the mandatory carrier record retention periods for different types of documents.

[2] 47 U.S.C. 415 states, in pertinent part:

(b) All complaints against carriers for the recovery of damages not based on overcharges shall be filed with the Commission within two years from the time the cause of action accrues, and not after. * * *. (c) For recovery of overcharges action at law shall be begun or complaint filed with the Commission against carriers within two years from the time the cause of action accrues, and not after. * * * except that if claim for the overcharge has been presented in writing to the carrier within the two-year period of limitation said period shall be extended to include two years from the time notice in writing is given by the carrier to the claimant of disallowance of the claim, or any part or parts thereof, specified in the notice.

[3] 51 FCC 2d at 182. See note 11, *infra*.

[4] American Telephone and Telegraph Company (AT&T), Dubois Telephone Exchange, Inc., ITT World Communications Inc. (ITT Worldcom), The Lorain Telephone Company, Mid-Texas Communications Systems, Inc. (Mid-Texas), Oregon Independent Telephone Association, RCA Global Communications, Inc. (RCA Globcom), TRT Telecommunications Corporation (TRT), United States Independent Telephone Association (USITA), United Systems Service (United), West Jersey Telephone Co. (West Jersey), Western Union International, Inc. (WUI) and Western Union Telegraph Company (W.U.).

administrative burdens, it did not explicitly object to the proposals. Ten of the parties also submitted cost/benefit analyses of the proposed amendment. According to these parties, the costs of additional storage space or switching from manual recordkeeping to computer tape or microfilm clearly are not justified by the benefits to be realized in processing the negligible number of claims which would be affected by the extension. The commenters estimate that the cost of extending the retention period would range from $15,000 per year to several million dollars per year, depending upon the size of the carrier. The carriers assert that the cost burden would ultimately be borne by ratepayers who, in turn, would not receive a corresponding benefit from the prolonged retention period.

4. To substantiate this contention, the carriers point out that in their experience ratepayer claims are generally presented between thirty and ninety days after receipt of the bill. These commenters believe that the record retention requirements presently in the Rules are adequate to protect the rights of potential claimants and see little justification for incurring a substantial increase in recordkeeping expenses.

5. Four parties [5] object to our statement in Paragraph 5 of the Notice that if the proposed amendments to § 42.9 of the rules are adopted, tariff notice of claim requirements should be extended to two years to conform to the limitation period in Section 415 of the Act and the revised § 42.9 (see paragraph 3, *supra*). TRT and ITT Worldcom also urge that a carrier can require written notice of a claim within a reasonable period of time as a condition precedent to bringing an action against it. This requirement, argue the carriers, is a reasonable business practice which is not intended to infringe the rights of complainants under Section 415, but rather serves to place the carrier on notice that it risks liability.

6. Several carriers who conduct business with foreign correspondents [6] contend they would be severely disadvantaged by an extension of the retention period to two years. These carriers note that the proposed amendment would not aid the processing of claims involving documents in the hands of foreign carriers, since the foreign carriers generally are bound by international regulation to retain records for only six months. These carriers are said to most likely dispose of the old records after six months, rendering them unavailable for domestic claims.

Discussion

7. After careful consideration of the comments, we are persuaded that the two year statute of limitations in Section 415 of the Act does not require an extension of the record retention periods in § 42.9 of the rules. The commenting parties correctly note, we believe, that claims are almost always filed within the six month or one year recordkeeping period presently required by our rules.[7] We are inclined to agree that the added cost of maintaining records for a two-year period would be substantial and would, in all likelihood, be passed on to the ratepayer. It appears from the record that the limited benefits which a few ratepayers would realize are insufficient, relative to the costs which would be incurred by the carriers, to justify an extended record retention period. Moreover, any salutary purpose which might otherwise be served by any extension of the record retention requirement would appear lost where a claim against a U.S. international carrier necessitated review of the records of its foreign correspondent which have lawfully been destroyed. We are reluctant to impose additional record keeping obligations which have not been shown to be necessary, and therefore, will not extend the period during which records must be retained.

8. Tariff notice of claim provisions commonly set the period for notice or presentment of claims at less than two years after the transaction, and purport to act as a condition precedent to the carrier's liability under the claim.[8] We initially noted that if the proposed amendments to our rules were adopted, we would expect carriers to extend such tariff notice requirements to two years to match the limitation period in Section 415 of the Act. However, having found no public interest basis to adopt the proposed rule changes, we also find it unnecessary to discuss the validity of the conditional disclaimer of liability contained in such tariff provisions in this proceeding. Nonetheless, our review of these provisions leaves us with some questions as to their validity. The Chief, Common Carrier Bureau will therefore address this issue at a later date.

9. *Accordingly, it is ordered,* That Docket No. 20334 is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-4315 Filed 2-8-80; 8:45 am]

BILLING CODE 6712-01-M

[5] WUI, ITT Worldcom, TRT, and WU.

[6] WUI, ITT World, RCA Globcom, and TRT.

[7] WUI reports, for example, that far less than one percent of all written claims or complaints regarding public message service are received after six months. ITT Worldcom states that out of 5.7 million messages handled in 1974, it received no complaints or claims after six months. TRT notes that out of 250,000 messages handled in 1974, only four claims were submitted after the retention period.

[8] For example, Western Union Telegraph Company Tariff F.C.C. No. 255, offering Public Message Telegram Service provides, at 2.1.3(A)(6), that WU will not be liable for damages or statutory penalties when the claim is not presented in writing to the Company within ninety days after the message is filed with the Company for transmission. Also, TRT Tariff F.C.C. No. 60 offering International Telegram Service provides at 2.06 that TRT will not be liable for damages or statutory penalties in any case where the claim is not presented in writing within one hundred and eighty days after the message is filed with the company for transmission.

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47 CFR Parts 73 and 76

[Docket No. 20649; RM-2531 and RM-2385; FCC 80-56]

Noninterconnected Distribution of Television Programing to Certain Foreign Stations

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order.

SUMMARY: Because of delays in making a full supply of copies available to the public before January 11, 1980, the release date for the Report and Order adopted November 29, 1979, in Docket No. 20649 concerning the pre-U.S. release of U.S.-produced television programs in Canada, is changed to January 11, 1980, thereby giving interested parties wishing to do so a reasonable opportunity to file petitions for reconsideration.

DATE: Non-Applicable.

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

FOR FURTHER INFORMATION CONTACT: Louis C. Stephens, Broadcast Bureau (202) 632-6302.

SUPPLEMENTARY INFORMATION: In the matter of applicability of section 325(b) of the Communications Act to Non-Interconnected Distribution of Television Programing to Certain Foreign Stations.

Memorandum Opinion and Order

Adopted: January 31, 1980.

Released: February 1, 1980.

By the Commission:

1. The Commission has before it a "Petition to Change 'Release Date' of Commission *Report and Order*, or for Other Appropriate Relief" in connection with the above-captioned proceeding, filed by Fisher Broadcasting Inc. ("Fisher").

2. On November 29, 1979, the Commission adopted a Canadian Pre-Release *Report and Order*, FCC 79–780, but editorial chages delayed the release of the decision. Pursuant to the directions of the Commission, the Office of General Counsel prepared the necessary editorial revisions and the *Report and Order* was circulated for Commission approval. At the same November 29, 1979, meeting, the Commission adopted a *Memorandum Opinion and Order* in *United Community Antenna Systems, Inc.*, FCC 79–781, which decision cited the Canadian Pre-Release *Report and Order*. The *United* decision was appealed while editorial changes were being made in Canadian Pre-Release. In connection with that appeal, the Clerk of the U.S. Court of Appeals for the District of Columbia Circuit requested the Office of General Counsel to supply the Court with a copy of the Pre-Release decision by December 21, 1979. Accordingly, immediately upon approval of the textual revisions by the Commission on December 21, 1979, the Office of General Counsel took the steps necessary to get the decision released on that day.

3. Normally, release of a Commission decision entails the duplication of hundreds of copies of that document and the availability of a substantial number of those copies at the Commission's offices. However, in this case, severe understaffing in the Commission's duplicating facility precluded the duplication of the normal number of copies of the Canadian Pre-Release decision. Rather, after supplying the Court and the parties to the *United* appeal, less than a half dozen copies were available for public distribtion. This situation was not corrected until the afternoon of Friday, January 11, 1980 petitioner requests that the release date of the Canadian Pre-Release *Report and Order* be changed to reflect the first full day on which adequate copies were available to the public, January 14, 1980, or the date it received its copy, January 17, 1980.

4. This case presents a unique situation in which the Commission did not follow its normal practice of making an adequate number of copies of a document available to the public on the release date. Here, three weeks passed before adequate copies were available. Under these circumstances, parties wishing to file for reconsideration of our decision could be entitled to some relief under *Gardner* v. *F.C.C.*, 530 F. 2d 1096 (D.C. Cir. 1976). However, we believe that the departure from our normal procedures in this case was substantial enough to raise questions as to the validity of the December 21, 1979, release date. In fact, a party to the Canadian Pre-Release proceeding would have had little or no chance of obtaining a copy of the Commission's decision on that date or any date until January 11, 1980. Accordingly, the December 21, 1979, release date does not comport with our own practices, and we will grant Fisher's prayer for relief, in part, by modifying the release date of the decision to specify January 11, 1980, the date on which an adequate number of copies was made available. Pleading cycles for reconsideration run from that date. CFR 1.4(b)(2).

5. Accordingly, pursuant to section 4(j) of the Communications Act, 47 U.S.C. 154(j), it is ordered, That the release date of the Report and Order in Docket No. 20649 shall be January 11, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80–4313 Filed 2–8–80; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 80–42; RM–3289]

FM Broadcast Station in Hudson Falls, N.Y.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a Class A channel to Hudson Falls, New York, as that community's first FM assignment, in response to a petition filed by Carlton R. Reis. The proposed channel could provided for a first local aural broadcast service to Hudson Falls.

DATES: Comments must be filed on or before April 4, 1980, and reply comments must be filed on or before April 24, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Adopted: February 1, 1980.

Released: February 12, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Hudson Falls, New York), BC Docket No. 80–42, RM–3289.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Carlton R. Reis ("petitioner"), requesting the assignment of FM Channel 269A to Hudson Falls, New York, as that community's first FM assignment.[2] An opposition to the petition was filed by WIRD, Inc., ("WIRD"), licensee of daytime-only AM Station WIRD, Lake Placid, New York. A response was filed by petitioner.

(b) The channel can be assigned without affecting any existing FM assignments provided the transmitter site is located 9.4 kilometers (5.8 miles) north of Hudson Falls.

2. *Community Data*—(a) *Location.* Hudson Falls, in Washington County, is located on the eastern border of New York.

(b) *Population.* Hudson falls—7,917;[3] Washington County—52,725.

(c) *Local Aural Broadcast Service.* None.

3. *Economic Considerations.* Petitioner states that Hudson Falls is located in a year-round recreation area which offers hiking, hunting, skiing and trapping. He notes that Hudson falls is a village in the Town of Kingsbury, and along with the town of Fort Edward, shares the county seat of Washington County. Petitioner states that Hudson Falls and Fort Edward share a common boundary, a municipal building and police, fire and emergency services. He claims that Glens Falls, a community located about 3 miles from Hudson Falls and situated in Warren County, has two AM and two FM stations. These stations are said to be heavily concerned with Glens Falls-oriented politics and city-oriented news and do not fulfill the needs of Hudson Falls and the smaller communities in Washington County. Petitioner argues that Hudson falls has no service which caters to the needs of the many farm and agricultural communities outside the immediate Glens Falls-Hudson Falls-Fort Edward area. Petitioner has submitted detailed demographic information with respect to Hudson Falls and the surrounding area in an effort to demonstrate the need for a first FM assignment.

4. In opposition, WIRD states that petitioner has failed to establish that Hudson Falls is separate and distinct from the larger community of Glens Falls, and that it does not receive adequate local service from the Glens Falls stations. It contends that petitioner

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[1] Public Notice of the petition was given on January 3, 1979, Rept. 1157.

[2] Petitioner amended its petition by submitting new coordinates for a transmitter site which would meet the separation requirements.

[3] Population figures are taken from the 1970 U.S. Census.

fails to allege that the Glens Falls stations do not provide a significant and proportionate amount of news and public affairs programming directed toward the needs and interests of Hudson Falls residents.

5. In reply, petitioner contends that Hudson Falls is separate and distinct from the community of Glens Falls and asserts that it has its own Mayor, police chief, stores and schools. It also notes that Hudson Falls is in a different county. Petitioner argues that Hudson Falls is not being represented to the same proportion that Glens Falls is when it comes to news, adding, for example, that Glens Falls council meetings are broadcast but no attempt is made to braodcast such meetings in Hudson Falls or other communities in the area.

6. Petitioner and WIRD also discussed in their pleading a proceeding involving Lake PLacid, Saranac Lake and Tupper Lake, New York (Docket No. 78–257), which at that time might have had a bearing on the Hudson Falls proposal. However, since that proceeding has been resolved in a *Report and Order*, adopted July 19, 1979, and the outcome did not affect the Hudson Falls proposal, we will not discuss it further.

7. We are satisfied from the information supplied by petitioner that Hudson Falls is a separate community from Glens Falls. It appears that the residents have interests and needs which can be addressed by local broadcast service. The fact that the Glens Falls stations provide some local service to Hudson Falls does not diminish the fact a local FM station would provide needed service of particular concern to Hudson Falls residents. Thus, we believe it would be in the public interest to propose Channel 269A to Hudson Falls, New York, as its first FM assignment.

8. Since Hudson Falls is located within 402 kilometers (250 miles) of the U.S.-Canada border, the proposed assignment of Channel 269A to Hudson Falls, New York, requires coordination with the Canadian Government before it can be assigned.

9. Accordingly, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, as it pertains to Hudson Falls, New York, as follows:

City	Channel No.	
	Present	Proposed
Hudson Falls, New York	.....	269A

10. The Commission authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

11. Interested parties may file comments on or before April 4, 1980, and reply comments on or before April 24, 1980.

12. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau (202) 632–9660. However, members of the public should note that from the time a notice of proposed rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rulemaking other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-4311 Filed 2-8-80; 8:45 am]

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47 CFR Part 73

[BC Docket No. 80-40; RM-3349]

FM Broadcast Stations in Blue Ridge, Ga., and Murphy, N.C.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes to delete Channel 280A from Murphy, North Carolina, and reassign it to Blue Ridge, Georgia, to reflect its actual use. This action is taken in response to a petition filed by the Cherokee Broadcasting Company.

DATES: Comments must be filed on or before April 4, 1980, and reply comments must be filed on or before April 24, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Adopted: February 1, 1980.

Released: February 12, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Blue Ridge, Georgia, and Murphy, North Carolina), BC Docket No. 80–40, RM–3349.

1. The Commission has before it a petition for rule making,[1] seeking the amendment of § 73.202(b) of the Commission's rules, the Table of FM Assignments. The petition was filed on behalf of Cherokee Broadcasting Company ("petition"), proposing the deletion of FM Channel 280A from Murphy, North Carolina, and its reassignment to Blue Ridge, Georgia.

2. Murphy (pop. 2,082),[2] in Cherokee County (pop. 16,300) is located in the southwestern part of North Carolina. It has one FM assignment, Channel 280A. Blue Ridge (pop. 1,602), in Fannin County (13,357), is located approximately 35 kilometers (22 miles) southwest of Murphy. Local service is provided by Station WPPL (Channel 280A) which is assigned to Murphy, and used at Blue Ridge pursuant to § 73.203(b) which, when the station was first licensed, permitted its use within 25 miles of the community to which it was assigned. Since then, the rule has been amended to 10 miles for Class A stations.

3. Petitioner states that Station WPPL(FM) is located approximately 22 miles from Murphy, and both terrain and distance prohibits it from providing FM service to Murphy. Petitioner claims it has made several attempts to obtain a new FM assignment to Murphy that could provide a first local FM service to 35,000 persons. However, we are told that each attempt failed because Murphy is listed in the Table as having a channel, when in reality the channel is used at Blue Ridge, Georgia, beyond the distance that Class A FM stations can be assigned under the present rules.

4. Although petitioner fails to explain in any detail how its attempts to assign an FM channel to Murphy have been thwarted, we believe it would be in the public interest to consider the deletion of Channel 280A at Murphy and its reassignment to Blue Ridge, Georgia, to reflect its actual use. We have, in other cases, amended the Table of Assignments, to reflect a channel's actual use although we generally do not initiate proceedings for this purpose. Petitioner should explain why it has not requested an FM assignment for Murphy in its petition if that is its goal.

5. Accordingly, the Commission proposes to amend the Table of FM Assignments, § 73.202(b), as it relates to the following communities:

City	Channel No.	
	Present	Proposed
Blue Ridge, Georgia		280A
Murphy, North Carolina	280A	

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before April 4, 1980, and reply comments on or before April 24, 1980.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80–4317 Filed 2–8–80; 8:45 am]

BILLING CODE 6712–01–M

[1] Public Notice of the petition was given on April 6, 1979, Rept. No. 1171.

[2] Population figures are taken from the 1970 U.S. Census.

47 CFR Part 73

[BC Docket No. 80–41; RM–3395]

Television Broadcast Station in Crossville, Tenn.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes to change the reservation for noncommercial educational status from Channel *20 to Channel 55 at Crossville, Tennessee, in response to a petition filed by WCPT–TV, Inc. The petitioner presently operates Channel 55 and with

the equipment it has already acquired for use on Channel 20, it proposes to offer an improved signal to Crossville.

DATES: Comments must be filed on or before April 4, 1980, and reply comments must be filed on or before April 24, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: February 1, 1980.

Released: February 12, 1980.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (Crossville, Tennessee), BC Docket No. 80–41, RM–3395.

1. *Petitioner, Proposal, Comments*—(a) *Notice of Proposed Rule Making* is given concerning amendment of the Television Table of Assignments (§ 73.606(b) of the Commission's Rules) as it relates to Crossville, Tennessee.

(b) A petition for rule making [1] was filed by WCPT–TV, Inc. ("petitioner"), proposing to change the reservation for noncommercial educational status from UHF television Channel *20 to Channel *55 at Crossville. Channel *20 is presently unoccupied and unapplied for. In doing so, Channel 20 would become available for commercial use.

(c) Petitioner states that he will apply for Channel 20 immediately, if the channel change is approved.

2. *Community Data*—(a) *Location.* Crossville, in Cumberland County, is located approximately 100 kilometers (60 miles) west of Knoxville, Tennessee.

(b) *Population.* Crossville—5,381;[2] Cumberland County—20,733.

3. *Additional Considerations.* WCPT–TV presently operates Channel 55 at Crossville. However, it complains that due to equipment failures and poor reception, it has requested that commercial status be given to Channel 20 so that it may apply for that channel on which it has acquired better equipment already tuned to Channel 20. It states that its antenna could be immediately operable and that to modify this transmitter to Channel 55 would involve several thousands of dollars additional expense.

4. We shall propose the requested change since the proposed improvement in the televisin signal would benefit the public. Therefore, in view of the prospect for improved broadcast service to Crossville, the Commission proposes to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as it pertains to Crossville, Tennessee:

City	Channel No.	
	Present	Proposed
Crossville, Tennessee	*20+, 55+	20+, *55+

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before April 4, 1980, and reply comments on or before April 24, 1980.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau (202) 632–7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80–4318 Filed 2–8–80; 8:45 am]

BILLING CODE 6712–01–M

[1] Public Notice of the petition was given on July 11, 1979, Report No., 1183.

[2] Population figures are taken from the 1970 U.S. Census.

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47 CFR Part 73

[Docket No. 14119; FCC 80–54]

Broadcast Announcement of Financial Interests of Broadcast Stations and Their Principals and Employees in Services and Commodities Receiving Broadcast Promotions

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: The Commission terminates its rule making proceeding in Docket No. 14119 on the subject of "plugola" and states that it will continue to deal with the practice on a case-by-case basis.

EFFECTIVE DATE: Non-applicable.

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

FOR FURTHER INFORMATION CONTACT: William B. Ray, Broadcast Bureau, (202) 632-7542.

SUPPLEMENTARY INFORMATION:

Adopted: January 30, 1980.

Released: February 7, 1980.

In the matter of broadcast announcement of financial interests of broadcast stations and networks and their principals and employees in services and commodities receiving broadcast promotions, Docket No. 14119. REPORT AND ORDER, (Proceeding Terminated), (35 FR 14512).

By the Commission:

1. The Commission has before it for consideration the Tentative Report and Order, adopted May 13, 1970 (35 FR 7982), and comments filed in response thereto, on proposed rules which would require announcement of financial interests of broadcast stations and their principals and employees in services and commodities receiving broadcast promotions. The subject matter of this proceeding is what is sometimes called "plugola"—the use or promotion on the air of goods or services in which the person responsible for including the promotional material in the broadcast, such as the licensee itself or a program producer or performer, has a financial interest.

2. As pointed out in the original Notice of Proposed Rule Making, 40 FCC 119 (1961), this proceeding was instituted because it was felt that the sponsorship identification rules required disclosure to the public only when consideration was actually furnished by others to the licensee or his employees or other persons with whom the licensee dealt directly for the inclusion of certain promotional matter in broadcasts, and not to require such disclosure where the benefit accrued indirectly to the licensee or employee by reason of ownership of financial interests in the products or services promoted. In that Notice we pointed out that the principle underlying such a disclosure requirement is that the public is entitled to know by whom it is being persuaded; to know of any private financial interests which may have influenced the use or promotion of a product or service.

3. Our Tentative Report and Order analyzed the comments received on the original rule making proposal and set forth a revised rule, together with 23 examples of its application to specific situations. However, we stated that in view of the complexity of the matter, the length of time since comments on the original proposal had been filed, and "later developments in the area through Commission action in particular cases," we believed it appropriate to permit interested parties to file additional comments in the proceeding before final action. Only one set of comments was received on the proposed revised rule. It was a joint filing of the National Association of Broadcasters and the ABC, CBS and NBC networks. Their comments were endorsed in a brief separate statement by eight stations represented by the firm of Covington & Burling. The comments of NAB and the three networks were critical of the proposed rule and recommended that, in view of what they termed its "unworkability . . . vagueness, ambiguity and impossibility to interpret and apply," the Commission not adopt rules but consider, instead, issuing "a policy statement in more general terms, as it has done with the fairness doctrine, looking to the good faith of the licensee in complying with the intent of the policy." Such a policy, it was stated, could include the concept of "insulating" from the program selection process persons who have private financial interests which might create conflicts of interest.

4. NAB and the three networks also submitted for the consideration of the Commission the following recommendations:

The Commission should disregard the question of motivation when a product or service is promoted in which there is a private financial interest, and substitute the criterion of whether the promotion of the product or service is "reasonably related" to program content;

News and public affairs programs should be exempted from the proposed requirements;

The licensee should have the obligation only to exercise reasonable diligence to discover the existence of financial interests likely to be promoted on the air;

Feature films, commercials and previously recorded programs should be exempt.

5. As for the first of the NAB-network suggestions, we have decided not to adopt a plugola rulé but rather to issue a statement which re-affirms the policies we have set forth over a period of many years. These policies have been developed in a number of prior Commission decisions, including the following:

In *Crowell-Collier Broadcasting Corporation*, 14 FCC 2d 358, 359 (1966) we stated:

[I]f conflicts of interest in the form of outside economic interests of station personnel are not prohibited, then the personnel involved should be insulated from the process of program selection. When complete insulation cannot be effected, a licensee should take extraordinary measures to insure that no program matter is presented as a result of such practices.

In *Gross Telecasting, Inc.*, 14 FCC 2d 239, 240 (1968), the licensee broadcast editorials on a controversial matter in which it had a private financial interest, without revealing the interest. The Commission stated, in part:

Although the licensee's obligation to serve the public interest would not preclude it from editorializing on matters in which it has a significant personal interest as in this case, its decision to do so would impose a responsibility to reveal to the broadcast audience the extent and nature of its private interest.

In *National Broadcasting Co.*, 14 FCC 2d 713, 715 (1968), the Commission found the network at fault for failing to "exercise reasonable diligence to determine whether or when one of its news employees is properly discharging his functions in connection with a matter in which he has a significant private interest which might reasonably be thought to have an effect on the discharge of those functions." (In that case, a commentator who held private interests in certain commercial enterprises which were not publicly disclosed broadcast commentaries favoring those enterprises in connection with then current controversial issues affecting them.)

In *KISD, Inc.*, 22 FCC 2d 833 (1970), the Commission imposed a forfeiture for failing to give proper sponsorship identification to, and to log as commercial, announcements promoting dances and concerts staged by the station or its employees. The Commission also faulted the licensee for use of its broadcast facility to gain an unfair competitive advantage over independent promoters of similar events by saturating the station's output (at no cost) with plugs for its own promotions while charging competitive promoters its regular advertising rates.

These decisions and other related experience acquired since this proceeding began indicate that (a) the plugola problem can be handled on a case-by-case basis; (b) it would be difficult to frame a rule that covered the important elements of this complex subject without either going too far in regulating licensees or leaving important loopholes in the effectiveness of the rule, and (c) relatively few complaints have been received in this area in recent years. In view of these findings, we are terminating this proceeding and releasing a Public Notice re-affirming our basic policies as enunciated in the above cases in which we have acted since rule making was first proposed.

6. Some other suggestions of the commenting parties raise problems. As we stated in our Tentative Report and Order, all we expect of any licensee in trying to learn the existence of plugola practices is "reasonable diligence." We do not expect the licensee to be the guarantor of disclosure of every conflict of interest affecting program content. In

fact, section 317(c) of the Act, which deals with the licensee's obligations to learn of payola practices, requires only the exercise of reasonable diligence, and we regard payola and plugola as analogous. As for exemption from the disclosure requirement for feature films, commercials and previously recorded programs, we note that the feature film exemption is limited by the commenting parties to the same situation in which an exemption is now granted in the payola area by § 73.1212(h) of our rules; namely, "feature motion picture film produced initially and primarily for theatre exhibition." We see no reason for applying a different standard to plugola, and therefore intend to waive the disclosure requirement for such feature films, since the licensee normally is not in a position to ascertain whether plugola practices have taken place during their production. As for previously recorded programs, circumstances may vary. Here the "reasonable diligence" standard should prevent hardships without any specific waiver, since the "reasonable diligence" expected of a station with respect to programs it has not produced (e.g., network or syndicated programs) does not require that the station investigate the circumstances surrounding the production of such programs. However, if the licensee knows or has reason to suspect that plugola practices have taken place in connection with such a program, it should make appropriate inquiry, within the scope of its own resources. We agree with the commenting parties that the plugola requirements should not apply to commercials clearly identified as such.

7. We believe the other two suggestions submitted by NAB and the networks are inconsistent with the purposes for which plugola disclosure is required. They argue that news and public affairs programs should be exempted because of the time element involved and the fact that it is impossible to predict in advance what the subjects of news programs will be. We believe that the "reasonable diligence" standard will take care of all such situations, since it obviously is unreasonable to expect a licensee to take the same precautions respecting spot news programs, where the content cannot be predicted, that he would take with programs which are predictable and more subject to control. On the other hand, we do not believe the public interest would be served by a complete disregard of any plugola practices that might occur on such programs. In fact, the *NBC* case cited above involved a series of news commentaries. In that case we found that the network had reason to be aware of the commentator's outside interests, but that the record in the case showed "a failure to exercise reasonable diligence or to fulfill the public interest requirements in this important area."

8. Finally, the commenting parties urge that the Commission give no consideration, in determining whether disclosure of a private interest need be made, to the motivation of the person who has the private interest in a product or service which he uses or promotes on the air, on the grounds that this is a largely subjective test. It is urged, instead, that in determining whether disclosure of a private interest need be made, the Commission consider whether the mention or promotion of the product is "reasonably related" to the content of the program. The "reasonably related" test is based upon the language of the *Proviso* clause of Section 317(a)(1) of the Communications Act:

> Sec. 317. (a)(1) All matter broadcast by any radio station for which any money, service or other valuable consideration is directly or indirectly paid, or promised to or charged or accepted by, the station so broadcasting, from any person, shall, at the time the same is so broadcast, be announced as paid for or furnished, as the case may be, by such person: *Provided, That "service or other valuable consideration" shall not include any service or property furnished without charge or at a nominal charge for use on, or in connection with, a broadcast unless it is so furnished in consideration for an identification in a broadcast of any person, product, service, trademark, or brand name beyond an identification which is reasonably related to the use of such service or property on the broadcast.*

9. First, we note that the *Proviso* clause as enacted by Congress applies only to receipt of consideration by *stations*, not to receipt of direct (payola) or indirect (plugola) consideration by employees or licensees or other parties who may influence program content. The legislative history of the Congressional amendments to Section 317 and its enactment of Section 508 in 1960 gives no indication of Congressional intent that the "reasonably related" test of Section 317(a)(1) be applied either to payola or plugola. In fact, the legislative history clearly reveals that the *Proviso* clause was inserted in Section 317(a) for an entirely different reason.[1] Second, we believe that requiring disclosure of a private interest only when use or promotion of a product or service is not "reasonably related" to the content of the program would open the door to many kinds of deceptive plugola practices. For example, when the commentator in the *NBC* case advocated a view favorable to his private outside financial interests without disclosing such interests, he said nothing that was not "reasonably related" to the content of his commentary; in fact, the subject of the commentary was chosen by him and was one in which he had a private interest. Similarly, in *Gross Telecasting, Inc.*, 14 FCC 2d 239 (1968), when the licensee broadcast an editorial on a controversial issue favoring the licensee's own undisclosed financial interest in the subject of the editorial, it could not have been said that the licensee's statements were not "reasonably related" to the subject of the editorial. Here, again, it was the party responsible for the "plug" who chose the subject of the program itself, so what he said was inevitably "reasonably related" to program content. We believe that the public is entitled to know of the private financial motivation for using or plugging a product or service, regardless of whether the use of "plug" can be said to be reasonably related to surrounding program content. We do agree with the commenting parties that one of the principal considerations in this area is whether the presentation or promotion of a product or service goes "beyond what is customary with similar things and would have occurred in the absence of the interest."[2]

10. In view of the foregoing, it is ordered, That the Commission's rule making proceeding in Docket No. 14119 is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-4445 Filed 2-8-80; 8:45 am]

BILLING CODE 6712-01-M

[1] See House Report No. 1800, 86th Cong., 2d Sess., pp. 19-20.

[2] The quotation is from par. (b) of the plugola rule proposed in our 1970 Tentative Report and Order.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1034

[Ex Parte 376]

Routing of Traffic

AGENCY: Interstate Commerce Commission.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Commission desires to lessen its involvement in areas that are primarily within the railroads own

managerial responsibilities. We are considering the feasibility of issuing regulations which would permit individual railroads to undertake rerouting without prior Commission approval.

DATES: Comments must be received on or before April 11, 1980.

ADDRESSES: An original and 15 copies of any comments should be sent to: Office of Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275–7840.

SUPPLEMENTARY INFORMATION: The Commission issues rerouting orders under Section 11124 of the recodified Interstate Commerce Act. At present, these rerouting orders are issued pursuant to the authority in Service Order No. 1344, by the Director or Assistant Director of the Bureau of Operations, as designated agents.

A railroad desiring a rerouting order petitions the Commission for this relief. After receipt of proper documentation of need and concurrence of other railroads involved, the requested rerouting order is issued by the Commission's agent and published in the **Federal Register.**

The current method of handling rerouting requests requires the individual railroad not only to work out their joint problem but also to petition the Commission in each instance for relief. This rigidity of approach appears to impose an unnecessary paperwork burden on the carriers.

The Commission wishes to determine whether it is feasible to issue regulations which outline the procedures for the railroads to follow when rerouting becomes necessary. The regulations would detail the types of situations which would qualify within a rerouting category and would authorize the carrier to undertake rerouting without prior Commission approval, and thereafter file their arrangement with the Commission. Any dispute not resolved between carriers would require Commission review and decision.

Another possible approach is to have rerouting orders handled by the Association of American Railroads (AAR) much as embargo orders are handled today, subject to overall Commission supervision upon complaint of a shipper or carrier.

Before determining which approach to propose, we would like to receive comments on the following issues and on any other related issues:

(1) Is there a need to simplify the procedure now used to effect rerouting?

(2) The involved carriers are presently notified of rerouting orders through the Association of American Railroads. Should the involved carriers continue to be notified through the AAR, or could these carriers be notified by the petitioning carrier?

(3) The types of situations that would qualify for a rerouting order are:

(a) Natural disasters such as floods, snow, or earth slides.

(b) Problems with track and bridges due to derailments.

Are there other situations that should qualify for a rerouting order?

(4) Should rerouting arrangements be of a limited duration so that orders could not be used to circumvent shipper-designated routing, abandonment, or other provisions of the Act. Would limiting the duration of these orders be a problem to the involved railroads?

(5) At the present time, Rerouting Orders require the concurrence of the receiving road before the traffic is rerouted, and the shipper must be notified of the rerouting. On many of the orders, in the event the disabled carrier cannot accept cars in interchange from a connecting carrier, the connecting carrier must confirm the inability of the receiving road to handle traffic before rerouting that traffic. This last requirement gives the disabled carrier the option of handling the traffic. Should these requirements remain a part of the projected new arrangements?

This action does not appear to affect significantly either the quality of the human environment or conservation of energy resources.

Issued under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided January 17, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum and Alexis.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-4344 Filed 2-8-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Proposed Rule Describing Areas in Which Nontoxic Shot Would Be Required in Waterfowl Hunting Seasons Commencing in 1980

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule describes nontoxic shot zones for waterfowl hunting for hunting seasons commencing in 1980. When eaten by waterfowl, spent lead pellets have a toxic effect. These nontoxic shot zones will reduce the number of deaths to waterfowl by reducing the availability of lead pellets in waterfowl feeding areas.

DATES: Comments on this proposed rulemaking will be accepted until March 31, 1980.

ADDRESS: Submit comments to Director (FWS–MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Robert I. Smith, Office of Migratory Bird Management, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202–254–3207).

SUPPLEMENTARY INFORMATION: Research on the problem of lead poisoning in waterfowl has been conducted for the past 25 years. The complexities of the issue have been explored with conservationists, ammunition manufacturers, and State fish and game departments. During the past eight years the Service has studied lead poisoning of waterfowl in cooperation with organizations representing a broad cross section of interests affected by and concerned with the problem.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the Service prepared a Final Environmental Statement (Use of Steel Shot for Hunting Waterfowl in the United States). This document was published in January 1976 and is available from the Service on request.

On March 20, 1976, the Secretary of the Interior announced a plan for the progressive implementation of steel shot. According to this plan, shotshells loaded with nontoxic shot were to be required for hunting waterfowl in designated areas of the Atlantic Flyway in 1976, in designated areas of the Mississippi Flyway in 1977, and in designated areas of the Central and Pacific Flyways in 1978.

On July 28, 1976, a final rule on the use of steel shot for waterfowl hunting was published in the **Federal Register** (41 FR 31386–89) and became effective August 27, 1976. On September 13, 1976, the Service published an amendment to 50 CFR 20.105(e) containing descriptions of areas where nontoxic shot was required for waterfowl hunting in the Atlantic Flyway in 1976 (41 FR 38772–38774).

On April 28, 1977, the Service published descriptions of areas where nontoxic shot was required for waterfowl hunting in the Atlantic and Mississippi Flyways in hunting seasons commencing in 1977 (42 FR 21616–18). On February 28, 1978, the Service published descriptions of areas where

nontoxic shot was required for waterfowl hunting in portions of 32 States in 1978 (43 FR 8144–8149). On July 17, 1979, the Service published descriptions of area where nontoxic shot was required for waterfowl hunting in portions of 29 States in 1979 (44 FR 41461–67).

The zones proposed below were indentified using several criteria; however, the primary consideration was quantities of lead shot found in the digestive tracts of waterfowl harvested in the area and quantities of lead shot being deposited by waterfowl hunters. The zones proposed below would apply to waterfowl hunting occurring after August 30, 1980. However, appropriated funds for the Department of the Interior (Pub. L. 96–374) for Fiscal Year 1980 were restricted in their use by the following provision:

> No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation.

This provision is effective from October 1, 1979 until September 30, 1980.

The Department has determined that this proposed rule is not a significant rule and does not require preparation of a regulatory analysis. An Environmental Assessment was prepared and a negative declaration filed.

Proposed Ruling

Accordingly, it is proposed that 50 CFR 20.108 be revised to read as follows:

§ 20.108 Nontoxic shot zones.

The areas described within the States indicated below are designated for the purpose of § 20.21(j) as nontoxic shot zones for waterfowl hunting seasons commencing in 1980.

Atlantic Flyway

Connecticut

1. That portion of New Haven and Fairfield Counties bounded by a line beginning at the north end of the breakwater at Milford point extending south to Stratford Point, north along Prospect Drive and Route 113 to Interstate 95, easterly along I–95 to Naugatuck Avenue, southerly along Naugatuck Avenue and Milford Point Road and continuing along a line extending from the end of Milford Point Road to the north end of the breakwater at Milford Point.

2. That portion of New Haven County along the Quinnipiac River known as the Quinnipiac Meadows beginning at the intersection of Sackett Point Road and Interstate 91, extending south along I–95 to Route 5, northerly along Route 5 to Sackett Point Road, and easterly along Sackett Point Road to I–91.

Delaware

All lakes, ponds, marshes, swamps, bays, rivers, and streams or within 150 yards thereof within the boundaries of the following areas:

1. Chesapeake and Delaware Canal State Wildlife Area.
2. Augustine State Wildlife Area.
3. Woodland Beach State Wildlife Area.
4. Little Creek State Wildlife Area.
5. Prime Hook State Wildlife Area.
6. Bombay Kook National Wildlife Refuge.
7. Prime Hook National Wildlife Refuge.
8. That southeast portion of the State of Delaware bounded on the east by the Atlantic Ocean, bounded on the south by the State of Maryland and bounded on the west and north by a line along Route 113 northwest from the Delaware-Maryland border to Route 24, thence northeast along Route 24 to Route 1, thence northwest along Route 1 to Route 9, thence northeast along Route 9 to Cape Henlopen Point.

Florida

In Oceola, Broward, Dade, Glade, and Leon Counties and on Lake Miccosukee, which lies in Leon County and the adjacent portions of Jefferson County. In that portion of Brevard County lying east of Interstate Highway 95, and on Orange Lake and Lochloosa Lake in Alachua County.

Maine

On the waters of the Kennebec River known as Merrymeeting Bay bounded as follows: from the high tension wires at Chops Point to the first dam on the Androscoggin River, to the first road bridge on the Muddy, Cathance, Abbagadasset, and Eastern Rivers and the Richmond-Dresden bridge on the Kennebec River, and within a 150-yard zone of land adjacent to the margins of these waters in the counties of Cumberland, Sagadahoc and Lincoln.

Maryland

All waters (including bays, lakes, ponds, marshes, swamps, rivers, streams, and Chesapeake Bay) in Worcester, Somerset, Wicomico, Dorchester, Talbot, Caroline, Queen Anne's, Kent and Cecil Counties and those portions of Harford, Baltimore, and the Anne Arundel Counties lying south and east of U.S. Route 1, and within a 150-yard zone of land in the above counties adjacent to the margins of such waters. Drainage ditches and temporary sheet water more than 150 yards from the waters described above are excluded from the steel shot requirement.

Massachusetts

Essex County: *North Boundary*—Massachusetts-New Hampshire line (Salisbury). *West Boundary*—U.S. Route 1 from State line southward to juncture with 1A in Newburyport, southward on 1A through the towns of Newbury and Rowley to juncture with 133 in Rowley and further south along combined routes 133–1A through Ipswich. *South Boundary*—juncture of 133 and 1A in Ipswich east along Route 133 through Essex and Gloucester to juncture of 133 and Route 128 in Gloucester. East along 128 to west bank of Annisquam River. *East Boundary*—west bank of the Annisquam River north to Ipswich Bay continuing north along the shoreline at Ipswich Bay the Atlantic Ocean to New Hampshire-Massachusetts line.

Plymouth County: *North Boundary*—Route 139 from the west bank of Green Harbor River (Marshfield) west to juncture with Route 3A (Duxbury). *West and South Boundary*—Route 3A from juncture of 139 south along 3A through towns of Duxbury, Kingston and Plymouth to juncture with Rocky Hill Road in Plymouth. *East Boundary*—Line extending from juncture of Route 3A and Rocky Hill Road in Plymouth north to Plymouth Light House on Duxbury Beach and further north along ocean side of Duxbury Beach to the west bank of the Green Harbor River in Marshfield. Also—waters of the Wareham and Weweantic Rivers in the towns of Wareham and Marion and the marshes adjacent to these rivers and within a 150-yard zone of land adjacent to these rivers and marshes, seaward from the first upstream bridge.

Branstable County: Barnstable Marshes *North Boundary*—Cape Cod Bay. *West Boundary*—from Cape Cod Bay south along Sandy Neck Road in the towns of Barnstable and Sandwich to juncture with Route 6A in E. Sandwich. *South Boundary*—juncture of Sandy Neck Road and Route 6A in E. Sandwich east along 6A through E. Sandwich, Barnstable, Yarmouth and Dennis to juncture with New Boston Road. *East Boundary*—North along New Boston Road to Beach Street and, north along Beach Street to Cape Cod Bay. Also—Nauset Marshes-Pleasant Bay. *North Boundary*—Nauset Beach west along Doane Road in Eastham to juncture Nauset Road continuing southwest

along Nauset Road to juncture with 6 in Eastham. *West Boundary*—south along Route 6 from juncture of Route 6 and Nauset Road in Eastham to juncture of Route 6 and 6A, south along Route 6A to juncture with Route 28, in Orleans, and south along Route 28 to juncture with Shore Road in Chatham to Chatham Lighthouse. *South Boundary*—line extending from Chatham Lighthouse to Atlantic Ocean. *East Boundary*—Atlantic Ocean.

Bristol County: Waters of the Wareham River, Weweantic River, East Branch of the Westport River, and the West Branch of the Westport River, and the marshes adjacent to to these rivers, and within a 150-yard zone of land adjacent to these rivers and marshes, seaward from the first upstream bridge.

New Jersey

That portion of the State bounded on the north by Highway 36 from its intersection with the Garden State Parkway near Keyport eastward to the Atlantic Ocean (south of Raritan Bay and Sandy Hook Bay), bounded on the west by the Garden State Parkway, and bounded on the south by the Cape May Canal.

New York

All waters (including bays, lakes, ponds, marshes, swamps, rivers, streams, and ocean waters) of that portion of New York west of Interstate Highway 81 and north of the New York Thruway (Interstate Highway 90) and in those portions of Nassau and Suffolk Counties bounded on the south by the Long Island shoreline from the Captree Parkway west to the Nassau County-New York City line; on the west from the New York City-Nassau County line northward from the Long Island shoreline to the Sunrise Highway (Route 27); on the north by the Sunrise Highway (Route 27) eastward to its junction with the Captree Parkway; on the east by the Captree Parkway (Route 46) southward to the Long Island shoreline and within a 150-yard zone of land in the above areas adjacent to the margins of such waters. Drainage ditches and temporary sheet water more than 150 yards from the waters described above and the waters of Lake Ontario, outside the barrier beach, from the mouth of the Salmon River is Oswego County to the mouth of the Niagara River in Niagara County are excluded from the non-toxic shot requirement.

North Carolina

1. All waters (including sounds, lakes, ponds, marshes, swamps, rivers, and streams) of Currituck, Dare, and Pamlico Counties and within a 150-yard zone of land in these counties adjacent to the margins of such waters. Drainage ditches and temporary sheet water more than 150 yards from the waters described above are excluded from the steel shot requirement.

2. The waters of the Cape Fear River and its tributaries in New Hanover and Brunswick Counties and a 150-yard zone of land adjacent to the waters of this river and its tributaries in these two counties.

Pennsylvania

Crawford County, Middle Creek Wildlife Management area in Lancaster and Lebanon Counties, and the waters of the Susquehana River beginning at the confluence of the North and West branches at Northumberland and continuing southward to the Maryland-Pennsylvania State boundary and including a 25-yard zone of land adjacent to the waters of the Susquehana River that are described above.

Rhode Island

That portion of Washington County lying south and east of U.S. Route 1 but excluding Block Island and the waters of Block Island Sound and Narragansett Bay.

South Carolina

Georgetown, Colleton, Charleston, and Beaufort Counties.

Virginia

All waters and a 150-yard zone of land adjacent to these waters in the City of Virginia Beach and in an area between the York River and the James River bounded on the north by U.S. Highway 60, on the west by Highway 155, and on the south by Highway 5.

Mississippi Flyway

Illinois

Carlyle Lake and Wildlife Management Areas, Oakwood Bottoms, Sangchris Lake, Mermet Lake, Rice Lake, Union County Public Shooting area, Horseshoe Lake (Alexander County) Public Shooting Area, Sanganois, Glades, and Stump Lake.

Indiana

1. On all waters of Lake, Porter, LaPorte, Newton, Jasper, Starke, Elkhart, Kosciusko, LaGrange, Steuben, and Posey Counties and within 150-yard zone of land in these counties adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Excluded from these provisions are the waters of Lake Michigan and drainage ditches and temporary sheet water that are more than 150 yards from the waters described above.

2. Within the boundaries of the following State-owned or State-operated properties: Jasper-Pulaski Fish and Wildlife Area in Pulaski County, Mallard Roost Wetland Conservation Area in Noble County, Monroe Reservoir in Monroe and Brown Counties, and Glendale Fish and Wildlife Area in Daviess County, and the Tri-County Fish and Wildlife Area in Noble and Kosciusko Counties.

3. Within the proposed boundaries of the Menominee Wetlands Conservation Area in Marshall County.

Iowa

In Fremont and Mills Counties on all waters and a 150-yard zone of land in these two counties adjacent to waters. The waters referred to above include lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Excluded from these provisions are the waters of the Missouri River and drainage ditches and temporary sheet water that are more than 150 yards from the waters described above.

Louisiana

1. That portion of Vermilion Parish lying north of the Intra-coastal Waterway.

2. That protion of Calcasieu Parish lying south of Interstate Highway 10.

3. That portion of Cameron Parish lying north of the Intra-coastal Waterway.

4. On the west side of Calcasieu Lake that protion of Cameron Parish lying west of Highway 27 and north of the boundary of the Sabine National Wildlife Refuge.

5. In that portion of the State bounded as follows: From Pineville northeast along State Highway 28 to Archie, then northwest along U.S. Highway 84 from Archie to Jena, then southwest along State Highway 8 from Jena to Pollock, then south along U.S. Highway 165 from Pollock to Pineville.

6. The green-tree reservoir located on the Saline Wildlife Management Area.

Ohio

On all waters of Erie, Ottawa and Lucas Counties and within a 150-yard zone of land in these counties adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above are excluded from the nontoxic shot requirement.

Michigan

1. Saginaw Bay Area—That area of Iosco, Arenac, Bay, Saginaw, Tuscola and Huron Counties: Beginning at a point at the tip of Tawas Point in Sec. 3, T21N, R8E, Iosco County; northeast north and west on Tawas Point Road to its intersection with Highway US–23 (Sec. 21, T22N, R8E); south and west on Highway US–23 in Iosco and Arenac Counties to the intersection with Highway M–13 (Sec. 2, T18N, R4E, Arenac County); south on Highway M–13 in Arenac and Bay Counties to the intersection with interstate Highway I–75 (Sec. 13, T14N, R4E); south on I–75, US–23 to the intersection with Highway US–10 (Sec. 24, T14N, R4E); west on Highway US–10 to the intersection with Garfield Road (northeast corner Sec. 27, T14N, R3E); south on Garfield Road in Bay and Saginaw Counties to the intersection with Tittabawassee Road (southwest corner Sec. 35, T13N, R3E); west on Tittabawassee Road to intersection with Graham Road (northwest corner Sec. 4, T12N, R3E); south on Graham Road to the junction of Highways M–46 and M–52 (west quarter corner Sec. 28, T12N, R3E); south on Highway M–52 to Highway M–57 (southwest corner Sec. 7, T9N, R3E); east on Highway M–57 to Highway M–13 (southeast corner Sec. 13, T9N, R4E); north on Highway M–13 to Burt Road (northwest corner Sec. 31, T10N, R5E); east on Burt Road to Highway I–75, US–10 and US–23 (Sec. 28, T10N, R6E); north on Highway I–75 to Highway M–46 (Sec. 28, T12N, R5E); east on Highway M–46 to North Gera Road southeast corner (Sec. 27, T12N, R6E); north on North Gera Road to Highway M–15 (Sec. 23, T12N, R6E); north on Highway M–15 in Saginaw and Bay Counties to Munger Road (Sec. 18, T13N, R6E); east on Munger Road (M–138) in Bay County and Fairgrove Road (M–138), in Tuscola County to Vassar Road (southeast corner Sec. 13, T13N, R7E); north on Vassar Road to Highway M–25 east quarter corner (Sec. 13, T14N, R7E); east and north on Highway M–25 in Tuscola and Huron Counties to Kinde Road (Sec. 35, T18N, R10E); east on Kinde Road to Highway M–53 (southeast corner Sec. 36, T18N, R12E); north on Highway M–53 to the junction with Highway M–25 (Sec. 30, T19N, R13E); north from that point to the shoreline of Lake Huron and then northwesterly from this point to the point of beginning (tip of Tawas Point in Iosco County).

2. Houghton Lake Area—That area of Roscommon, Missaukee, Kalkaska and Crawford Counties:

Beginning at the intersection of State Highway M–55 and Highway M–76 in Roscommon County (southeast corner Sec. 10, T22N, R1W); north on Highway M–76 to the Village of Roscommon, then west and south on county road 100 to the intersection of county road 104 (Sec. 32, T24N, R3W); west on county road 104 to the intersection of Highway US–27 (Sec. 34, T24N, R4W); north on Highway US–27 to the intersection of Fletcher Road in Crawford County (Sec. 23, T25N, R4W); west and northwest on Fletcher Road to county road 571 in Kalkaska County (Sec. 8, T25N, R6W); south on county road 571 to Highway M–55 in Missaukee County (Sec. 32, T23N, R6W); then east on Highway M–55 to the point of beginning.

3. Eastern Upper Peninsula Area—That area of Mackinac and Chippewa Counties:

Beginning at the point where the Machinac Straits Bridge intersects the Lake Huron shoreline of Machinac County north on Highway I–75 to Highway M–134 (Sec. 4, T42N, R3W); east on Highway M–134 to Highway M–129 (southeast corner Sec. 25, T42N, R1W); north on Highway M–129 to business loop I–75 (Sec. 7, T47N, R1E); north on business loop I–75 to downtown Sault Ste. Marie and extending on a line northward to the International Boundary between U.S. and Canada; east and south along the International Boundary on the St. Mary's River north channel and Lake Huron to a point west of the southwest corner of Cockburn Island (in Canada); west from that point on the International Boundary in Lake Huron to the south tip of Goose Island lying southwest of Marquette Island; continuing southwest in Lake Huron to the southernmost point of Machinac Island and then west to the point of beginning.

4. Southwestern Michigan Area—That area of Muskegon, St. Joseph, Newago, Ottawa, Allegan, Van Buren, Cass, Kalamazoo, Calhoun, Barry, Ionia, Branch, and Kent Counties:

Beginning at the southwest meandor corner of Sec. 4, T12N, R18W, Muskegon County, west on a line across Lake Michigan to the State boundary between Michigan and Wisconsin; south along the State boundary to a point directly west of the mouth of the Black River (Sec. 9, T1S, R17W) Van Buren County; east along a line to the mouth of the Black River (Sec. 9, T1S, R17W); upstream along the south shore of the Black River to Highway US–31, then southerly along Highway US–31 to Highway M–43 Sec. 14, T1S, R17W); easterly along Highway M–43 in Van Buren County to the junction with M–40 (Sec. 13, T2S, R14W); southerly along M–40 to the junction of M–216 (Marcellus) (Sec. 16, T5S, R13W) Cass County; easterly along M–216 to junction of US–131 (Sec. 19, T5S, R11W); south on US–131 and Business US–131 to junction with M–60 (Sec. 18, T6S, R11W) St. Joseph County; north on M–60 and M–66 to the junction with I–96 (Sec. 25, T6N, R7W) Ionia County; west on I–96 to the junction with M–37 (Sec. 13, T7N, R12W) Kent County; north on M–37 to 112 Street (north corner Sec. 13, T11N, R13W); west on 112 Street to Warner Road (Sec. 13, T11N, R14W); north on Warner Road to Roth Road (NE corner, Sec. 26, T12N, R14W); west on Roth Road to Maple Island Road to Highway M–20 (southwest corner, Sec. 31, T13N, R14W) and continuing north on M–20 to Skeels Road (northeast corner, Sec. 1, T12N, R15W); west on Skeels Road to Nichols Road (Sec. 2, T12N, R16W); south on Nichols Road to Fruitville Road (Sec. 2, T12N, R16W); west on Fruitville Road to Highway US–31 (Sec. 9, T12N, R17W); north on Highway US–31 to Meinert Road (Sec. 4, T12N, R17W); west on Meinert Road to the southwest meandor corner, Sec. 4, T12N, R18W (the point of beginning).

5. Southeastern Michigan Area—That area of Shiawassee, Washtenaw, Genesee, Livingston, Oakland, Lenawee, Jackson, Wayne, Ingham, St. Clair, Macomb and Monroe Counties:

Beginning at a point on the Blue Water Bridge at the International Boundary between the United Sttes and Canada (Sec. 35, T7N, R17E) St. Clair County; westerly and south on Highway I–94 in St. Clair, Macomb Counties to the junction with M–59; west on M–59 to the junction with Highway I–75 in Oakland County; northwest along Highway I–75 to the junction with Highway I–69 in Genesee County; southwest along Highway I–69 to the junction with Highway M–52 (Sec. 9, T5N, R2E) Shiawassee County; south on M–52 to the junction with Highway M–36 (Sec. 22, T2N, R2E) Ingham County; west on M–36 to the junction with Highway US–127 (Sec. 6, T2N, R1W) Ingham County; south along US–127 in Ingham and Jackson Counties (through City of Jackson) to the junction with Highway US–12 (Sec. 7, T5S, R1E) Lenawee County; easterly on US–12 to the junction with Highway I–94 (Sec. 18, T3S, R7E) Washtenaw County; easterly on I–94 to the junction with Highway I–275 in Wayne County; southerly along I–275 to the junction with I–75 in Monroe County; southerly along I–75 to the State line (Sec. 5, T17S, R8E); east along the State line between Michigan and Ohio to the shoreline of Lake Erie; northeasterly along the State line to the International Boundary in Lake Erie,

Northerly along the International Boundary in Lake Erie, the Detroit River, Lake St. Clair and the St. Clair River to the point of beginning.

Minnesota

1. All waters within the boundaries of all State Wildlife Management Areas and Federal Waterfowl Production Areas and within a 150-yard zone of land adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above are excluded from the steel shot requirement. Controlled hunting zones of goose management areas are excluded from this provision, except the Roseau Wildlife Management Area which is included.

2. On the waters on Swan and Middle Lakes in Nicollet County, North and South Heron Lakes in Jackson County, Pelican Lake in Wright County, Bear Lake in Freeborn County, and Christina Lake in Douglas and Grant Counties and within a 150-yard zone of land adjacent to the margins of the above lakes.

3. Beginning at the intersection of the midline of the Mississippi River and U.S. Highway 61 at Hastings, thence southerly along U.S. Highway 61 to U.S. Highway 16 at LaCresent, thence southerly along U.S. Highway 16 to State Trunk Highway 26, thence southerly along State Trunk Highway 26 to the southern boundary of the State; thence along the Southern and Eastern boundaries of the State to the confluence of the St. Croix and Mississippi Rivers, thence along the midline of the Mississippi River to the point of beginning.

Missouri

Within the following areas on all waters and a 150-yard zone of land within the areas adjacent to these waters. This includes lakes, ponds, marshes, swamps, rivers, streams and seasonally flooded lands of all types. Drainage ditches and temporary sheet water more than 150-yards from water areas described above are excluded from the non-toxic shot requirement. On the Schell-Osage Wildlife Area and the Buck Creek Wildlife Area, where shooting tests will be conducted by the Missouri Conservation Department and the U.S. Fish and Wildlife Service, lead shot can be used in addition to steel shot by participants in the tests.

1. Squaw Creek Area: North boundary—Iowa-Missouri State line. East boundary—U.S. Highway I–29. South boundary—St. Joseph, Missouri city limits. West boundary—East bank of the Missouri River.

2. Swan Lake—Fountain Grove Area: North boundary—U.S. Highway 36. East boundary—State Highway 5. South boundary—State Highway 240 and U.S. Highway 65. West boundary—U.S. Highway 65.

3. Upper Mississippi River Area: North boundary—U.S. Highway 36. East boundary—Illinois-Missouri State line. South boundary—North bank of the Missouri River. West boundary—U.S. Highway 61.

4. Montrose—Schell-Osage Area: North boundary—State Highway 7. East boundary—State Highway 13. South boundry—U.S. Highway 54. West boundary—U.S. Highway 71.

5. Duck Creek—Mingo Area: North boundary—State Highway 34. East boundary—State Highways 51, 91, and 25. South boundary—U.S. Highway 62. West boundary—U.S. Highway 67 and State Highway 53.

Tennessee

Camden, Big Sandy, New Hope, Lick Creek and Harmon's Creek Wildlife Management Areas.

Wisconsin

1. In that portion of the State lying west of the Burlington Northern Railroad in Pierce, Pepin, Buffalo, Trempealeau, La Crosse, Vernon, Crawford and Grant Counties.

2. On all waters in the counties of Calumet, Columbia, Dane, Dodge, Fond du Lac, Green Lake, Jefferson, Kenosha, Manitowoc, Marquette, Milwaukee, Outagamie, Ozaukee, Racine, Sheboygan, Walworth, Waukesha, Winnebago, Washington, Waupaca and Waushara, all of the Wisconsin River in Juneau and Adams Counties, and those portions of Oconto and Marinette Counties east of U.S. Highway 41, and that portion of Brown County lying northwest of the Fox River and east of U.S. Highway 141, and the Brown County islands in Green Bay and within a 150-yard zone of land adjacent to the margins of these waters. The waters referred to above include lakes, ponds, marshes, swamps, rivers, streams and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above and the open water of Lake Michigan and Green Bay are excluded from the non-toxic shot requirements. All county boundary waters and lakes partially within a steel shot zone are totally included.

3. On any State wildlife area within the zones described in (2), steel shot is required for hunting waterfowl anywhere on State-owned lands or waters within the boundaries of said wildlife area and on the following State-owned wildlife areas which are not within the zones described in (2): Mead Wildlife Area in Marathon, Wood and Portage Counties, Wood County Wildlife Area and Sandhill Wildlife Area in Wood County, Meadow Valley Wildlife Area in Juneau County.

Central Flyway

Kansas

Barton County: The Cheyenne Bottoms Wildlife Area except the south 200 yards west of U.S. 156 and east of the north-south centerline of S36, T18S, R13W in Barton County.

Linn County: All of the Marais des Cygnes Wildlife Areas.

Montgomery County: All of the Elk City Reservoir and Wildlife Area including all lands and waters managed by the U.S. Corps of Engineers and the Kansas Forestry, Fish and Game Commission.

Neosho County: All of the Neosho Wildlife Area.

Reno County: All of the Cheney Reservoir and Wildlife Area including all lands managed by the U.S. Bureau of Reclamation and the Kansas Forestry, Fish and Game Commission. Also, that portion of Quivira National Wildlife Refuge in Reno County.

Stafford County: That portion of the Quivira National Wildlife Refuge in Stafford County.

Rice County: That portion of the Quivira National Wildlife Refuge in Rice County.

Nebraska

Clay and Fillmore Counties and in Kearney and Phelps Counties except on the waters of the Platte River.

Texas

J. D. Murphree Wildlife Management Area and Sea Rim State Park in Jefferson County.

Pacific Flyway

Nevada

The Stillwater Wildlife Management Area.

Oregon

Beginning at the Longview Bridge on the Columbia River, thence south on State Highway 30 to Portland, thence east from Portland along Interstate Highway 80N to the Bonneville Dam, thence down the Columbia River along the Oregon-Washington boundary to the Longview Bridge and point of origin.

Washington

1. Beginning at Interstate 5 and Highway 20 at Burlington, thence easterly along Highway 20 to Highway 9 at Sedro Woolley; thence southerly along Highway 9 to Highway 538 at Big Rock; thence westerly along Highway 538 to Mt. Vernon and Interstate 5; thence northerly along Interstate 5 to the point of origin.

2. Beginning at the Conway junction of Highway 530 and Fir Island Road, northwesterly along Fir Island Road to the Chilberg Road; thence northwesterly along Chilberg Road to LaConner and the Swinomish Channel; thence southerly and westerly along the red buoy line of Swinomish Channel to the Island County line; thence southeasterly along Island County line to State Highway 532; thence easterly along Highway 532 to State Highway 530 at Stanwood; thence northerly along State Highway 530 to the point of origin.

3. Beginning at the Longview Columbia River Bridge, thence north and east on Highways 433 and 432 to Interstate 5; thence southerly along I–5 to State Highway 14 in Vancouver; thence easterly along Highway 14 to the Skamania County line; thence southerly along said County line to the Columbia River; thence down the Columbia River along the Oregon-Washington State boundary to the Longview Bridge and point of origin.

This proposed rule was authored by Robert I. Smith, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, 202–254–3207.

Dated: January 10, 1980.

Lynn A. Greenwalt,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 80–4322 Filed 2–8–80; 8:45 am]

BILLING CODE 4310–55–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FI–5683]

Proposed Flood Elevation Determinations for the City of Republic, Greene County, Mo.; National Flood Insurance Program; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 44 FR 48728 of the **Federal Register** of August 20, 1979.

EFFECTIVE DATE: August 20, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line 800–424–8872, Room 5150, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The notice, of proposed flood elevation determination for the City of Republic, Greene County, Missouri, published on August 20, 1979 at 44 FR 48728 in the **Federal Register**, and in *The Republic Monitor* on August 16, 1979 and August 23, 1979 showing the following:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Schuyler Creek	Approximately 530 feet upstream from corporate limits at Field Road.	1,225*
Evergreen Creek	Approximately 130 feet upstream from State Route 174.	1,271*

Should be corrected to read:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Schuyler Creek	Approximately 380 feet upstream from corporate limits at Field Road.	1,255*
Evergreen Creek	Just upstream from State Route 174.	1,271*

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: January 25, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–4074 Filed 2–8–80; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 67

[Docket No. FI–5678]

Proposed Flood Elevation Determinations for the City of Toledo, Lucas County, Ohio; National Flood Insurance Program; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 44 FR 47572 of the **Federal Register** of August 14, 1979.

EFFECTIVE DATE: August 14, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line 800–424–8872, Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The notice, of proposed flood elevation determination for the City of Toledo, Lucas County, Ohio, published on August 14, 1979 at 44 FR 47572 in the **Federal Register**, and in the *Toledo Blade* on August 25, 1979 and September 1, 1979 showing the following:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Deline Ditch	Confluence with Heldman Ditch.	600*
Delaware Creek	400 feet downstream of Norfolk and Western Railroad.	598*

Should be corrected to read:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Deline Ditch	Confluence with Heldman Ditch.	601*
Delaware Creek	400 feet downstream of Toledo Terminal Railroad.	598*

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44–FR–19367; and delegation of authority to Federal Insurance Administrator, 44–FR–20963)

Issued: January 25, 1980.

Gloria M. Jiminez,

Federal Insurance Administrator.

[FR Doc. 80–4075 Filed 2–8–80; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 67

[Docket No. FI–5400]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the

Borough of Leetsdale, Allegheny County, Pennsylvania.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 25872 on or about May 3, 1979, and in the *Sewickley Herald,* published on or about May 9, 1979, and May 16, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Leetsdale Borough Building, Broad Street, Leetsdale, Pennsylvania.

Send comments to: Honorable Robert G. Mercer, Mayor of Leetsdale, 8 Beech Court, Leetsdale, Pennsylvania 15056.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, Office of Flood Insurance, (202) 426–1460 or Toll Free Line (800) 424–8872, Room 5150, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Borough of Leetsdale, Allegheny County, Pennsylvania, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C 4001–4128, and 44 CFR 67.4(a)) (presently appearing at its former Title 24, Chapter 10, Part 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Leetsdale, Borough, Allegheny County.	Ohio River	Downstream County Boundary	*711
			Ferry Street (Extended)	*712
			Upstream Corporate Limits	*713
		Big Sewickley Creek	Confluence with Ohio River	*711
			Upstream side of Ohio River Boulevard	*713
			Downstream side of Beaver Road	*713
			Upstream side of Beaver Road	*715

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: January 28, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–4076 Filed 2–8–80; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 67

[Docket No. FI–5627]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Clarendon, Rutland County, Vermont.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 40094 on or about July 9, 1979, and in the *Rutland Herald,* published on or about July 13, 1979, and July 20, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Town Planning Office, Clarendon, Vermont.

Send comments to: Mr. Gerald Cook, Chairman of the Board of Selectmen of Clarendon, Town Office, Clarendon, Vermont.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, Office of Flood Insurance, (202) 426–1460 or Toll Free Line (800) 424–8872, Room 5150, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Town of Clarendon, Rutland County, Vermont, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)) (presently appearing at its former Title 24, Chapter 10, Part 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or

show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Vermont	Clarendon, Town, Rutland County	Clarendon River	Downstream Corporate Limits	*533
			3,000 feet upstream of Corporate Limits	*552
			4,500 feet upstream of Corporate Limits	*566
			Upstream side of State Aid Highway No. 3	*586
			500 feet upstream of State Aid Highway No. 3	*589
			1,500 feet upstream of State Aid Highway No. 3	*607
			2,400 feet upstream of State Aid Highway No. 3	*636
			Upstream crossing of State Aid Highway No. 3	*644
			1,000 feet upstream of upstream crossing of State Aid Highway No. 3.	*655
			Town Highway No. 16	*675
		Otter Creek	Downstream Corporate Limits	*535
			Alfrecha Road	*535
			9,610 feet upstream of Alfrecha Road	*536
			17,710 feet upstream of Alfrecha Road	*538
			25,710 feet upstream of Alfrecha Road	*541
			Chippenhook Road	*542
			8,100 feet upstream of Chippenhook Road	*545
			Confluence of Mill River	*547
			4,800 feet upstream of confluence of Mill River	*553
			Upstream Corporate Limits	*544

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: January 25, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-4077 Filed 2-8-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 5778]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5148, 451 7th Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100—year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Colorado	Summit County, Unincorporated Areas.	Blue River	At confluence with Rock Creek	*8,450
			At confluence with Pioneer Creek	*8,466
			Upstream side of Buffalo Street Bridge	*8,639
			At confluence with Willow Creek	*8,674
		Willow Creek	At confluence with Blue River	*8,674
			Upstream side of County Highway 9 over the channel	*8,698
		Straight Creek	Deer Path Road over the channel	*8,931
			Downstream side of Straight Creek Drive over the channel	*8,975
			Downstream side of Scenery Hill Trail over the channel	*9,067
		Tenmile Creek	Approximately 100 feet east of the intersection of Copper Road and County Highway 91.	*9,693
		West Tenmile Creek	Upstream side of the intersection of Colorado Highway 9 and the channel.	*9,688
			Upsteam side of the intersection of Copper Road and the channel	*9,700
			Downstream side of the eastern crossing of Copper Circle and the channel.	*9,761
		Snake River	At the confluence with Keystone Gulch	*9,177
			Upstream side of the western crossing of Keystone Road	*9,217
			Upstream side of the eastern crossing of Keystone Road and channel	*9,301
			Approximately 300 feet upstream of Jones Gulch and channel intersection.	*9,380
		Soda Creek	Crossing of Summit Drive over channel	*9,084
		Meadow Creek	At confluence with Dillon Reservoir	*9,020
			Intersection of U.S. Highway 6 and channel	*9,051

Laps available at Summit County Courthouse, 208 East Lincoln, Breckenridge, Colorado.

Send comments to Ms. Elizabeth H. Etie, Chairperson, Board of County Commissioners, Summit County, Summit County Courthouse, P.O. Box 68, Breckenridge, Colorado 80424.

Connecticut	Watertown, Town, Litchfield County.	Naugatuck River	Downstream Corporate Limits	*282
			Downstream side of Chase Brass Dam	*289
			400' upstream of Chase Brass Dam	*293
			Approximately 890' upstream of Conrail Bridge	*294
			Approximately 100' downstream of Frost Bridge	*297
			Approximately 100' upstreat of Frost Bridge	*302
			Approximately 3,000' downstream of Private Bridge	*308
			Downstream side of Private Bridge	*313
			Upstream side of Private Bridge	*318
			Conrail Bridge	*319
			Upstream Corporate Limits	*321
		Branch Brook	Downstream Corporate Limits	*320
			State Route 8 Bridge	*330
			Approximately 1,400' upstream of State Route 8 Bridge	*340
			Thomaston Road	*357
			Downstream side of Black Rock Dam	*382
			Upstream side of Wigwam Dam	*567
			Upstream Corporate Limits	*569
		Steele Brook	Downstream Corporate Limits	*358
			Parking Lot Bridge	*364
			Downstream side of Pin Shop Pond Dam	*380
			Upstream side of Pin Shop Pond Dam	*390
			Approximately 30' upstream of Main Street	*394
			Approximately 675' upstream of Main Street	*397
			Approximately 1,630' upstream of Main Street	*410
			Downstream side of Seymour and Smith Company Dam	*433
			Upstream side of Seymour and Smith Company Dam	*448
			Approximately 100' downstream of Bridge to Treatment Plant	*460
			Upstream of Bridge to Treatment Plant	*463
			French Street	*475
			Approximately 50' downstream of Abandoned Railroad Bridge	*479
			Approximately 75' upstream of Abandoned Railroad Bridge	*483
			Upstream of Hemingway Pond Dam	*487
			Downstream of U.S. Route 6 and 202	*494
			Approximately 100' upstream of U.S. Route 6 and 202	*499
			Downstream of Northfield Road	*510
			Approximately 100' upstream of Northfield Road	*518
			Downstream of Dam	*537
			Approximately 50' upstream of Dam	*544
			Downstream of Dirt Farm Road Bridge	*545
			Upstream of Dirt Farm Road Bridge	*551
			Approximately 1,350' upstream of Dirt Farm Road Bridge	*563
			State Route 63	*581

Maps available at the Town Planning and Zoning Office.

Send comments to Mr. James Mullen, Jr., Town Council Chairman and Mr. James Troup, Town Manager, Town Hall, Watertown, Connecticut 06795.

Connecticut	Woodbridge, Town, New Haven County.	Bladens River	Downstream Corporate Limits	*232
			300' downstream of Acorn Hill Road	*238
			Downstream of Acorn Hill Road	*241
			Upstream of Acorn Hill Road	*246
			2,000' upstream of Acorn Hill Road	*250
			Downstream of Bethmour Road (Dam)	*260
			Upstream of Bethmour Road (Dam)	*266
			Private Drive	*268
			100' upstream of Private Drive	*273
			Downstream of Dam	*276

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream of Dam	*281
			530' upstream of Dam	*290
			1,030' upstream of Dam	*300
			1,530' upstream of Dam	*310
			755' downstream of Sanford Road	*320
			420' downstream of Sanford Road	*330
			75' downstream of Sanford Road	*340
			Sanford Road	*341
			60' upstream of Sanford Road	*349
			Route 67 (Seymour Road)	*351
		Wepawaug River	Downstream Corporate Limits	*195
			2,500' downstream of Ansonia Road	*198
			Downstream of Ansonia Road	*207
			Upstream of Ansonia Road	*210
			Racebrook Road	*211
			2,150' downstream of Racebrook Road	*213
			Private Road (Downstream)	*219
			Private road (Upstream)	*220
			350' upstream of Private road	*224
			1,150' downstream of State Route 313	*225
			State Route 313 (Downstream)	*232
			State Route 313 (Upstream)	*238
			750' upstream of State Route 313	*246
			425' downstream of State Route 114	*254
			State Route 114	*255
		Race Brook	Downstream Corporate Limits	*172
			1,320' downstream of State Route 15	*180
			State Route 15 (Downstream side)	*191
			385' upstream of State Route 15	*194
			775' upstream of State Route 15	*202
			Golf Course Road (Downstream)	*208
			300' upstream of Golf Course Road	*212
			800' upstream of Golf Course Road	*214
			Dam (Downstream)	*227
			Dam (Upstream)	*232
			1,850' downstream of Ansonia Road	*242
			60' downstream of Ansonia Road	*252
			Ansonia Road (Downstream side)	*255
			Manville road (Downstream)	*257
			Manville road (Upstream)	*260
			State Route 313	*270

Maps availabe at the Office of the Town Clerk.

Send comments to Mr. Russell Stoddard, First Selectman of Woodbridge, Town Hall, 11 Meeting House Lane, Woodbridge, Connecticut 06525.

Florida	Fort Meade (City), Polk County	Peace River	40 feet upstream from center of U.S. Highway 98	*85
		Lake (City Beach)	100 feet north of the intersection of 6th Street and French Avenue	*139
		Pond 1A	200 feet northwest of the intersection of Milman Street and Hendry Avenue.	*104
		Pond 1	50 feet north of the intersection of Hendry Avenue and Unter Din Linder.	*101
		Pond 2	350 feet southwest of the intersection of Unter Din Linder and Hendry Avenue.	*108
		Pond 3—Shallow Flooding	200 feet east of the intersection of Unter Din Linder and Hendry Avenue.	*93
		Pond 4—Shallow Flooding	600 feet south of the intersection of Milman Street and Washington Avenue.	*87

Maps available from City Hall, 8 West Broadway, Fort Meade, Florida.

Send comments to the Honorable James Marsh, Mayor, City of Fort Meade, City Hall, P.O. Box 856, Fort Meade, Florida 33841.

Florida	Lake Hamilton (Town), Polk County.	Lake Hamilton	Along western corporate limits	*123
		Crystal Lake	500 feet south of the intersection of Gates Avenue and Fifth Street	*123
		Lake Sara	200 feet west of the intersection of Sample Avenue and Sixth Street	*123
		Lake Lee	400 feet south of the intersection of Omaha Street and Baeschlin Street.	*126
		Lake Gordon	400 feet northeast of the intersection of Gordon Drive and U.S. Highway 27A (State Route 17).	*128
		Lake Ida	400 feet southwest of the intersection of Sample Avenue and Lawson Street.	*128
		Lake Dora and Lake Christina	200 feet east of the intersection of Omaha Street and Cunningham Street.	*139
		Depressions 1 and 2	Intersection of Gunter Avenue and Rose Street	*139

Maps available at Town Hall, 100 Smith Avenue, Lake Hamilton, Florida.

Send comments to the Honorable Theron H. Bryan, Mayor, Town of Lake Hamilton, Town Hall, P.O. Box 126, Lake Hamilton, Florida 33851.

Florida	Mulberry (City), Polk County	North Prong Alafia River	100 feet west of the intersection of State Route 37 (North Church Avenue) and the City's southern corporate limit.	*100
		Ellis Branch	50 feet downstream from center of Southeast Third Street	*100
			200 feet upstream from center of Northeast Fifth Street	*107
		Pond 1	200 feet northwest of the intersection of Northwest 5th Avenue and Northwest 3rd Street.	*110
		Pond 2, Shallow Flooding	200 feet west of Northwest 6th Avenue	*107

Maps available from City Hall, Intersection of State Route 37 and State Route 60, Mulberry, Florida.

Send comments to the Honorable Carl M. Ellis, Mayor, City of Mulberry, City Hall, P.O. Box 707, Mulberry, Florida 33860.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(C) Belleville, St. Clair County	Richland Creek	Just upstream of U.S. Route 460	*468
			Just downstream of Illinois Street	*475
			Just downstream of west "C" Street	*493
			Just upstream of west "C" Street	*497
			Just upstream of Southern Railway (at upstream corporate limits)	*500
		Catawba Creek	At confluence with Richland Creek	*497
			About 200 feet downstream of Catawba Avenue	*499
			Just upstream of Southern Railway	*500
			Just downstream of Southern Railway	*505
			About 0.17 miles upstream of Southern Railway (at corporate limits)	*512
	Maps available at City Hall, Engineering Department, 101 South Illinois Street, Belleville, Illinois.			
	Send comments to The Honorable Richard Brauer, Mayor, City of Belleville, City Hall, 101 South Illinois Street, Belleville, Illinois 62220.			
Illinois	(V) Chicago Ridge, Cook County	Stony Creek (West)	Just upstream Harlem Avenue	*591
			Just upstream Chessie System	*594
			Just downstream Central Avenue	*595
		Melvina Ditch	Just downstream 99th Street	*594
			Upstream corporate limits	*600
		Oaklawn Ditch	Confluence at Stony Creek (West)	*595
			Upstream corporate limits	*596
	Maps available at Village Hall, 10655 South Oak, Chicago Ridge, Illinois.			
	Send comments to Mr. Eugene Siegel, Village President, Village of Chicago Ridge, Village Hall, 10655 South Oak, Chicago Ridge, Illinois 60415.			
Illinois	(V) Crestwood, Cook County	Crestwood Drainage West	About 250 feet downstream from Calumet Sag Road	*589
			Just upstream of Calumet Sag Road	*594
			Just downstream of 131st Street culvert	*607
			Just upstream of 131st Street culvert	*615
		Crestwood Drainage East	Just upstream of Cicero Avenue	*603
			Just upstream of 135th Street	*606
			Just downstream of Kostner Avenue	*608
			Just upstream of Kostner Avenue	*610
		Tinley Creek	Downstream corporate limits (at 127th Street)	*594
			Just upstream of Central Avenue	*604
			Just downstream of Elm Christian School Road	*605
			Just upstream of Elm Christian School Road	*608
			At upstream corporate limits (about 850 feet upstream of Elm Christian School Road).	*608
	Maps available at Village Clerks Office, Village Hall, 13480 South Cicero, Crestwood, Illinois.			
	Send comments to Mr. Chester Stranczek, Village President, Village of Crestwood, Village Hall, 13480 South Cicero, Crestwood, Illinois 60445.			
Illinois	(V) Streamwood, Cook County	South Branch Poplar Creek	At downstream corporate limit	*779
			Approximately 3,500 feet downstream Bartlett Road	*782
			About 400 feet upstream of Bartlett Road	*784
	Maps available at Village Hall, 401 East Irving Park Road, Streamwood, Illinois.			
	Send comments to Mr. John W. Borris, Village President, Village of Streamwood, Village Hall, 401 East Irving Park Road, Streamwood, Illinois 60103.			
Illinois	(V) Winnetka, Cook County	Skokie River	About 1,600 feet downstream of Willow Road	*625
			Upstream corporate limits	*625
		Lake Michigan	Shoreline	*584
	Maps available at Village Hall, 510 Green Bay Road, Winnetka, Illinois.			
	Send comments to Mr. Wilbur Legg, Village President, Village of Winnetka, Village Hall, 510 Green Road, Winnetka, Illinois 60093.			
Indiana	(C) Lafayette, Tippecanoe County	Elliott Ditch	Approximately 1,700 feet downstream 150 East Road corporate limits.	* 631
			Just downstream 150 East Road	* 637
			Just downstream Concord Road	* 642
		Wabash River	Downstream corporate limits	* 528
			Just downstream U.S. Route 52 bypass bridge	* 632
	Maps available at City Hall, Lafayette, Indiana.			
	Send comments to The Honorable James Riehle, Mayor, City of Lafayette, City Hall, Lafayette, Indiana 47901.			
Kentucky	Newport (City), Campbell County	Ohio River	U.S. Highway 27 crossing the channel	* 498
			Approximately 800 feet northwest from the intersection of County Highway 8 and Linden Avenue.	* 499
		Licking River	At confluence with Ohio River	* 498
			Approximately 600 feet southwest from the intersection of Ninth Street and Lowell Street.	* 499
			Approximately 300 feet southwest from Lowell Street and Chessie System intersection.	* 500
		Woodlawn Creek	Downstream side of the intersection of the channel and Memorial Parkway.	* 516
			Upstream side of Wilson Road crossing over the channel	* 517
		Woodlawn Tributary 2	Intersection of Lourdes Lane and Burnet Avenue	* 517
			Intersection of Chesapeake Avenue and Grand Avenue	* 517
	Maps available at Newport Courthouse, 4th and York, Newport, Kentucky.			
	Send comments to the Honorable John J. Peluso, Mayor, City of Newport, Newport Courthouse, 4th and York, Room 6, Newport, Kentucky 41071.			

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Massachusetts	Billerica (Town), Middlesex County.	Concord River	Area southwest from the end of Winthrop Street	* 107
			Intersection of river and center of Pollard Street	* 115
			Cul-de-sac at the end of Simmons Lane	* 117
			Intersection of Riverview Road and Pembroke Street	* 119
		Shawsheen River	Intersection of Hamilton Street and First Avenue	* 93
			Intersection of Shawsheen Street and E Street	* 97
		Content Brook	50 feet downstream from center of Gray Street	* 106
		Middlesex Canal	30 feet downstream from center of Pond Street	* 110
		Jones Brook	Intersection of brook and center of Baldwin Road	* 105
	Maps available at Town Hall, Concord Road, Billerica, Massachusetts.			
	Send comments to Mr. Thomas H. Conway, Jr., Chairman, Board of Selectmen, Town of Billerica, Town Hall, Selectmen's Office, Concord Road, Billerica, Massachusetts 01821, Attn: Mr. Paul F. Talbot, Town Administrator.			
Michigan	(V) Linden, Genesse County	Shiawassee River	At western corporate limit	* 855
			About 1,500 feet downstream of south Bridge Street	* 856
			Just downstream of Linden Mill Pond Dam	* 859
			Just upstream of Linden Mill Pond Dam	* 869
			Just downstream of Ripley Road	* 869
	Maps available at Village Hall, P.O. Box 507, Linden, Michigan 48451.			
	Send comments to Mr. William Brown, Village President, Village of Linden, Village Hall, P.O. Box 507, Linden, Michigan 48451.			
Minnesota	(C) Hammond, Wabasha County	Zumbro River	About 2,000 feet downstream of Main Street Bridge	* 806
			About 400 feet upstream of Main Street Bridge	* 810
		West Tributary, Zumbro River	About 1,500 feet upstream of Bridge Street	* 808
			About 150 feet downstream of Bridge Street	* 809
			About 2,100 feet upstream of Bridge Street	* 815
		South Tributary, Zumbro River	Just upstream of Bridge Street	* 808
	Maps available at City Hall, Hammond, Minnesota.			
	Send comments to The Honorable Jerry Kuehn, Mayor, City of Hammond, City Hall, Hammond, Minnesota 55938.			
Minnesota	Hutchinson (City), McLeod County.	South Fork Crow River	At the intersection of Second Avenue Southeast and Ontario Street	*1,040
			150 feet north of the intersection of School Road and Boulder Street	*1,045
	Maps available from City Hall, 37 Washington Avenue West, Hutchinson, Minnesota.			
	Send comments to the Honorable D. J. Black, Mayor, City of Hutchinson, City Hall, 37 Washington Avenue West, Hutchinson, Minnesota 55350.			
Minnesota	(C) Warren, Marshall County	Snake River	Just upstream of western corporate limit	*850
			Just upstream of Soo Line Railway	*852
			Just downstream of northern corporate limit	*860
	Maps available at the City Hall, 126 West Johnson Avenue, Warren, Minnesota.			
	Send comments to The Honorable Gordon Summers, Mayor, City of Warren, City Hall, 126 West Johnson Avenue, Warren, Minnesota 56762.			
Missouri	(C) Shrewsbury, St. Louis County	Tributary to No Name Creek	Just downstream of St. Louis-Dan Francisco Railway	*466
			Approximately 400 feet upstream of Watson Road	*473
			About 300 feet downstream of Laclede Station Road	*483
			Just downstream of Laclede Station Road	*484
		Deer Creek	Approximately 150 feet downstream of St. Louis Belt and Terminal Railroad.	*434
			Just upstream of St. Louis Belt & Terminal Railroad	*438
			Just downstream of Big Bend Boulevard	*443
		North Tributary to River Des Peres.	Just upstream of St. Louis & San Francisco Railroad	*432
		Murdock Tributary to River Des Peres.	Just upstream of St. Louis & San Francisco Railroad	*430
	Maps available at City Hall, 4400 Shrewsbury Avenue, Shrewsbury, Missouri.			
	Send comments to The Honorable Karl G. Odenwald, Mayor, City of Shrewsbury, City Hall, 4400 Shrewsbury Avenue, Shrewsbury, Missouri 63119.			
Missouri	(C) Trenton, Grundy County	Muddy Creek Channel	About 3,900 feet downstream State Highway 6	*752
			Approximately 950 feet upstream State Highway 6	*759
			Upstream corporate limit	*761
	Maps available at City Hall, Box 188, Trenton, Missouri.			
	Send comments to The Honorable James D. Halcomb, Mayor, City of Trenton, City Hall, Box 188, Trenton, Missouri 64683.			
Montana	Yellowstone County, Unincorporated Areas.	Yellowstone River	Intersection of Nahmis Avenue and U.S. Highway 312	*3,008
			Area 180 feet east of east end of Elaine Street	*3,069
			Intersection of Scenic View Drive and Orchard Lane	*3,141
			Intersection of Wise Lane and County Road	*3,188
			100 feet upstream from center of Duck Creek Road	*3,200
			260 feet downstream from center of U.S. Highway 310 and 212	*3,270
			Southern end of Red Bridge Road	*3,305
		Blue Creek	Intersection of Sumac and Quanta Lane	*3,168
			Intersection of Aquiesta Avenue and Blue Creek Road	*3,336
			100 feet upstream from center of Bender Road	*3,416
			Intersection of creek and center of Helfrick Road	*3,509
			Confluence with Wyman Creek	*3,845
		Duck Creek	Intersection of Duck Creek Road and River Road	*3,222
			50 feet upstream from center of Duck Creek Road, upstream from confluence with Duck Creek Tributary.	*3,446

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Duck Creek Tributary, Alkali Creek.	Confluence with Duck Creek	*3,437
			Intersection of creek and center of Alkali Creek Road, first upstream crossing from City of Billings corporate limits.	*3,247
		Canyon Creek	Intsersection of creek and center of 40th Street SW	*3,202
			Intersection of creek and center of 48th Street West	*3,230
			50 feet upstream from center of Hesper Road	*3,293
			50 feet upstream from center of High Ditch Flume	*3,347
		Cove Creek	50 feet upstream from center of Cove Ditch Flume	*3,386
			50 feet upstream from center of Golfcourse Dam	*3,411
			50 feet upstream from intersection of creek and center of Molt Road (U.S. Highway 302).	*3,591
		Unnamed Creek	25 feet upstream from center of Klenck Lane	*3,093
			50 feet north of intersection of Hardin Road and Maier Road	*3,141
		Dry Creek	Intersection of Greenwood Avenue and South Frontage Road	*3,133
			Intersection of Hillner Lane and Hemlock Drive	*3,180

Maps available at County Courthouse, 217 North 27th, Billings, Montana.

Send comments to Mr. Mike E. McClintock, Chairman, County Commissioners, Yellowstone County, Yellowstone County Courthouse, 217 North 27th, Room 403, Billings, Montana 59101, Attn: James Kraft, Flood Plain Administrator.

Nebraska	(C) Wayne, Wayne County	South Logan Creek	Approximately 475 feet downstream confluence of Dog Creek	*1,421
			Just downstream of Chicago and North Western Railroad	*1,432
			Approximately 100 feet downstream of State Highway 35	*1,435
			Approximately 150 feet downstream of State Highway 15	*1,446
			Just upstream of State Highway 15	*1,451
			Approximately .68 mile upstream confluence of Deer Creek	*1,457
		Dog Creek	Mouth at South Logan Creek	*1,421
			Approximately 100 feet downstream of State Highway 15	*1,432
			Approximately 220 feet upstream of State Highway 15	*1,435
			Approximately 2,200 feet upstream of State Highway 15	*1,440
		Deer Creek	Approximately 400 feet upstream of the mouth	*1,453
			Approximately .64 mile upstream of mouth	*1,457

Maps available at City Hall, 306 Pearl, Wayne, Nebraska.

Send comments to The Honorable Wayne Marsh, Mayor, City of Wayne, City Hall, 306 Pearl, Wayne, Nebraska 68787.

New Jersey	Gloucester, Township, Camden County.	Big Timber Creek	100' upstream of State Route 41 (Clements Bridge Road)	*10
		South Branch, Big Timber Creek	100' upstream of State Route 42	*10
			50' upstream of Almonesson Road	*10
			Approximately 3,600' upstream of Almonesson Road	*11
			50' upstream of Good Intent Road	*18
			100' upstream of West Church Street	*24
			Approximately 125' upstream of Lakeland Road	*29
			Approximately 25' downstream of Central Avenue	*35
			Approximately 25' upstream of State Route 168 (Black Horse Pike)	*47
			Approximately 30' upstream of Turnersville Sicklerville Road	*53
			Approximately 30' downstream of Lake Access Road	*56
			Approximately 75' upstream of Lake Access Road	*68
			50' downstream of Private Road	*76
			Approximately 60' upstream of Atlantic City Expressway	*87
			Approximately 1,700' upstream of Atlantic City Expressway	*92
			Approximately 3,700' upstream of Atlantic City Expressway	*100
			Approximately 60' downstream of Dam	*106
			Approximately 75' upstream of Dam	*109
			620' upstream of Dam	*115
			50' downstream of Redwood Street	*123
		North Branch, Big Timber Creek	100' upstream of confluence with South Branch of Big Timber Creek	*10
			Approximately 50' upstream of Abandoned Railroad	*12
			Approximately 40' upstream of Black Horse Pike	*14
			Approximately 50' upstream of second crossing of Chews Landing on Clementon Road.	*16
			25' upstream of confluence of Signey Run	*17
			Confluence of Mason Run (Corporate Limits)	*19
		Signey Run	Approximately 1,100' upstream with North Branch Big Timber Creek	*17
			Approximately 2,500' upstream of confluence with North Branch Big Timber Creek.	*26
			Approximately 40' downstream of Corporate Limits	*32
		Mason Run	Approximately 25' upstream of confluence with North Branch Big Timber Creek.	*19
			1,750' upstream of confluence with North Branch Big Timber Creek	*20
		Pines Run	Approximately 40' upstream of Lower Landing Road	*10
			Approximately 75' upstream of Lakeview Drive	*14
			50' downstream of Abandoned Railroad	*18
			50' upstream of Abandoned Railroad	*23
			Approximately 70' upstream of State Route 168 (Black Horse Pike)	*25
			50' downstream of Golf Course Access Road	*35
			50' upstream of Golf Course Access Road	*42
			Approximately 15' upstream of 4th Footbridge crossing	*45
			40' upstream of Little Gloucester Road	*52
			50' upstream of Hinder Lane	*54
			20' downstream of Private Road	*56

Maps available at the Township Building, Gloucester, New Jersey.

Send comments to Honorable Nan A. Mullen, Mayor of Gloucester, Gloucester Township, P.O. Box 8, Blackwood, New Jersey 08012.

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Akron, Village, Erie County	Murder Creek	Lewis Road (Upstream)	*657
			2,000 feet upstream of Lewis Road	*663
			Conrail (Downstream)	*668
			Conrail (Upstream)	*672
			Buell Street (Downstream)	*675
			Brooklyn Street (Downstream)	*683
			State Street (Downstream)	*806
			Crittenden Road	*807
	Maps available at the Village Hall, 21 Main Street, Akron, New York.			
	Send comments to Honorable Donald Whiting, Village Hall, 21 Main Street, Akron, New York 14001.			
New York	Massena, Village, St. Lawrence County.	Grass river	Downstream Corporate Limits	*166
			Parker Avenue	*174
			700' Downstream of dam	*180
			Main Street	*185
			Upstream Corporate Limits	*187
	Maps available at the Village Hall, Massena, New York.			
	Send comments to Honorable G. Laurence White, Mayor of Messener, Village Hall, Main Street, Massena, New York 13662.			
New York	Newstead, Town, Erie Conty	Murder Creek	3,900 feet downstream State Route 93	*622
			Upstream State Route 93	*632
			Abandoned Bridge	*642
			3,500 feet upstream of Abandoned Bridge	*647
			Village of Akron downstream Corporate Limits	*654
			Village of Akron upstream Corporate Limits	*807
			15 feet downstream from bridge	*810
	Maps available at the Town Hall, Newstead, New York.			
	Send comments to Mr. J. Kelsey Webster, Town Supervisor of Newstead, Town Hall, Church and John Streets, Akron, New York 14001.			
Ohio	(C) Fairborn, Greene County	Beaver Creek	At southern corporate limits	*834
			About 0.2 mile upstream Interstate 675	*841
			Just upstream of Private Road (2,000 feet upstream of Regina Road)	*853
		Hebble Creek	At western corporate limits	*823
			Just upstream Conrail	*839
			Just upstream Interstate 675	*848
			About 0.1 mile upstream Black Lane	*863
	Maps available at City Hall, 44 West Hebble Avenue, Fairborn, Ohio.			
	Send comments to Mr. William Burns, City Manager, City of Fairborn, City Hall, 44 West Hebble Avenue, Fairborn, Ohio 45324.			
Ohio	(C) Struthers, Mahoning County	Mahoning River	About 0.5 mile downstream from the confluence of Hines Run	*821
			Just upstream of Bridge Street	*826
			Just upstream of Youngstown Sheet & Tube Company Railroad and Highway Bridge.	*830
	Maps available at City Hall, 6 Elm Street, Struthers, Ohio.			
	Send comments to The Honorable Daniel Huriate, Mayor, City of Struthers, City Hall, 6 Elm Street, Struthers, Ohio 44471.			
Pennsylvana	Warwick, Township, Lancaster County.	Lititz Run	Corporate Limits Downstream	*311
			Millport Road Downstream	*318
			Millport Road Upstream	*322
			Footbridge Upstream approximately 5,590 feet upstream of Millport Road.	*338
			Rothville Road Upstream	*342
			Clay Road Upstream	*351
			Lititz Road Upstream	*355
			Corporate Limits Upstream	*360
		Moores Run	Confluence with Lititz Run	*356
			Conrail Upstream	*361
			Newport Road Upstream	*389
		Santo Domingo Creek	Corporate Limits Downstream	*379
			Furnace Hills Pike Downstream	*385
			Furnace Hills Pike Upstream	*386
			Limit of Detailed Study approximately 2,480 feet upstream of Furnace Hills Road.	*391
	Maps available at the Warwick Township Building.			
	Send comments to Mr. James T. Whitmyer, Chairman of the Board of Supervisors of Warwick, 1542 East Newport Road, Livittown, Pennsylvania 17543.			
Pennsylvania	Worcester, Township, Montgomery County.	Zacharias Creek	Downstream Corporate Limits	*166
			Downstream Dam—3,350 feet upstream of corporate limits	*179
			Green Hill Road (Upstream)	*184
			Frog Hollow Road (Downstream)	*193
			Downstream Shutt Mill Road (Extended)	*208
			State Route 363 (Downstream)	*215
			State Route 363 (Upstream)	*224
			State Route 73 (Downstream)	*232
			State Route 73 (Upstream)	*237
			Farm Road (Downstream)	*247
			Farm Road (Upstream)	*251
			Confluence of North Branch Zacharias Creek	*259
			Weber Road (Downstream)	*269

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Weber Road (Upstream)	*271
			Private Road off Weber Road (Extended)	*280
			Pennsylvania Turnpike (Upstream)	*288
			Berks Road (Upstream)	*296
			Morris Road (Downstream)	*306
		North Branch Zacharias Creek	Confluence of Zacharias Creek	*259
			Curtis Lane (Extended)	*264
			700 feet downstream of Weber Road	*278
			Weber Road (Upstream)	*289
			Pennsylvania Turnpike (Upstream)	*295
			180 feet downstream of Morris Road	*310
			Morris Road (Downstream)	*316
	Maps available at the Office of the Worcester Township Secretary, 3063 Germantown Pike.			
	Send comments to Mr. Allan C. Myers, Chairman of the Board of Supervisors of Worcester, c/o Mr. Russell Place, Secretary, Box 282, Fairview Village, Pennsylvania 19409.			
Rhode Island	Richmond, Town, Washington County.	Wood River	3,250' downstream of Woodville Road	*54
			Upstream of Woodville Road	*55
			Upstream of Dam upstream of Woodville Road	*60
			Upstream of Hope Valley Road	*68
			Upstream of Interstate Route 95	*69
			Upstream of Old Hope Valley Road	*72
			Upstream of Dam upstream of Old Hope Valley Road	*80
			Upstream of State Route 3	*83
			Upstream of downstream crossing of Old Noose- neck Hill Road	*88
			Upstream of Dam upstream of downstream crossing of Old Nooseneck Hill Road.	*100
			Upstream of Skunk Hill Road	*101
			Upstream of upstream crossing of Old Nooseneck Hill Road	*110
			Upstream of Dam upstream of upstream crossing of Old Nooseneck Hill Road.	*115
	Maps available at the Office of the Assessor, Richmond, Rhode Island.			
	Send comments to Mr. F. Bradford Pride, President of the Richmond Town Council, Town Offices, R.F.D. 1, Wyoming, Rhode Island 02898.			
Tennessee	City of Kingston Springs, Cheatham County.	Harpeth River	Just upstream of the Louisville and Nashville Railroad Bridge (Approximately at River Mile 36.75).	*497
	Maps available at, City Hall, P.O. Box 64, Kingston Springs, Tennessee 37082.			
	Send comments to, Mayor Terry Moore, P.O. Box 64, Kingston Springs, Tennessee 37082.			
Tennessee	City of Pegram, Cheatham County	Harpeth River	Just upstream of County Road	*509
			Just downstream of Interstate 40	*514
			Just upstream of Riverview Drive	*525
	Maps available at City Hall, P.O. Box 86, Pegram, Tennessee 37143.			
	Send comments to Mayor George Farmer, City Hall, P.O. Box 86, Pegram, Tennessee 37143.			
Texas	City of College Station, Brazos County.	Carters Creek	At confluence of Wolf Pen Creek	*246
			Just upstream of State Highway 30	*255
		Wolf Pen Creek	Just upstream of West Frontage Road of State Highway 6 Bypass	*262
		Burton Creek	Just upstream of 29th Street (Tarrow Street)	*279
		Bee Creek	Just upstream of West Frontage Road of State Highway 6 Bypass	*252
			Just upstream of Holleman Drive	*294
		Tributary A	Just upstream of Texas Avenue (State Highway 6)	*265
		Tributary B	Just upstream of FM 2818, west of Welch Boulevard	*282
	Maps available at City Hall, Texas Avenue, College Station, Texas 77840			
	Send comments to Mr. North Bardell, City Manager, City Hall, P.O. Box 9960, College Station, Texas 77840.			
Wisconsin	(V) Belleville, Dane and Greene Counties.	Sugar River	Just upstream from Remy Road	*856
			Just upstream of State Highway 69	*859
			Just downstream from Belleville Dam	*859
			Just upstream from Belleville Dam	862
			0.88 mile upstream from Belleville Dam	*863
			Just downstream from far western corporate limit	*864
	Maps available at the Office of the Village Clerk, Village Hall, Belleville, Wisconsin.			
	Send comments to Mr. William Hoenisch, Village President, Village of Belleville, Village Hall, Belleville, Wisconsin 53508.			

National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19867; and delegation of authority to Federal Insurance Administrator 44 FR 20963.)

Issued: January 30, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-4137 Filed 2-8-80; 8:45 am]

BILLING CODE 6718-03-M

Notices

Federal Register
Vol. 45, No. 29
Monday, February 11, 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

Forest Service

Deschutes National Forest Grazing Advisory Board; Meeting

The Deschutes National Forest Grazing Advisory Board will meet at 10 a.m. on March 12, 1980 at the Forest Supervisor's office, 211 N.E. Revere, Bend, Oregon 97701. The purpose of this meeting is:

1. Review Deschutes National Forest Range Management Program for 1980.
2. Review priorities for range analysis/plans for range improvement construction for F.Y. 1981–1982.
3. Review status of Forest Land and Resource Management Plan.
4. Open discussion of topics of interest to the Advisory Board.

The meeting will be open to the public. Persons who wish to attend should contact Will Griffin, 211 N.E. Revere, Bend, Oregon 97701, phone 382–6922.

Dated: February 1, 1980.

Earl E. Nichols,

Forest Supervisor.

[FR Doc. 80–4325 Filed 2–8–80; 8:45 am]

BILLING CODE 3410–11–M

CIVIL AERONAUTICS BOARD

[Order 79–12–98; Docket 34772; Agreement CAB 21511, and CAB 21954, Docket 20993]

Air Carrier Rules Governing the Application of Tariffs; Agreement Among Members of the Air Traffic Conference of America, Various Air Carriers and Other Carriers, and International Air Transport Association Relating to Traffic Forms and Procedures

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 17th day of December, 1979.

By Order 79–2–106, February 22, 1979, the Board asked interested parties to show cause why it should not order the cancellation of Rule 1(G) in the domestic passenger rules tariff, CAB No. 142,[1] as well as similar rules in overseas and international tariffs. The rules provide:

> No agent, servant or representative of carrier has authority to alter, modify, or waive any provision of the contract of carriage or of this tariff.

The Board also proposed to withdraw its approval of certain carrier agreements insofar as they prescribe the contents of Paragraph 11 of the standard conditions of contract, which states the same principle in slightly different language. The Board tentatively concluded that this broad denial of liability for the acts of employees and agents is unreasonable, and that the tariff rule and contract conditions are inconsistent with actual carrier practices.

In their present form, we noted in that order, tariffs are long and complex and frequently of little help to passengers seeking information about their rights and obligations. As a result, passengers really have no alternative but to rely on the statements of airline personnel or travel agents, whom they reasonably assume to be well-informed about airline fares and practices. Yet Rule 1(G) permits airlines to shift entirely to passengers the harmful consequences of mistakes made by their employees and agents, regardless of the individual circumstances, and despite the virtual impossibility for the passenger to double-check the accuracy of agents' assertions.

Moreover, the statement made in Rule 1(G) is literally untrue. Virtually all carriers have management and customer relations personnel who are authorized to waive tariff provisions to resolve consumer grievances, and do so on a regular basis.[2] These departures from otherwise binding tariff provisions have been expressly authorized by the Board in Order 78–12–49.

The Board has received numerous responses to Order 79–2–106, most from carriers objecting to the proposed action.[3] Generally, the carriers defend the substance of the tariff rule and contract clause as reflecting traditional legal principles in the transportation industry. The carriers also question the procedures used by the Board, arguing that the Board has insufficient evidentiary support for its proposed action, than an evidentiary hearing is required, and that the Board must prescribe a new, lawful tariff rule to replace the rule to be cancelled. Finally, some carriers object to cancellation of Rule 1(G) on the grounds that the Board's action is not in accordance with governing international provisions.

After full consideration of the responses to our order, we have decided to order the cancellation of the tariff rules insofar as they govern interstate and overseas air transportation provided by U.S. airlines and to withdraw our approval of the ATC agreement provision prescribing ticket language similar to those rules. Because of possible complications involving some bilateral agreements that include dual disapproval or consultation provisions, however, we have decided not to cancel the international tariff rules until we have had an opportunity to examine the situation more thoroughly.

The objecting parties raise three major substantive arguments against elimination of the tariff rules and ticket language: first, they contend that these statements merely restate their legal obligations under § 403(b) of the Federal Aviation Act, 49 U.S.C. § 1373(b), which prohibits rebating and the charging of non-tariff rates for transportation; second, they argue that without the tariff and contract language to limit the apparent authority of their employees and agents, they may be absolutely bound by any erroneous or misleading statements made to passengers, whether accidentally or intentionally; third, the commenters state that elimination of the tariff rule and the contract language will encourage the filing of dishonest claims by consumers, and will result in higher

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[1] Since the original order was issued, CAB No. 142 and CAB No. 248 have been refiled as CAB No. 352. This order applies to Rule 1(G) of CAB No. 352 to the same extent that it would have applied to Rule 1(G) of CAB No. 142 and Rule 1(G) of CAB No. 248.

[2] Letters in the Board's consumer complaint files confirm this. *See, e.g.*, File Nos. 79–00780, 79–04933, 79–09862, 79–12472.

[3] Objections were filed by the Air Transport Association, Alitalia, British Airways, CP Air, Varig, LAN, Delta, the International Air Transport Association, Japan Air Lines, Lufthansa, Singapore Airlines, Laker Airways, Pan American, Sabena, TWA, Air Canada, World Airways, and Trans International Airlines. Comments filed on behalf of the Davis Agency, Inc., the Air Charter Tour Operators of America and Spantax, S.A. supported the Board's proposal to cancel the tariff rules, but objected to removal of the contract condition. The Aviation Consumer Action Project supported the Board's proposal in full. Donald L. Pevsner generally supported the proposal, but recommended that the Board establish standards for the resolution of disputes arising out of alleged oral misrepresentation.

insurance rates and, therefore, higher fares.

The objecting carriers apparently perceive the Board's proposed action as more sweeping than it actually is. We do not intend by this action to eliminate the tariff system, to bind airlines absolutely to every inadvertent deviation from their tariffs that benefit a passenger, regardless of the circumstances, or to prevent airlines from placing reasonable limits on the authority of their employees and agents. We do intend to prevent carriers from retaining in their tariffs a rule that might be interpreted to bar (or shield) them absolutely from compensating passengers for damage caused by agents' mistakes. Whether or not they involve tariff misquotes, when such an absolute bar is not legally required and is not in accord with carriers' actual practices.

Rule 1(G) does not, as carriers contend, merely reflect the present state of the law under section 403(b) of the Act. Section 403(b) prohibits rebating and deviation from tariffs, but the Board, exercising its expanded authority under section 416 of the Act, has issued a broad exemption to carriers, permitting tariff deviations to resolve consumer grievances. Order 78–12–49, December 7, 1978. The existence of the exemption and, even more important, the fact that carriers are uniformly taking advantage of it, are not reflected in Rule 1(G). In fact, virtually all carriers have management and customer relations personnel who are expressly authorized to waive tariff provisions in order to settle consumer grievances. Airline personnel also frequently waive tariffs containing passenger check-in deadlines, ticket purchase deadlines, and similar rules. None of the objecting airlines has denied this. Yet a court presented with Rule 1(G) might wrongly assume that a carrier was legally prevented from resolving a customer grievance by waiving a tariff, or from honoring an accidental fare misquote, even when a passenger has relied on it to his detriment.

Nor does the Board believe that cancellation of the tariff rule in its present form will prevent carriers from denying the authority of their agents to engage in rebating. The situation in which the agent negotiates a special deal with the passenger is very different from the one in which the agent makes a mistake while performing an act—selling a ticket—that seems to be within the agent's actual authority. In its tariffs or elsewhere, an airline can easily deny the authority of its agents to rebate without categorically repudiating any liability for its agents' mistakes.

The carriers' assertions that cancellation of Rule 1(G) will result in vast increases in passenger claims, particularly dishonest ones, are at best speculative. Data presented by British Airways tending to show that consumers making claims are not always entitled to relief and are sometimes dishonest state an unfortunate fact of life. But we have seen no indication that airlines are any less well equipped than companies in other industries to cope with occasional dishonesty and to distinguish between meritorious and nonmeritorious claims, nor that they have any special need for extra protection from these problems.[4] There is also no reason to assume that airlines will suffer vast increases in costs. Removal of the rule will not force the airlines to pay bad claims; it will only remove a possible barrier to their payment of legitimate claims. Moreover, this action is directed only at questions of the airline's responsibility to the passenger, it is not intended to affect the ultimate distribution of responsibility for errors between airline and agent. When mistakes are the fault of travel agents, rather than airline employees, the airline may protect itself through such means as appropriate contractual arrangements with the agents. Nor do we believe that this action will significantly increase the risk of fraud perpetrated by agents or employees against airlines, since the airline can deny liability in suspicious circumstances and can terminate the employment or agency of any ticket agent who repeatedly sells tickets for less than the applicable fare.

We note that commenters involved in charter operations (Davis Agency, ACTOA, and Spantax) expressed concern that our action against language in the conditions of contract would disapprove by implication any similar language in other contracts, such as tour participant agreements or even agreements between charter operators and direct air carriers. We have not taken such action directly, and our present action is not intended to do so by implication. Since the Board no longer requires the filing of tariffs for charter operations, and our charter regulations assure the disclosure of many types of information in the charter participant contract, the status of the charter participant contract and the legal relationships among carrier, tour operator and passenger are not identical to those involved in scheduled transportation. In any event, as we believe our discussion makes clear, it is not our intent to bind carriers or others absolutely to the mistakes of their agents, nor to interfere with the power of companies to place reasonable limits on the authority of their agents. We are concerned here with removing a government imprimatur from inaccurate and potentially unfair tariff and contract language, not with establishing a specific substantive rule on the lawfulness of failing to honor employees' or agents' mistakes.

In summary, we believe that Rule 1(G) as presently written is simply untrue and could mislead courts or passengers as to the legal authority of airlines to resolve consumer grievances. Moreover, since this overbroad disclaimer is contained in a tariff rule, it might be asserted as an absolute defense against even claims of negligent or intentional tort. We therefore conclude that it is unlawful.

Similarly, the language of Paragraph 11 of the conditions of contract could be used to disclaim liability of any kind for the mistakes of employees or agents and does not reflect the fact that some carrier employees are authorized to waive tariff provisions. The Board's approval of the agreement in which that language is contained, moreover, could lead a court to conclude that it was without authority to review the conscionability of the contract condition or of its application in a particular case. We will, accordingly, withdraw our approval of Agreement CAB 21511 to the extent that it prescribes inclusion of that language on tickets used for interstate and overseas air transportation.

We do not intend by this action, however, to prevent carriers from disclosing the limits of their agents' authority or from limiting their liability by contract, to the same extent and in the same manner that unregulated businesses do. We would prefer, in fact, that matters of this type be handled directly between airlines and their customers through contractual means, since we believe such an approach may provide valuable experience for both airlines and the traveling public in preparing for the 1983 elimination of the

[4] One commenter, Donald Pevsner, expresses concern about consumer allegations of oral mistake or misrepresentation. Since many of these claims may be handled informally by the Board's Bureau of Consumer Protection, he asserts, the consumer's word is likely to be taken at face value. Accordingly, he proposes, the Board should not cancel Rule 1(G) until it has established by rulemaking standards of proof for the settlement of these disputes. We conclude that such rules are not necessary. The Board's informal complaint handling activities do not bind the airlines, and in any case the Board's consumer complaint analysts consider both the claims of the consumer and the explanation of the airline in deciding whether to suggest that the airline might do more for a passenger. Our action here will not require carriers to honor all fare misquotes, or even all those demonstrated to the satisfaction of the Board's staff.

tariff system. See Order 79–9–129, September 20, 1979. Under this approach, the legality of any limitations asserted by airlines will be subject to review by the courts, applying traditional principles of contract, agency, or other relevant law, rather than by the Board. We believe that the legal and factual questions that are likely to arise concerning these issues are sufficiently similar to those arising in traditional commercial transactions that the special expertise of the Board will not be necessary for their solution. Accordingly, we encourage airlines to adopt a non-tariff approach to this problem, and we waive section 221.38 of our rules insofar as it would require those airlines who choose this approach to file substitute provisions for Rule 1(G).

We will, however, permit carriers to file reasonable substitute tariff rules if they choose to. Any rules so filed will be subject to specific Board review of their reasonableness. We would expect these rules to reflect accurately the actual authority of the carriers' employees or agents to waive tariff provisions. We would also expect the substitute rules to specify explicitly liability limitations narrower than the absolute exculpation implicitly asserted by the present rule. In addition, the tariff rules should provide for direct notice to passengers of the liability limits to be asserted. Similarly, we would prefer to avoid extending to carriers any special protection from litigation or from the application of ordinary legal standards that might emanate from Board approval of an agreement prescribing new standard ticket language to replace Paragraph 11. We will, however, entertain requests for approval of such agreements on their merits.

Since any one tariff rule prescribed by the Board might not reflect precisely the actual practice of each carrier with respect to waiving tariffs, and since we will not require all carriers to refile tariffs on this subject, we will not prescribe a particular substitute rule. As the Board recently explained in Order 79–9–129, September 20, 1979, we do not believe that section 1002(d) of the Act inflexibly requires the Board to prescribe the exact terms of a lawful substitute rule for any tariff rule it cancels. We believe that this approach to section 1002(d) is responsive to the increasingly competitive environment in the airline industry and is consistent with the Congressional policies embodied in the Airline Deregulation Act.

In their comments, several carriers have asserted that, under section 1002(d) of the Act, the Board must hold an adjudicatory hearing before it can cancel a tariff rule. Section 1002(d) requires "notice and hearing" but it does not specify an "on-the-record" or trial-type oral evidentiary hearing, and the Board has used show cause procedures to determine the lawfulness of tariff rules in other instances. See Order 79–9–129, September 20, 1979; Order 77–7–43, July 12, 1979; Order 77–2–9, February 2, 1977. Indeed, the choice of procedures lies primarily in the discretion of the agency. See *National Labor Relations Board v. Bell Aerospace Co.*, 416 U.S. 267 (1974); *Securities and Exchange Commission v. Chenery Corp.*, 332 U.S. 194 (1947).

This is not a situation in which the Board is determining whether specific carrier actions under the tariff provision are proper. Rather, the Board is examining a general industry practice to determine wheter or not it should be eliminated. While the practice has been included in tariffs filed with the Board, this of itself does not make the elimination of the practice a matter to be determined only in an adjudicatory proceeding. See *Rocky Mountain Motor Tariff Bureau, Inc. v. ICC*, 590 F.2d 865, 868–69 (10th Cir. 1979); *Central & Southern Motor Freight Tariff Ass'n. v. ICC*, 582 F.2d 113, 118–21 (1st Cir. 1978); *RCA Global Communications, Inc. v. FCC*, 559 F.2d 881 (2d Cir. 1977); *Phillips Petroleum Co. v. FPC*, 475 F.2d 842, 848–50 (10th Cir. 1973), *cert. denied*, 414 U.S. 1146 (1974).

The adequacy of such procedures here is especially clear since no material issues of disputed fact that could profitably be explored in an adjudicatory hearing have been raised. The "factual" questions raised by carriers include the effectiveness of tariffs, and the Board's disposition to enforce them, without Rule 1(G); the liability of carriers for the acts of travel agents; the exculpatory effect of Rule 1(G), and the extraterritorial impact of the proposed action. But these are essentially legal questions, and at that they are largely based on an overbroad interpretation of the Board's proposed action. As discussed above, the Board does not intend to abolish tariffs by this action, and requiring that any tariff rule filed must reflect actual carrier practices will not do so. The general question of carrier liability for acts of agents, and that of the exculpatory effect of Rule 1(G), ar not factual but legal questions based on principles of agency, contract and regulatory law. To the extent that they present policy considerations, the carriers have had a full opportunity to raise arguments concerning them, and we have fully considered those arguments. But they encompass no underlying factual disputes to be resolved in an evidentiary hearing. The extraterritorial effect of Board action would also be a legal issue, but it has been mooted in any event by our decision not to cover international tariffs in our order.

The claim that the Board's evidentiary basis for this action is inadequate is simply erroneous. The carriers have not denied that they authorize certain personnel to waive tariff provisions. Many, in fact, cite this fact as evidence that cancellation of Rule 1(G) is "unnecessary." Yet the tariff rule plainly states that no such personnel exist. The rule is patently inaccurate. It is hard to imagine what additional evidence could be required.

We anticipate that carriers will seek to change their ticket stock in response to this action. They may also wish to revise their contractural arrangements with agents or make other changes in their procedures. To give the carriers an opportunity to use up existing ticket stock supplies and to make any other necessary arrangements for compliance with this order, we will order the cancellation of Rule 1(G) and withdraw our approval of Agreement CAB 21511 effective 120 days from the date of service of this order.

Accordingly: 1. Insofar as they apply to interstate and overseas air transportation the following tariff rules are found to be unlawful, and we order that they be cancelled effective 120 days from the date of service of this order: Rule 1(G) of CAB No. 352, Rule 1(F) of CAB No. 294 and Rule 95 of CAB No. 175, issued by Airline Tariff Publishers; Rule 26(B) of CAB No. 55, issued by Air Tariff Corp.; Rule 3(B) of CAB No. 2, issued by Southwest Airlines Co.; and Rule 100(B) of CAB No. 53, issued by World Airways Co.; and any substantially idential rule found in other tariffs on file with the Board;

2. The Board finds that that portion of Agreement CAB 21511 that prescribes the language of Paragraph 11 of the "Conditions of Contract" notice printed on airline tickets is adverse to the public interest insofar as it applies to interstate and overseas air transportation, and we withdraw our approval of that agreement to the extent that it authorizes the inclusion of Paragraph 11 in tickets used for such transportation, effective 120 days after the date of service of this order,

3. Section 221.38 of the Board's Economic Regulations, 14 CFR 221.38, is waived insofar as it would require those U.S. certificated carriers who choose to deal with the subject matter of the tariff

rules listed in ordering paragraph No. 1 of this order by direct notice or contract to refile sustitute tariff provisions for those rules; and

4. Except as otherwise stated in this order, all requests are denied.

This order shall be served on all U.S. certificated air carriers and foreign air carriers and on all parties filing comments in this docket and shall be published in the **Federal Register.**

By the Civil Aeronautics Board.[1]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-4329 Filed 2-8-80; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Notice is hereby given that, during the week ended February 1, 1980 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

[1] All Members concurred.

Subpart Q Applications

Date filed	Docket No.	Description
Jan. 29, 1980	37551	Wright Air Lines, Inc., c/o James M. Burger, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036. Application of Wright Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q requests amendment of its certificate of public convenience and necessity for Route 169: (a) so as to authorize it to engage in nonstop air transportation as follows: between the terminal point, Cleveland, Ohio; and the intermediate points, Columbus, Ohio; Toledo, Ohio; Ft. Wayne, Indiana; South Bend, Indiana; Lansing, Michigan; Grand Rapids, Michigan; Flint, Michigan; and Saginaw, Michigan; and the terminal point Detroit, Michigan; and (b) so as to designate it as a regional feeder air carrier. Conforming Applications and Answers are due February 26, 1980.
Jan. 30, 1980	37558	Internacional De Aviacion, S.A. (INAIR), c/o Philip Schleit, Suite 212, 1660 L Street N.W., Washington, D.C. 20036. Application of Internacional De Aviacion, S.A. (INAIR), pursuant to Section 402 of the Act requests that the Civil Aeronautics Board issue to it an amended Foreign Air Carrier Permit authorizing it to engage in scheduled and nonscheduled foreign air transportation of property and mail (a) between points in Panama and Houston, Texas, and (b) between points in Panama and New York, N.Y. Answers are due February 27, 1980.
Jan. 30, 1980	37559	Thai Airways International Limited, c/o R. Tenney Johnson, Sullivan & Beauregard, 1800 M Street, N.W., Washington, D.C. 20036. Application of Thai Airways International Limited pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests a foreign air carrier permit to engage in foreign air transportation of persons, property, and mail as follows: Between the terminal point Bangkok, Thailand, via the intermediate points Tokyo, Japan, and Seattle, Washington, and the coterminal points Los Angeles, California, and Dallas/Fort Worth, Texas. Answers may be filed by February 27, 1980.
Feb. 1, 1980	37580	TACA International Airlines, S.A., c/o Harry A. Bowen, 234 Georgetown Bldg., 2233 Wisconsin Avenue, N.W., Washington, D.C. 20007. Application of TACA International Airlines, S.A., pursuant to Section 402 of the Act and Part 211 of the Board's Economic Regulations, requests the Board to amend its Permit authorizing service to the intermediate point of Guatemala City, Guatemala between the terminal points Miami, Florida and San Salvador, El Salvador for the carriage of property and mail only. Answers are due February 29, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-4328 Filed 2-8-80; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-2-24; Docket 32660, Agreements C.A.B. 28126, R-1 through R-17, Agreement C.A.B. 28151]

Agreements adopted by the Traffic Conferences of the International Air Transport Association relating to U.S.-Japan passenger fares; Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 5th day of February, 1980.

Agreements among U.S. and foreign member air carriers of the International Air Transport Association (IATA) have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations. Agreement C.A.B. 28126 was adopted at the Composite Meetings of Passenger Tariff Coordinating Conferences held in Cannes in October 1979; Agreement C.A.B. 28151 was adopted by mail vote.

Agreement 28126 would adopt the U.S./Canada-Japan fares structure in force as of December 1979, for the period of April 1, 1980, through March 31, 1981. Agreement C.A.B. 28151, however, proposes revisions to U.S.-Japan fares, effective January 21, 1980, through March 31, 1981.[1] In general, the agreement would increase first-class, normal economy and group inclusive-tour fares by 10 percent; hold advance-purchase excursion and all U.S. proportional fares at current levels; cancel the excursion and individual inclusive-tour fares; and replace the current array of affinity/own use group fares, now available for groups of 25, 70 or 100 passengers, with a single fare available to groups of 40 or more.

Furthermore, the agreement contains an "unbundled" normal economy fare at levels equal to current normal economy fares to/from Okinawa and 3 to 10 percent below those to/from Tokyo. The unbundled fare would allow one stopover (at an extra $25) and two interline or intraline connections (at no extra charge) in each direction, and assess a $25 surcharge for ticket changes made after travel commences.[2]

[1] In effect, the latter agreement is a revision of the former insofar as U.S. points are concerned.

[2] The attached Appendix details the proposed revisions to the entire fares structure for west coast-Tokyo markets.

We will approve the agreements. IATA's proposed revisions are virtually identical to those made by its member carrier, Japan Air Lines Co., Ltd. (JAL), in a unilateral tariff filing, which we have permitted to become effective. In particular, the proposed unbundled normal economy fare meets in both levels and conditions not only that of JAL, but also those we earlier approved for Pan American World Airways, Inc., and Northwest Airlines, Inc., as well as those currently available in many transatlantic markets.

Acting under the Federal Aviatioan Act of 1958, as amended, and particularly sections 102, 204(a) and 412:

1. We do not find that Agreements C.A.B. 28126, R–1 through R–17, and C.A.B. 28151, which have direct application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act; and

2. We have decided that the public interest requires a grant of antitrust immunity in this case. These agreements are a product of the IATA rate-setting machinery approved and immunized in Order E–9305, June 15, 1955. In Docket 32851, we are reviewing that machinery to determine whether or not it should continue under our approval and immunization. Pending our final decision in that docket, we will continue to consider IATA rate agreements on a case-by-case basis.

Accordingly,

We approve Agreements C.A.B. 28126, R–1 through R–17, and C.A.B. 28151.

We will publish this order in the **Federal Register.**

By the Civil Aeronautics Board.[3]

Phyllis T. Kaylor,

Secretary.

Appendix.—*West Coast-Tokyo Round-Trip Fares*

[U.S. Origin]

	Present	Proposed	Percent change
First class	$1624	$1786	10.0
Normal economy:			
Bundled	1004	1104	10.0
Unbundled	1004	974	(3.0)
14/12-Day excursion	938	.....	(1)
Apex:			
Peak	715	715	0.0
Basic	655	655	0.0
Affinity/Own use:			
25 pass	883	.....	(1)
40 pass	.....	750	(2)
70 pass	628	.....	(1)
100 pass	541	.....	(1)
14/35-Day IIT	853	.....	(1)
14/35-Day GIT:			
Peak	768	845	10.0
Basic	692	761	10.0

[1] Canceled.
[2] Added.

[FR Doc. 80–4335 Filed 2–8–80; 8:45 am]

BILLING CODE 6320–01–M

[Order 80–2–7; Dockets 23080–2 and 37294]

Priority and Nonpriority Domestic Service Mail Rates Investigation; Order Amending Order 79–12–128

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of February, 1980

Orders 79–12–129 and 79–12–129, served December 28, 1979, established final domestic service mail rates for the last half of 1979 and proposed final rates for the first quarter of 1980, respectively. The United States Postal Service has filed a petition for reconsideration of the former and notice of objection and answer to the latter. Apart from the issues raised by the Postal Service, which will be addressed by a future order, a technical question has arisen as to what are the proper rates to be paid to the carriers on and after January 1, 1980, until such time as final rates are established for the first quarter of 1980. Neither order set any temporary rates for the first quarter of 1980.

United Airlines and Trans World Airlines filed petitions addressing this problem suggesting that the Board set temporary mail rates for the first quarter of 1980 at the level proposed in Order 79–12–129 or, at a minimum, designate the final rates for the fourth quarter of 1979 as the temporary mail rates for the first quarter of 1980. Absent this relief the carriers allege they could be paid at rates effective during the first half of 1979 which do not reflect the dramatic increases that have occurred in fuel prices since that time.

To correct this unintentional omission, we will amend our order establishing final rates for the fourth quarter of 1979 to include a provision for temporary rates effective January 1, 1980, at the same level as the final rates for the fourth quarter of 1979. We have determined that temporary rates at that level will provide reasonable compensation to the carriers on an interim basis pending establishment of final rates which will be made retroactive to January 1, 1980.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 204(a), and 406, and the Board's Procedural Regulations promulgated in 14 CFR, Part 302,

1. We amend the ordering paragraphs of Order 79–12–128 by adding a new ordering paragraph 7 and renumbering the existing ordering paragraphs, the paragraphs as amended to read as follows:

"1. We grant the motion of Northwest Airlines, Inc. for leave to file late its answer to Order 79–7–95.

2. We dismiss the petition of Trans World Airlines, Inc. for a fuel surcharge.

3. The fair and reasonable rates of compensation to be paid in their entirety by the Postmaster General pursuant to the provisions of section 406 of the Federal Aviation Act of 1958, as amended, for the period July 1, 1979, through September 30, 1979, to the carriers for the transportation by aircraft of that mail described in Order 79–7–16, ordering paragraph 3, subparagraphs (c), (d), and (e) between the points listed in subparagraph (c), *supra,* the facilities used and useful therefor, and the services connected therewith are those set forth in the attached Appendix A–1.

4. The fair and reasonable rates of compensation to be paid in their entirety by the Postmaster General pursuant to the provisions of section 406 of the Federal Aviation Act of 1958, as amended, for the period October 1, 1979, through December 31, 1979, to the carriers for the transportation by aircraft of that mail described in Order 79–7–16 ordering paragraphs 3, subparagraphs (c), (d), and (e) between the points listed in subparagraph (c) *supra,* the facilities used and useful therefor, and the services connected therewith, are those set forth in the attached Appendix A–2;

5. We amend Order 79–7–16, ordering subparagraph 3(g), to read as follows: All weight in excess of the minimum chargeable weight per container established herein shall be charged at the sum of the full linehaul charge for the applicable service established in subparagraph (e) above, and the capacity-related portion of the terminal charge per pound originated as follows:

	Standard container	Daylight container
July 1, 1979, through September 30, 1979.	3.028 cents....	3.004 cents.
October 1, 1979, through December 31, 1979.	3.184 cents....	3.159 cents.

6. The terms and conditions applicable to the transportation of each class of mail at the rates established here are those set forth in Order 79–7–16.

7. The fair and reasonable temporary rates of compensation for the transportation of mail by aircraft in domestic service for the period January 1, 1980, until further Board order are the rates established by this order as final rates for the period October 1, thru December 31, 1979.

8. We will serve this order upon all parties to the proceeding in Docket 23080–2."

2. We shall serve this order upon all parties to the proceeding in Docket 23080–2.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board.[1]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-4331 Filed 2-8-80; 8:45 am]

BILLING CODE 6320—01—M

[Order 80–2–6; Dockets 37575 and 37576]

Central Zone-Caracus/Maracaibo, Venezuela Case and Miami/Fort Lauderdale-Netherland Antilles Service Case

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80–2–6 instituting the *Central Zone-Caracus/Maracaibo, Venezuela Case,* Docket 37575 and the *Miami/Ft. Lauderdale-Netherland Antilles Service Case,* Docket 37576.

DATE: Adopted: Oral evidentiary hearings will be set before Administrative Law Judges of the Civil Aeronautics Board at times and places to be designated later.

FOR FURTHER INFORMATION CONTACT: George Baranko, Attorney, Office of General Counsel, Civil Aeronautics Board, Washington, D.C. 20428, (202) 673–5205.

SUPPLEMENTARY INFORMATION: The Board adopted Order 80–2–6, on discretionary review of the *Caribean Area Service Investigation,* Docket 30697. The order certificated, subject to Presidential review where necessary, all fit applicants in markets for which service proposals were presented, except for Boston authority, Netherland Antilles authority and Venezuelan authority from U.S. gateways.

Finding that limited designation to replace discontinued service to Venezuela best serves U.S. aviation objectives at this time, the Board has decided to institute the *Central Zone-Caracas/Maracaibo, Venezuela Case,* Docket 37575, to develop a record and recommendations as to which carrier should be selected to provide service, (and the cities from which service would be provided) between the Central Zone and Caracas/Maracaibo. The Board also modified the Judge's award of Netherland Antilles authority to reflect the result of recent negotiations with that country. It approved applications to provide service to the Antilles from U.S. gateways except Miami/Ft. Lauderdale. Carriers to provide service from Miami/Ft. Lauderdale will be chosen in a case it is instituting.

A copy of the complete text of Order 80–2–6 can be obtained by postcard request from the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: February 2, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-4330 Filed 2-8-80; 8:45 am]

BILLING CODE 6320-01-M

[Order 80–2–35; Dockets 36494, 36712, and 37071]

Joint Fares; Order Granting Exemptions

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 5th day of February, 1980.

In the matter of petition on behalf of certain named carriers for exemption from order prescribing division of joint fares (Docket 36494), application of Eastern Airlines, Inc. for Exemption from Order Prescribing Division of Joint Fares (Docket 36712), and application of Eastern Airlines, Inc. for Exemption from Order Prescribing Division of Joint Fares (Docket 37071).

In Order 79–6–196 we granted Pacific Southwest Airlines an exemption to permit it to divide joint fares on the basis of voluntary agreements with its interline partners. The existing mandatory program of joint fares and divisions, created by Phase 4 of the Domestic Passenger Fare Investigation,[1] initially required all joint coach and standard class fares to be divided on the basis of a "cost prorate" division formula.

We modified that approach somewhat in Order 78–8–152, where we provided that joint fares could be no higher than the sum of the actual fares on the segments being combined; that any joint fare constructed by adding up actual segment fares would, in the absence of a contrary agreement, be divided by a rate prorate method, with each participating carrier getting its local fare over its segment; but that interlining carriers would be free to negotiate an alternative to the rate prorate division. As we explained in a subsequent order (Order 79–6–196), we took this action because we saw no reason to prevent an agreement between two willing carriers, since a negotiated agreement would not relieve them of their obligation to offer joint fares at or below the ceiling level.

It was because of this reluctance to interfere with carriers' voluntary agreements that we granted PSA an exemption to depart from the uniform method of dividing joint fares. In granting this exemption, we also indicated that, "should other carriers wish to follow PSA's example, we would be disposed to grant similar exemptions." Order 79–6–196, at p. 1. The three exemption requests now before us come in response to that invitation. Two of the requests involve arrangements between Eastern Air Lines and a single interline partner, in one case New Jersey Airways (Docket 36712), and in the other, Winnipesaukee Aviation (Docket 37071).

No answers to those applications have been filed and, finding them consistent with the public interest, we will grant them.

The third petition has been submitted by the Airline Tariff Publishing Company (ATPCO) on behalf of 13 named carriers.[2] These carriers seek a total exemption from the Phase IV division formula in the case of joint fares in which they are the exclusive participants. They argue that the prescribed basis for dividing joint fares operates unfairly in certain cases, and therefore seek the freedom to negotiate their own arrangements.

The Commuter Airline Association of America (CAAA) has answered in opposition to this petition, arguing that the requested exemption represents a concerted effort by trunklines to gut the uniform joint fare program. Specifically, it points out that joint fares have often been voluntarily negotiated by carriers below the maximum level established in Phase IV, to reflect the competitive realities in some markets (for example, to match lower local fares or lower joint fares); and that petitioners have said they would refuse to enter into such joint fares voluntarily unless they were also free to negotiate the method of dividing the resulting revenues with other participating airlines. This statement, CAAA argues, reveals an intention to compel short-haul carriers, including commuters, to accept one of two unattractive choices: getting joint fares at maximum rates, divided on a cost prorate basis, or getting "competitive," lower joint fares, but only if they agree to a straight rate prorate formula that gives them a

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[1] All Members concurred.

[1] Order 74–12–108.

[2] American Airlines, Braniff Airways, Continental Air Lines, Delta Air Lines, Eastern Air Lines, National Airlines, Nevada Airlines, Northwest Airlines, Pan American World Airways, Piedmont Aviation, Trans World Airlines, United Air Lines, and Western Air Lines.

smaller share of the revenues than a cost prorate does.

TWA, one of the petitioners, has filed a reply insisting that an exemption will enhance rather than undermine the joint fare structure by giving carriers the flexibility to reach individual, bilateral understandings on the division of joint fares on the basis of "market forces, not CAB fiat."

We have decided to grant the exemption in part. Consistent with our statements in Order 79–6–196, we will not prevent carriers who voluntarily decide to adopt a mutually acceptable method of dividing joint fares from doing so, and substitute our views of the proper division method for those of carrier managements. We further believe that there is no reason to prevent the petitioners from negotiating agreements with other carriers if, and only if, those agreements are entirely voluntary. In granting this exemption, we note that it does not deal with the *levels* of joint fares, whether those required by Phase IV or those which carriers may voluntarily offer. That question is at issue in the *Agreement for an Automated Joint Fare Tariff*, Docket 33418.[3] By a contemporaneous order in that case (Order 80–2–34), we have decided to allow participants to the agreement (including all 13 petitioners here) to decide the circumstances under which they would voluntarily enter into joint fares at levels below the Phase IV ceiling—and, specifically, to permit them to limit such joint fare arrangements to interline partners willing to deviate from a cost prorate division.

We will not relieve the carriers of their obligation to offer reasonable joint fares and to engage in reasonable divisions, as provided in Phase IV, and, accordingly, will not grant the total exemption from the Phase IV division formula that they have sought. A total exemption might produce circumstances in which some of the petitioners might not be able to agree on a division formula. Therefore in the absence of a voluntary agreement, carriers governed by Phase IV will continue to be required to use the "cost prorate" formula (or, in the case of joing fares constructed by adding actual segment fares, the "rate prorate" formula).

We conclude that, to the extent granted, the exemption to the thirteen carriers named in the ATPCO application is consistent with the public interest. We also conclude that our decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of NEPA or a major regulatory action under the Energy Policy and Conservation Act.

Accordingly: 1. We grant exemptions to Eastern Airlines, American Airlines, Braniff Airways, Continental Air Lines, Delta Air Lines, Nevada Airlines, Northwest Airlines, Pan American World Airways, Piedmont Aviation, Trans World Airways, United Air Lines, and Western Air Lines to permit them to divide joint fares on the basis of voluntary agreements with their interline partners;

2. Except to the extent granted in paragraph 1, we deny the application of ATPCO in Docket 36494;

3. We will serve a copy of this order on all certificated air commuter airlines and on the Commuter Airline Association of America; and

4. We will publish this order in the **Federal Register.**

By the Civil Aeronautics Board.[4]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–4338 Filed 2–8–80; 8:45 am]

BILLING CODE 6320–01–M

[3] Curiously, despite their objections here, neither the CAAA nor any of its members has objected to or commented on that agreement.

[4] All members concurred.

[Order 80–2–38; Docket: 35473]

Flying Tiger Line, Inc.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 80–2–38.

SUMMARY: The Board proposes to approve the following application:

Applicant: The Flying Tiger Line, Inc. Docket: 35473.

Application Date: May 4, 1979.

Authority Sought: Amend certificate to add Travis Air Force Base, California as a point on Route 163.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than March 4, 1980, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation and the Department of State. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit or certificate.

ADDRESSES FOR OBJECTIONS:

Docket 35473, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

Applicant: J. W. Rosenthal, Ginsberg, Feldman and Bress, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Glenn M. Datnoff, Legal Division, Bureau of International Aviation, Civil Aeronautics Board; (202) 673–5035.

By the Civil Aeronautics Board: February 5, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–4341 Filed 2–8–80; 8:45 am]

BILLING CODE 6320–01–M

[Order 80–2–26; Dockets 33547 and 35802]

Holland-America Lijn, N.V.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 80–2–26.

SUMMARY: The Board proposes to approve the following application:

Applicants: Holland-America Lijn, N.V. (Netherlands) (Holland-America Line) Holland Amerika Lijn, N.V.

Application Date: September 25, 1978, June 11, 1979; Dockets: 33547, 35802.

Authority Sought: Renewal and transfer of foreign indirect air carrier permit.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, NO LATER THAN March 4, 1980, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of the Netherlands. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit.

ADDRESSES FOR OBJECTIONS:

Dockets 33547/35802, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.
Applicants: Holland-America Lijn, N.V. Holland Amerika Lijn, N.V. c/o Mark Pestronk, Boros and Garofalo, P.C., 1120 Connecticut Ave., N.W., Suite 460, Washington, D.C. 20036.

To get a copy of the complete order, request it from the C.A.B., Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: The Regulatory Affairs Division of the Bureau of International Aviation, Civil Aeronautics Board; (202) 673–5880.

By the Civil Aeronautics Board: February 5, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-4337 Filed 2-8-80; 8:45 am]

BILLING CODE 6320—01—M

[Order 80–2–36; Docket 32854]

North Coast Air Services, Ltd.; Order to Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 80–2–36.

SUMMARY: The Board proposes to approve the following application:

Applicant: North Coast Air Services Ltd.
Application Date: June 12, 1978, as amended August 6, 1979: Docket 32854.
Authority Sought: Foreign air carrier permit authorizing large aircraft charters between points in Canada and points in the United States.

OBJECTION: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted as described in the order cited above, shall NO LATER THAN March 4, 1980, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of Canada in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit.

ADDRESSES FOR OBJECTIONS:

Docket 32854, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.
Mr. John Norman Anderson, President, North Coast Air Services Ltd., 330 Second Avenue West, Prince Rupert, B.C., Canada.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Nancy L. Pitzer, Regulatory Affairs Division, Bureau of International Aviation, Civil Aeronautics Board—(202) 673–5134.

By the Civil Aeronautics Board: February 5, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-4339 Filed 2-8-80; 8:45 am]

BILLING CODE 6320-01-M

[Order 80–2–19; Docket 37589]

San Diego-Los Angeles Area-Bay Area Show Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80–2–19, San Diego-Los Angeles Area—Bay Area Show Cause Proceeding, Docket 37589.

SUMMARY: The Board is proposing to grant San Diego-Los Angeles Area-Bay Area authority to Alaska Airlines, Continental Air Lines, National Airlines, Northwest Airlines, USAir and any other fit, willing and able applicants whose fitness can be established by officially noticeable data. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than March 13, 1980, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than February 27, 1980.

ADDRESSES: Objections or Additional Data should be filed in Docket 37589, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Donna Kaylor, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673–5380.

SUPPLEMENTARY INFORMATION: Objections should be served upon Alaska Airlines, Continental Air Lines, National Airlines, Northwest airline, USAir, the Governor of California, the Mayors of San Diego, Los Angeles, Burbank, Ontario, Santa Ana, Oakland, San Jose and San Francisco, the Managers of San Diego International Airport, the Manager and Director of Airport Services of the Hollywood Burbank Airport, the Manager of the Ontario International Airport, the Manager of the Orange County Airport, the Manager of the Metro Oakland International Airport, the Director of Aviation at the Municipal Airport, and the California Transportation Commission, Aeronautics Sub-Committee.

The complete text of Order 80–2–19 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 80–2–19 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: February 5, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-4333 Filed 2-8-80; 8:45 am]

BILLING CODE 6320-01-M

[Order 80–2–22; Docket 31874]

Rapidair, Inc.; Revocation of All-Cargo Air Service Certificate and Air Taxi Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80–2–22; Order to Show Cause, Docket 31874.

SUMMARY: The Board is proposing to revoke the all-cargo air service certificate, and air taxi authority, of Rapidair, Inc. This action is being proposed because of recent actions taken by the Federal Aviation Administration, and because the carrier has failed to maintain proper liability insurance in accordance with Parts 291 and 298 of the Board's Economic Regulations.

DATES: Objections: All interested persons having objections to the Board issuing an order revoking the all-cargo air service certificate and air taxi authority of Rapidair, Inc. shall file, and serve upon Rapidair, no later than March 13, 1980, a statement of objection, together with a summary of the

testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections should be filed in Docket 31874, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: John McCamant, Bureau of Domestic Aviaition, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202) 673–5082.

SUPPLEMENTARY INFORMATION: Objections should be served on Rapidair, Inc., Stapleton International Airport, P.O. Box 7256, Denver, Colorado 80207.

The complete text of Order 80–2–22 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 80–2–22 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: February 5, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–4334 Filed 2–8–80; 8:45 am]

BILLING CODE 6320–01–M

[Order 80–2–39; Docket 34128]

Spanish Main International Airlines; Certificate To Engage in Scheduled Foreign Air Transportation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80–2–39.

SUMMARY: Spanish Main International Airlines has requested a certificate to engage in scheduled foreign air transportation between nine United States points and thirty-five points in Northern Europe, Central and South America, the Middle East and Africa. The application however, is deficient. In order to properly evaluate the request, the Board has requested that the deficiencies be corrected and that additional information be supplied to it within 90 days of the order. If the information requested is not timely supplied, the Board will issue an order dismissing the application without prejudice.

APPLICANT: Spanish Main International Airlines, Docket 34128—Mr. Leroy F. Gillead, II, President, Spanish Main International Airlines, Box Two, The Bronx, New York 10451.

DATE: Information to be supplied by May 6, 1980.

To get a copy of the complete order request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington Metropolitan Area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Bruce W. Solow, Legal Division, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. (202) 673–5203.

By the Civil Aeronautics Board: February 5, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–4342 Filed 2–8–80; 8:45 am]

BILLING CODE 6320–01–M

[Order 80–2–8; Dockets 26487 and 37392]

Transatlantic, Transpacific and Latin American Service Mail Rates Investigation; Order Amending Order 80–1–25

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 1st day of February, 1980.

Orders 80–1–25 and 80–1–26, served January 21, 1980, established final international service mail rates for the last half of 1979 and proposed final rates for the first quarter of 1980, respectively. Neither order set any temporary rates for the first quarter of 1980 pending establishment of final rates.

To correct this unintentional omission, we will amend our order establishing final rates for the fourth quarter of 1979 to include a provision for temporary rates effective January 1, 1980, at the same level as the final rates for the fourth quarter of 1979.

We also note that ordering paragraph 4(a) should be amended by deleting the reference to rates for calendar years 1977 and 1978. The rates for those periods remain unchanged at the level determined by Order 78–12–159.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 204(a) and 406, and the Board's Procedural Regulations promulgated in 14 CFR, Part 302,

1. We amend the ordering paragraphs of Order 80–1–25 by deleting part of ordering paragraph 4(a), adding a new ordering paragraph 6 and renumbering the existing ordering paragraphs, the paragraphs as amended to read as follows:

"1. We grant the motions of the Flying Tiger Line, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Seaboard World Airlines, Inc., Trans World Airlines, Inc., and the United States Postal Service for leave to file otherwise unauthorized documents.

2. Except to the extent granted herein, we deny the petition for modification of Order 79–7–17 filed by the United States Postal Service.

3. We amend Order 79–7–17, Appendices A–1, A–2, A–3, C, D–1, D–2, D–3, and E–3, revised copies of which are attached to this order.

4. The fair and reasonable rates of compensation to be paid in their entirety by the Postmaster General pursuant to the provisions of section 406 of the Federal Aviation Act of 1958, as amended, to the carriers for the transportation of space available mail, military ordinary mail and all other mail over their respective routes in the Atlantic, Pacific, and Latin American rate areas,[22] the facilities used and useful therefor, and the services connected therewith, are as follows:

(a) For the period January 1 through June 30, 1979, those rates set forth in the attached revised Appendices A–1, A–2, and A–3 to Order 79–7–17;

(b) For the period July 1 through September 30, 1979, those rates set forth in the attached Appendix A–1; and

(c) For the period October 1 through December 31, 1979, those rates set forth in the attached Appendix A–2.

5. The terms and conditions applicable to the transportation of each class of mail at the rates established here are those set forth in Order 79–7–17.

6. The fair and reasonable temporary rates of compensation for the transportation of mail by aircraft in international service for the period January 1, 1980, until further Board order are the rates established by this order as final rates for the period October 1 thru December 31, 1979.

7. This order shall be served on all parties to the proceeding in Docket 26487."

2. We shall serve this order upon all parties to the proceeding in Docket 26487.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.[1]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–4332 Filed 2–8–80; 8:45 am]

BILLING CODE 6320—01—M

[Order 80–2–25; Docket 35715]

Turks Air, Ltd.; Order To Show Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 80–2–25.

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[1] All Members concurred.

SUMMARY: The Board proposes to approve the following application:

Applicant: Turks Air Limited.
Application Date: May 31, 1979. Docket: 35715.
Authority Sought: Renewal of its foreign air permit to carry property on a nonscheduled basis between a point or points in the Turks and Caicos Islands and the terminal point Miami, Florida.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, NO LATER THAN March 4, 1980, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, and the Ambassador of the United Kingdom of Great Britain and Northern Ireland in Washington, D.C. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit.

ADDRESSES FOR OBJECTIONS:

Docket 35715, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.
Turks Air Limited, c/o Van Ness, Feldman & Sutcliff, Suite 500, 1220 Nineteen Street, NW., Washington, D.C. 20036.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: The Regulatory Affairs Division of the Bureau of International Aviation, Civil Aeronautics Board; (202) 673–5880.

By the Civil Aeronautics Board: February 5, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–4336 Filed 2–8–80; 8:45 am]

BILLING CODE 6320–01–M

[Order 80–2–37; Docket 37596]

United States-Germany Show Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80–2–37, United States—Germany Show Cause Proceeding.

SUMMARY: The Board proposes to issue certificates to all fit, willing and able applicants proposing scheduled service between points in the United States and points in the Federal Republic of Germany. It has established the *United States—Germany Show Cause Proceeding* for this purpose, Docket 37596. The current applicants for this authority are: Braniff Airways, Capitol International Airways, Davis Airlines, Delta Air Lines, Lone Star Airways, Northwest Airlines, Seaboard World Airlines, Trans International Airlines, Trans World Airlines, World Airways. Other applicants may request this authority by (Note: Since the Board could not determine the fitness of Lone Star and Davis from officially noticeable data, it deferred action on their applications pending a fitness determination in other proceedings).

DATES: Applications for Authority: March 3, 1980.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, NO LATER THAN March 24, 1980, file a statement of such objections with the Civil Aeronautics Board (20 copies) addressed to Docket 37596, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to the applicants, the Department of Transportation, and the Department of State. Copies of the objections should also be sent to the Ambassadors of the countries affected by the objections.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed certificates.

To get a copy of the complete order, request it from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

FOR FURTHER INFORMATION CONTACT: Jeffrey Gaynes (202–673–5035), Bureau of International Aviation, Civil Aeronautics Board; Washington D.C. 20428.

By the Civil Aeronautics Board: February 5, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–4340 Filed 2–8–80; 8:45 am]

BILLING CODE 6320–01–M

COMMISSION ON CIVIL RIGHTS

District of Columbia Advisory Committee; Amendment to Meeting Notice

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a planning meeting of the District of Columbia Advisory Committee (SAC) of the Commission originally scheduled for February 26, 1980, at Washington, D.C., (FR Doc. 80–2942 on page 6816) has been changed.

The meeting will now be held at the National Trust for Historic Preservation, Board Room 211, 1785 Massachusetts Avenue, N.W., Washington, D.C. 20037, beginning at 2:00 p.m. and will end at 5:00 p.m. The date will remain the same.

Dated at Washington, D.C., February 6, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–4428 Filed 2–8–80; 8:45 am]

BILLING CODE 6335–01–M

Maine Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and will end at 9:00 p.m., on February 28, 1980, at the Maine Teachers' Association, 35 Community Drive, Augusta, Maine.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is discussion of status of Maine Department of Indian Affairs; planning for project on sexual harassment in employment and civil rights issues in the 1980 census.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 6, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-4427 Filed 2-8-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Rules for the Allocation of Watch Quotas for Calendar Year 1980 Among Producers Located in the Virgin Islands, Guam and American Samoa

AGENCY: Statutory Import Programs Staff, International Trade Administration, Department of Commerce; Office of Territorial Affairs, Department of the Interior.

ACTION: Final annual rules.

SUMMARY: The rules establish the formula for allocation of calendar year 1980 watch quotas among watch assembly firms in the Virgin Islands and Guam; assign weights to each formula factor and raise the maximum of wages per person that shall be credited in the wage factor of the formula; and set aside quota for applications from new firms in the Virgin Islands, Guam and American Samoa. The Departments of Commerce and the Interior (the Departments) published 1980 annual rules in proposed form on October 25, 1979 (44 FR 61403 (1979)), and invited comments from interested persons. A summary and discussion of the comments received is contained in Supplementary Information below.

DATE: These rules are effective February 11, 1980.

FOR ADDITIONAL INFORMATION CONTACT: Mr. Richard M. Seppa, who can be reached by telephone on 202–724–3526.

SUPPLEMENTARY INFORMATION: In response to their invitation for comments, the Departments received two submissions. One submission consisted of the statement that the commentor had no objection to the rules as proposed. Comments contained in the second submission and the Departments' responses are as follow:

(1) Commenting on the fact that the proposed 1980 rules differ little from the 1979 rules, the commentor stated that this appears to "condone the status quo and the granting of duty-free treatment to nearly one-half million watches and watch movements that result from insubstantial assembly operations," offering "inadequate incentives to low-labor producers to enhance their economic contributions to the territories." Calling the 1979 rules not "tough enough" and attributing the 1979 decrease in the industry's reliance on low-labor movements to "major problems of quality control" experienced by U.S. buyers, this commentor expressed a concern that the quality problems might be corrected and that low-labor movements would "resume capturing an increasing share of the duty-free quota" unless the Departments' rules were strengthened.

To place these comments in historical perspective, the Departments note that in 1977 the shipment of so-called low-labor movements from the insular possessions exceeded 1.1 million units, and represented 22 percent of the total shipments of the territorial watch assembly industry. Low-labor shipments dropped marginally in 1978 to 1 million units, which represented 19 percent of all territorial shipments. 1979 low-labor shipments dropped to an estimated 400,000 units, which should amount to less than 10 percent of the 1979 territorial production. Although verified wage data are not available at this time, the Departments fully expect the average wage contribution of all firms using low-labor components in 1979 to exceed the minimums established in the 1979 rules for eligibility for Section 3 allocations, i.e., $.75 per movement and $.95 per watch. Prior to adoption of the two-tier allocation system, first adopted in 1979, the average wage contribution of firms using low-labor movements was in most instances less than $.50 per unit. Moreover, in 1979 at least one firm that used such movements exclusively exceeded the Section 3 minimums. Thus the Departments have firm reason to believe that the rules as proposed will provide adequate incentives for producers to enhance or maintain their economic contributions to the territories.

With respect to the observation that quality problems allegedly associated with low-labor movements might be corrected at some future date, the Departments view this comment as entirely speculative. If the alleged quality problems were corrected, such a development could be viewed as an intermediate step to the removal of such movements from the low-labor category and ultimately conducive to the accomplishment of the 1979 rules' goal to promote greater local assembly. Moreover, speculation concerning future developments has little meaning in the context of rules that are reviewed annually. Finally, in opposition to the suggestion that low-labor watches will resume capturing an increasing share of the duty-free quota, two territorial producers that utilized low-labor movements in 1979 have informally advised the Departments that they will discontinue the use of these components in 1980.

In recognition of these concerns, however, and in order to reflect a modification of the codified rules (published in final form in this issue of the **Federal Register**), the Departments have changed section 6 of the annual rules to restrict "special allocations" to those firms satisfying subsection 3(a) or 3(b) of these rules.

(2) Commenting on the ratios proposed for determining the size of the first-tier allocations in the territories, the commentor states that the proposed rules "continue the unfortunate practice of the 1979 annual rules in differentiating between the Virgin Islands and Guam." The commentor favors applying to the Virgin Islands the practice applied to Guam of allocating an amount representing 75 percent of the previous year's annual quota under Tier 1 of the allocation formula in order to encourage producers to enhance the degree of assembly in their watch quota operations and quality for the "reserve" quota available.

With respect to these comments the Departments continue to believe that the circumstances in Guam and the Virgin Islands (number of firms and labor intensity of the assembly operations) are sufficiently different to justify the slightly varied approach to Tier 1 allocations contained in the 1979 rules and proposed for 1980. Of the fifteen producers in the Virgin Islands in 1979 thirteen assembled predominantly labor-intensive movements. Unverified data indicate that the labor-intensive movements accounted for over 90 percent of the total Virgin Islands shipments during 1979. Currently there is only one producer in Guam and that firm appears to have relied heavily on low-labor movements in 1979. If the sole Guam assembler failed to satisfy the economic criteria applicable to Section 3 allocations, the firm would receive, as intended by the Departments in establishing the two-tier allocations system, a reduced annual allocation under the 75 percent rule. In the Virgin Islands the great majority of firms are "labor-intensive" so that reasons present in Guam for reducing the allocation base for Tier 1 allocations do not exist in the Virgin Islands. It should also be noted that Virgin Islands firms that used low-labor movements appear to have increased, by at least 50 percent,

their wage contributions per unit assembled. This increase has resulted from the performance of additional quality control and/or repair functions in the territory, functions which heretofore had not been performed on these movements or were performed in stateside, parent company facilities. Also, these producers have begun to hand, dial and case a high percentage of their production so that the average economic contribution to the insular economy in many instances actually exceeds that of the "labor-intensive" firms which do not case the majority of their movements.

This same commentor was "particularly disturbed" that the amount available for allocation under the first tier in 1980 "will be enlarged because high-labor producers this year drew down part of the reserve quota to meet their production demands. There appears to be no provision to segregate reserve quota from the body of consumed quota for 1979 for purposes of determining the amount of available quota for a succeeding allocation period. Thus, low-labor producers will indirectly benefit in 1980 from high-labor production in the previous year."

Preliminary data show that in 1979 only two high-labor producers shipped more units than they had earned under the Tier 1 allocations, and the number of units involved was insignificant. Although several high-labor producers were allocated quota from the quota "reserve", most failed to utilize any of the additional units. Primarily as a result of the failure of high-labor producers to ship a larger percentage of their 1979 quotas, the Departments expect that about 60 percent of the 1980 Virgin Islands quota will be allocated under Tier 1, compared with 70 percent last year. Also, several industry sources believe that apparent domestic consumption of watch movements may have declined somewhat in 1979, which would also have a restrictive effect on the Tier 1 allocations in 1980 even if the rules are finalized as proposed.

(3) The commentor expressed the strong belief "that high-labor watch assembly operations in the insular possessions should be encouraged" by placing "increased emphasis on wages paid by quota holders in the allocation of the 1980 quota." The commentor recommends that 65 percent weight be given to wages, 20 percent to shipments and 15 percent to taxes.

The Departments believe the formula as proposed assigns adequate weight to the wage factor. As noted in their notice of proposed rules, the elimination of the income tax factor in 1980 would have the effect of penalizing those producers who made substantial payments during 1979 applicable to prior tax years, and the same objection would attend in lesser degree to a reduction of the income tax factor. The weight assigned to the shipments factor, which is designed to reflect and reward business stability and capacity to utilize the quota allocated, seems more than warranted by generally unsettled conditions in the insular watch industry and by the substantial drop in quota utilization during 1979.

(4) The commentor supported the Departments' proposal to raise the ceiling for annual wages paid in calculating the annual watch quota.

Accordingly, the final 1980 watch quota allocation rules are adopted as shown below.

(Pub. L. 89-805, 80 Stat. 1521 (19 U.S.C. 1202) as amended; 15 CFR 303)

Issued at Washington, D.C. on February 6, 1980.

Donald A. Furtado,

Acting Under Secretary for International Trade, U.S. Department of Commerce.

Ruth G. VanCleve,

Director, Office of Territorial Affairs, U.S. Department of the Interior.

Section 1. (a) A portion of the 1980 Virgin Islands quota determined in accordance with subsection 2(a) below and a portion of the 1980 Guam quota determined in accordance with Subsection 2(b) below will be allocated on the basis of (1) the dollar amount of wages, up to a maximum of $16,000 per person, paid by each producer during calendar year 1979 to residents of the territory and attributable to each producer's headnote 3(a) watch and watch movement assembly operations, (2) the dollar amount of income taxes paid by each producer during calendar year 1979 attributable to its headnote 3(a) watch and watch movement assembly operations (excluding penalty payments and income tax refunds and subsidies paid by the territorial governments during calendar year 1979), and (3) the number of units of watches and watch movements assembled in the territory and entered by each producer duty-free into the customs territory of the United States during calendar year 1979. (b) In making allocations under this formula, a weight of 60 percent will be assigned to the wage factor, a weight of 20 percent will be assigned to the income tax factor, and a weight of 20 percent will be assigned to the shipment factor.

Section 2. (a) An amount representing that portion of the 1980 Virgin Islands quota equal to the ratio of general headnote 3(a) shipments of watches and watch movements from the territory during 1979 to the total 1979 Virgin Islands quota will be allocated among the producers in the Virgin Islands, in accordance with the allocation factors and weights specified in Section 1. (b) An amount representing that portion of the 1980 Guam quota equal to 75 percent of the ratio of general headnote 3(a) shipments of watches and watch movements from the territory during 1979 to the total 1979 Guam quota will be allocated among the producers in Guam, in accordance with the allocation factors and weights specified in Section 1.

Section 3. The portions of the Virgin Islands and Guam quotas not allocated pursuant to subsections 2(a) and 2(b) respectively, except as specified in Section 4, will be allocated among firms meeting the requirements of subsections (a) and (b) of this section. Eligible firms will be allocated quota in accordance with the factors and weights specified in Section 1. Allocation of the portions of the Virgin Islands and Guam quotas under this Section will be made to firms which:

(a) Assembled all watch movements shipped during 1979 from unassembled movements having at least 26 discrete components and all watches (that is, cased movements) during 1979 from at least 29 discrete components, including at least 26 movement components and at least 3 case components; or

(b) Made wage payments during 1979 in the territory averaging not less than $.75 per watch movement and $.95 per watch assembled and shipped into the customs territory of the United States.

Section 4. Quota set aside for new firms in the Virgin Islands and Guam under subsection 5(b) shall be subtracted from the quota amount allocable under Section 3, before allocations are made pursuant to that subsection.

Section 5. (a) Applications from new firms are invited for the calendar year 1980 American Samoa quota, because the sole recipient in the territory discontinued operations in calendar year 1977, and a new entrant was not selected under the 1978 or 1979 new entrant provisions (43 FR 4274; 43 FR 10718; 43 FR. 60313 (1978)). Due to the limited size of the American Samoa quota, the Departments will allocate that quota to the single firm which offers the best prospect of making a meaningful long-term contribution to the economy of the territory. (b) Applications from new firms are invited for 250,000 units of the calendar year 1980 Guam quota, and for 300,000 units of the calendar year 1980 Virgin Islands quota. (c) Applicants for new-entrant quotas must complete applicable

sections of Form ITA–334P, copies of which may be obtained from the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Detailed instructions for completing ITA–334P will be provided by the Statutory Import Programs Staff together with copies of the application form. (d) The Departments will consider new entrant applications only from firms which certify to the Departments that they are able and willing to meet the minimum assembly or wage contribution criteria established in Section 3. Following the Secretaries' determination that a qualifying application has been received, an announcement will be published in the Federal Register establishing a closing date for further applications. The closing date shall be 30 days from the date of such notice.

In the event no qualifying application for quota set aside by subsection (b) above is received prior to September 1, 1980, that quota may be reallocated among eligible producers pursuant to § 303.5(b) of Title 15 of the Code of Federal Regulations.

Section 6. Special allocations and reallocation of calendar year 1980 quota that become available will be restricted to those firms satisfying the criteria established in subsections 3(a) or 3(b) and to any new entrant firms selected pursuant to Section 5 above.

Section 7. As used in Section 3 of these rules: (a) "Wages" means all wages up to $16,000 per person paid to residents of the territories employed in a firm's headnote 3(a) watch and watch movement assembly operations. Excluded, however, are wages paid to (i) accountants, lawyers or other professional personnel who may render special services to the firm, (ii) persons assembling nonheadnote 3(a) watches and watch movements, (iii) persons engaged in the repair of nonheadnote 3(a) watches and watch movements, and (iv) persons engaged in the strapping and packaging of watches. Wages paid to persons engaged in both headnote 3(a) and nonheadnote 3(a) assembly and repair activities shall be credited proportionately for their headnote 3(a) activities, provided the firm maintains production and payroll records adequate for the Departments' verification of the headnote 3(a) portion. (b) "Discrete movement components" means screws, parts, components and subassemblies not assembled together with another part, component or subassembly at the time of importation into the territory. A mainplate containing set jewels or shock devices, together with other parts, would be considered a single discrete component, as would a barrel bridge subassembly.) Excluded are dials, dial washers, dial screws, hour wheels, hands, automatic mechanisms and related parts, day-date mechanisms and calendar features, and jewels.

Section 8. (a) All firms must, as a condition for receipt of allocations or reallocations based on Subsections 3(a) or 3(b) criteria, certify to the Departments that they will not alter assembly operations during calendar year 1980 in a manner which would result in their failure to satisfy the respective criteria.

(b) If the Departments have reason to believe that a producer has not complied with or is not complying with the certification required by subsection (a) of this Section, they may issue an order requiring the producer to show cause within 30 days of receipt of the order, why the duty-free quota to which it would otherwise be entitled should not be cancelled or reduced by the Departments.

[FR Doc. 80–4361 Filed 2–8–80; 8:45 am]

BILLING CODES 4310–10–M, 3510–25–M

DEPARTMENT OF COMMERCE

International Trade Administration

Exporters' Textile Advisory Committee; Public Meeting

Pursuant to Section 10(a) 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 March 20, 1980 in Room 770, No. 6 World Trade Center, New York, New York 10048.

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, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202–377–5078.

Dated: February 1, 1980.

Paul T. O'Day,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc. 80–4367 Filed 2–8–80; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

Coastal Zone Management Advisory Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, notice is hereby given of the meeting of the Coastal Zone Management Advisory Committee (the "Committee") on Monday, February 25, 1980. The meeting will commence at 8:30 a.m. The meeting will be held at the Page I Building, Naval Conference Room, 2001 Wisconsin Avenue, N.W., Washington, D.C.

The meeting will be open to public observation and approximately 25 seats will be available. Interested persons are invited to attend and participate in the meeting, subject to the procedures which follow. From approximately 3:30 p.m. until 3:45 p.m. on February 25, persons will be permitted to make oral statements to the Committee which are relevant to topics on the agenda. The Chairperson retains the prerogative to place limits on the duration of oral statements and discussions. Persons wishing to make oral statements should notify the Committee Control Officer in advance of the meeting. A written version of an oral statement or a written statement may be submitted to the Committee Control Officer before or after the meeting, or may be mailed within five days to: Coastal Zone Management Advisory Committee, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, D.C. 20235 Attn: Dallas Miner, Committee Control Officer, CZM Advisory Committee. All statements received in typewritten form will be distributed to the Committee for consideration with the minutes of the meeting. Inquiries may be directed to the Committee Staff at (202) 634–4255.

The item for Committee discussion at the meeting will include the following:

February 25—8:30 a.m. to 4:30 p.m.; amendments to the Coastal Zone Management Act.

Dated: February 5, 1980.

Michael Glazer,

Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

[FR Doc. 80-4273 Filed 2-8-80; 8:45 am]

BILLING CODE 3510-08-M

Pacific Fishery Management Council and Scientific and Statistical Committee and Salmon Advisory Subpanel; Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council and its Scientific and Statistical Committee (SSC) and its Salmon Advisory Subpanel (AP) will conduct a series of meetings.

DATES: March 10–12, 1980.

ADDRESS: The meetings will take place at the Sheraton-Renton Inn, 800 Rainier Avenue South, Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221–6352.

SUPPLEMENTARY INFORMATION: The Pacific Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94–265), and the Council has established a SSC and AP to assist in carrying out its responsibilities.

Meeting agendas follow:

Council

Open Session—March 11–12, 1980 (10 a.m. to 5 p.m. on 3/11; 8 a.m. to 5 p.m. on 3/12). Major action will be consideration of all available information concerning the ocean salmon fishery and adoption of an amendment to provide needed management during the 1980 season, review of other fishery management plans (FMP's), conduct a public comment period beginning at 4 p.m. on 3/11, and conduct other fishery management business.

Closed Session—Discuss the status of current maritime boundary and resource negotiations between the U.S. and Canada and discuss personnel matters concerning appointments to vacancies on subpanels and teams. Only those Council members, SSC members, and related staff having security clearance will be allowed to attend this closed session.

Scientific and Statistical Committee

Open Meeting—March 10–11, 1980 (1 p.m. to 5 p.m. on 3/10; 10 a.m. to 5 p.m. on 3/11). Discuss currently available information on the ocean salmon fishery and advise the Council with respect to an amendment to the Salmon FMP to properly provide needed conservation during the 1980 season, discuss other FMP's under development, conduct a public comment period beginning at 3:30 p.m. on 3/10, and conduct other Committee business.

Salmon Advisory Subpanel

Open Meeting—March 11–12, 1980 (10 a.m. to 5 p.m. on 3/11; 8 a.m. to 5 p.m. on 3/12. Consideration of Amendments to the Ocean Salmon Plan for 1980 and provide advice to the Council.

The Assistant Secretary for Administration of the Department of Commerce with the concurrence of its General Counsel, formally determined on February 1, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(c) and (6), as information which is properly classified pursuant to Executive Order or disclosure of which would constitute a clearly unwarranted invasion of privacy. (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce).

Dated: February 6, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-4358 Filed 2-8-80; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 79-CERT-119]

Department of Water and Power of the City of Los Angeles; Application for Certification of the Use of Natural Gas To Displace Fuel Oil

Take notice that on December 18, 1979, the Department of Water and Power of the City of Los Angeles (City of Los Angeles), P.O. Box 111, Los Angeles, California 90051, filed an application for certification of an eligible use of natural gas to displace fuel oil at its Haynes Generating Station, Long Beach, California, Scattergood Generating Station, Playa Del Rey, California, Valley Generating Station, Sun Valley, California, and Harbor Generating Station, Wilmington, California, pursuant to 10 CFR Part 595 (44 FR 37920, August 16, 1979), all as more fully set forth in the application on file with the Economic Regulatory Administration (ERA) and open to public inspection at the ERA, Docket Room 4126–A, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m.–4:30 p.m. Monday through Friday, except Federal holidays.

In its application, the City of Los Angeles states that the volume of natural gas for which it requests certification is up to 100 MMcf per day which is estimated to displace the use of approximately 6,000,000 barrels of No. 6 fuel oil (0.25 percent maximum sulfur) per year at the four steam-electric generating stations. The application states, however, that City of Los Angeles expects to actually use an average of 50 MMcf per day and displace an average of 3,000,000 barrels of fuel oil per day.

The eligible seller is Consumers Power Company, 212 W. Michigan Avenue, Jackson, Michigan 49201. The gas will be transported by the El Paso Natural Gas Company, P.O. Box 1492, El Paso, Texas 79978, and the Southern California Gas Company, P.O. Box 3249, Terminal Annex, Los Angeles, California 70051.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 4126–A, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, by February 21, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines an oral presentation is required, further notice will be given to the City of Los Angeles and any persons filing comments, and published in the **Federal Register.**

Issued in Washington, D.C., on February 5, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-4549 Filed 2-8-80; 9:10 am]

BILLING CODE 6450-01-M

John Grubisich d.b.a. Grubisich Texaco; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Grubisich Texaco, 1301 E. 66th Ave., Gallup, New Mexico 87301. This Proposed Remedial Order charges Grubisich Texaco with failure to either post the maximum lawful selling price or certification in violation of 10 CFR 212.129(b), and with pricing violations in the amount of $899.49, connected with the sale of certain grades of gasoline at prices in excess of the maximum lawful selling price for those grades of gasoline in violation of 10 CFR 212.93.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745. On or before February 26, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR Section 105.193.

Issued in Dallas, Texas on the 1st day of February, 1980.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 80-4235 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Case No. SF06258]

Moraga Shell; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to A. J. Ataie, Moraga Shell, 1405 Moraga Way, Moraga, CA 94556. This Proposed Remedial Order charges Moraga Shell with pricing violations in the amount of $2,977.93, connected with the resale of motor gasoline during the period August 1, 1979 through October 31, 1979, in the State of California.

A copy of the Proposed Remedial Order with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556-7200. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in San Francisco, California on the 29ty day of January, 1980.

June F. Wallach,

Acting District Manager, Enforcement, Western District, Economic Regulatory Administration.

[FR Doc. 80-4363 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

National Helium Corp.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order and provides an opportunity for public comment on the proposed Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: January 30, 1980. Comments by: March 12, 1980.

ADDRESS: send comments to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, Central Enforcement District, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, Central Enforcement District, 324 East 11th Street, Kansas City, Missouri 64106. Phone (816) 374-5932.

SUPPLEMENTARY INFORMATION: On January 30, 1980, the Office of Enforcement of the ERA executed a proposed Consent Order with National Helium Corporation (NHC) of Liberal, Kansas. Under 10 C.F.R. § 205.199J(b), a proposed Consent Order which involves a sum of $500,000 or more in the aggregate, excluding penalties and interest, becomes effective only after the DOE has received comments with respect to the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. The Consent Order

NHC, with its home office located in Liberal, Kansas, is engaged in the processing of natural gas streams and selling of the NGL and NGL products derived from these streams, and its sales are subject to the Mandatory Petroleum and Allocation and Price Regulations at 10 CFR, Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of NHC, the ERA Office of Enforcement and NHC entered into a Consent Order, the significant terms of which are as follows:

1. The Office of Enforcement has examined NHC's books and records and reviewed all pertinent matters relating to NHC's compliance with the DOE petroleum price regulations in effect during the period from September 1, 1973 through December 31, 1979. All matters pertaining to compliance with the DOE petroleum price regulations and prices charged by NHC in sales of NGL and NGL products during the period September 1, 1973 through December 31, 1979 are resolved by this Consent Order.

2. NHC will refund the sum of $10,000,000 (including interest) within thirty (30) days after the Consent Order becomes effective.

3. Execution of the Consent Order constitutes neither an admission by NHC nor a finding by DOE that NHC has violated any statutes or applicable regulations of the Cost of Living Council, the Federal Energy Office, the Federal Energy Administration or the Department of Energy.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, NHC agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the ERA Office of Enforcement, arising out of the transactions specified in I.1. above, the sum of $10,000,000 (includng interest) within 30 days after the Consent Order becomes effective. The refunded overcharge (including interest) will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable

manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharge requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, overcharges may have been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimant:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should submit your comments or written notification of a claim within 30 days after publication of this notice to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, ERA Central Enforcement District, U.S. Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on National Helium Corporation Consent Order." We will consider all comments we receive within 30 days after the publication of this notice. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205(f).

Issued in Kansas City, Missouri on the 1st day of February, 1980.

William D. Miller,

District Manager, Central Enforcement District, Economic Regultory Administration.

[FR Doc. 80-4364 Filed 2-8-70; 8:45 am]

BILLING CODE 6450-01-M

[Case No. SF07270]

A's Auto Safety Service; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to James Murphy, A's Auto Safety Service; 2400 San Bruno Avenue, San Francisco, CA 94134.

This Proposed Remedial Order charges A's Auto Safety Service with pricing violations in the amount of $1,972.54, connected with the resale of motore gasoline during the period August 1, 1979 through October 31, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556-7200. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in San Francisco, California on the 29th day of January, 1980.

June F. Wallach,

Acting District Manager, Enforcement, Western District, Economic Regulatory Administration.

[FR Doc. 80-4421 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Case No. SF07266]

Bell's Texaco Service Garage; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Katherine Bell, Bell's Texaco Service Garage; 3445 Geary Blvd., San Francisco, CA 94118.

This Proposed Remedial Order charges Bell's Texaco Service Garage with pricing violations in the amount of $2,654.23, connected with the resale of motor gasoline during the period August 1, 1979 through October 31, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556-7200. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in San Francisco, California on the 29 day of January, 1980.

June F. Wallach,

Acting District Manager, Enforcement, Western District, Economic Regulatory Administration.

[FR Doc. 80-4424 Filed 2-8-80; 8:45 am]

BILLING CODE 6450—01—M

[Case No. SF08251]

Ed's Exxon; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Ed Forrester, Ed's Exxon; 8510 Gravenstein Highway, Cotati, CA 94928.

This Proposed Remedial Order charges Ed's Exxon with pricing violations in the amount of $3,578.05, connected with the resale of motor gasoline during the period August 1, 1979 through October 31, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556-7200. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in San Francisco, California on the 29 day of January, 1980.

June F. Wallach,

Acting District Manager, Enforcement, Western District, Economic Regulatory Administration.

[FR Doc. 80-4422 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Case No. SF06259]

Moraga Union; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to A. J. Ataie, Moraga Union, 1135 Moraga Way, Moraga, CA 94556. This Proposed Remedial Order charges Moraga Union with pricing violations in the amount of $794.29, connected with the resale of motor gasoline during the period August 1, 1979 through October 25, 1979, in the State of California.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, phone (415) 556–7200. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in San Francisco, California on the 29 day of January, 1980.

June F. Wallach,

Acting District Manager, Enforcement, Western District, Economic Regulatory Administration.

[FR Doc. 80-4423 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 80-02-NG, FERC Docket Nos. CP66-100, et al.]

Great Lakes Gas Transmission Co.; Application for Amendment to Import Authorizations To Provide for Increase in Border Price of Gas Imported From Canada, and Invitation To Submit Petitions To Intervene

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of the above captioned application to amend current import authorizations, pursuant to Section 3 of the Natural Gas Act, to reflect the increased price of imported Canadian natural gas. On January 18, 1980, the Privy Council of the Government of Canada set the price at $4.47 per MMBtu for exports of natural gas, effective February 17, 1980.

DATES: Petitions to intervene: to be filed on or before February 14, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, Office of Petroleum Operations, 2000 M Street, N.W., Room 4126, Washington, D.C. 20461, telephone (202) 254–8202.

Mr. Martin S. Kaufman, Deputy Assistant General Counsel for International Trade and Emergency Preparedness 1000 Independence Ave., S.W., Forrestal Building, Room 5E064, Washington, D.C. 20585, telephone (202) 252–2900.

SUPPLEMENTARY INFORMATION: Because the Privy Council Order provided one month's notice prior to implementation of the new price, applicant was precluded from making application to ERA of the DOE 30 days before the implementation, as is required under the procedures established in 18 CFR, Part 153.

Applicant states that it is the sole supplier of natural gas to several communities and that there are no alternate sources of supplies available to substitute for the gas being supplied by Great Lakes. It further states that natural gas imports from Canada are a significant benefit in reducing U.S. reliance on more expensive oil imports.

Other Information

The ERA invites petitions for intervention in this proceeding. Such petitions are to be filed with the Economic Regulatory Administration, Room 4126, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 157/10). Such petitions for intervention will be accepted for consideration if filed no later than 4:30 p.m., on February 14, 1980.

Any person wishing to become a party to these proceedings or to participate as a party in any hearing which may be convened therein must file a petition to intervene. Any person desiring to make any protest with reference to the petitions should file a protest with the ERA in the same manner as indicated above for petitions to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

A formal hearing will not be held unless a motion for such hearing is made by any party or intervener and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required. If such hearing is required, due notice will be given.

A copy of applicant's petition is available for public inspection and copying in Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on February 6, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-4448 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 80-01-NG, FERC Docket No. CP70-289]

Inter-City Minnesota Pipelines Ltd., Inc.; Application for Amendment to Import Authorizations To Provide for Increase in Border Price of Gas Imported From Canada, and Invitation To Submit Petitions to Intervene

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of the above captioned application to amend current import authorizations of natural gas under National Energy Board of Canada (NEB) licenses No. GL28 and GL30 of $3.45 per million British thermal units (MMBtu) and under license No. GL29 of $3.15 per MMBtu. On January 18, 1980, the Privy Council of the Government of Canada set the price at $4.47 per MMBtu for exports of gas under licenses GL28 and GL30 and at $3.65 per MMBtu under license GL29.

DATES: Petitions to intervene: to be filed on or before February 14, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, Office of Petroleum Operations, 2000 M Street, NW., Room 4126, Washington, D.C. 20461, telephone (202) 254–8202.

Mr. Martin S. Kaufman, Deputy Assistant General Counsel for International Trade and Emergency Preparedness, 1000 Independence Ave., S.W., Forrestal Building, Room 5E064, Washington, D.C. 20585, telephone (202) 252–2900.

SUPPLEMENTARY INFORMATION: Because the Privy Council Order provided one month's notice prior to implementation of the new price, applicant was precluded from making application to ERA of the DOE 30 days before the implementation, as is required under the procedures established in 18 CFR, Part 153.

Applicant states that its customers have no alternative source of natural gas, and, since the vast majority of the end-users are residential and small commercial customers, alternate fuels are not an available option. It further states that because of the winter heating season being well underway, the failure to grant the requested amendment would impair applicant's ability to render natural gas service to its

customers, thereby causing them severe hardship.

Other Information

The ERA invites petitions for intervention in this proceeding. Such petitions are to be filed with the Economic Regulatory Administration, Room 4126, 2000 M Street, NW., Washington, D.C. 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 157.10). Such petitions for intervention will be accepted for consideration if filed no later than 4:30 p.m., on February 14, 1980.

Any person wishing to become a party to these proceedings or to participate as a party in any hearing which may be convened therein must file a petition to intervene. Any persons desiring to make any protest with reference to the petitions should file a protest with the ERA in the same manner as indicated above for petitions to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

A formal hearing will not be held unless a motion for such hearing is made by any party or intervener and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required. if such hearing is required, due notice will be given.

A copy of applicant's petition is available for public inspection and copying in Room B–120, 2000 M Street, NW., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on February 6, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80–4449 Filed 2–8–80; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 80–04–NG]

Michigan Wisconsin Pipe Line Co.; Application for Amendment To Import Authorizations To Provide for Increase in Border Price of Gas Imported From Canada, and Invitation To Submit Petitions To Intervene

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of the application from Michigan Wisconsin Pipe Line Company (Mich Wisc) pursuant to Section 3 of the Natural Gas Act to amend its import authorization to permit Mich Wisc to pay to its Canadian supplier, TransCanada PipeLines Limited, the increased border price of $4.47 per MMBtu effective February 17, 1980. On January 18, 1980, the Privy Council of the Government of Canada set the price of $4.47 per MMBtu for the sale of Canadian natural gas.

DATES: Petitions to intervene: to be filed on or before February 14, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, Office of Petroleum Operations, 2000 M Street, N.W., Room 4126, Washington, D.C. 20461, telephone (202) 254–8202.

Mr. Martin S. Kaufman, Deputy Assistant General Counsel for International Trade and Emergency Preparedness, 1000 Independence Ave., S.W., Forrestal Building, Room 5E064, Washington, D.C. 20585, telephone (202) 252–2900.

SUPPLEMENTARY INFORMATION: Because the Privy Council order provided one month's notice prior to implementation of the new price, applicant was precluded from making application to ERA of the DOE 30 days before the implementation, as is required under the procedures established in 18 CFR, Part 153.

Applicant states that the natural gas imported from Canada forms approximately 15 percent of the company's total gas supply. If further states that unless Mich Wisc's existing import authorization is amended prior to February 17, 1980, to provide for payment of the increased rate, it will be faced with termination of this source of supply.

Other Information

The ERA invites petitions for intervention in this proceeding. Such petitions are to be filed with the Economic Regulatory Administration, Room 4126, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 157.10). Such petitions for intervention will be accepted for consideration if filed no later than 4:30 p.m., on February 14, 1980.

Any person wishing to become a party to these proceedings or to participate as a party in any hearing which may be convened therein must file a petition to intervene. Any person desiring to make any protest with reference to the petitions should file a protest with the ERA in the same manner as indicated above for petitions to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

A formal hearing will not be held unless a motion for such hearing is made by any party or intervener and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required. If such hearing is required, due notice will be given.

A copy of applicant's petition is available for public inspection and copying in Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on February 6, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80–4450 Filed 2–8–80; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 80–06–NG, FERC Docket Nos. G–18314, CP66–121, et al.]

Midwestern Gas Transmission Co.; Application for Amendment To Import Authorizations To Provide for Increase in Border Price of Gas Imported From Canada, and Invitation To Submit Petitions to Intervene

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of the above captioned application to amend current import authorizations under contracts 1, 2, 3, and 4 to pay the increased Canadian border price of $4.47 per million British thermal units (MMBtu). This increased price has been set on January 18, 1980 by the Privy Council of the Canadian Government effective February 17, 1980.

DATES: Petitions to intervene: to be filed on or before February 14, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, Office of Petroleum Operations, 2000 M Street, N.W., Room 4126, Washington, D.C. 20461, telephone (202) 254–8202.

Mr. Martin S. Kaufman, Deputy Assistant General Counsel for International Trade and Emergency Preparedness, 1000 Independence Ave., S.W., Forrestal Building, Room 5E064, Washington, D.C. 20585, telephone (202) 252–2900.

SUPPLEMENTARY INFORMATION: Because the Privy Council Order provided one

month's notice prior to implementation of the new price, applicant was precluded from making application to ERA of the DOE 30 days before the implementation, as is required under the procedures established in 18 CFR, Part 153.

Applicant states that it is the sole supplier of gas to Midwestern's Northern System and that there are no practicable alternative sources of domestic supply or synthetic fuel available to serve the needs of the Northern System customers.

Other Information

The ERA invites petitions for intervention in this proceeding. Such petitions are to be filed with the Economic Regulatory Administration, Room 4126, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 157.10). Such petitions for intervention will be accepted for consideration if filed no later than 4:30 p.m., on February 14, 1980.

Any person wishing to become a party to these proceedings or to participate as a party in any hearing which may be convened therein must file a petition to intervene. Any person desiring to make any protest with reference to the petitions should file a protest with the ERA in the same manner as indicated above for petitions to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

A formal hearing will not be held unless a motion for such hearing is made by any party or intervener and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required. If such hearing is required, due notice will be given.

A copy of applicant's petition is available for public inspection and copying in Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on February 6, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80–4451 Filed 2–8–80; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 80–03–NG, FERC Docket No. CP74–187]

Montana Power Co.; Application for Amendment To Import Authorizations To Provide for Increase in Border Price of Gas Imported From Canada, and Invitation To Submit Petitions To Intervene

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of the application of the Montana Power Company (Montana) to amend its current import authorization to permit it to pay the established U.S.A.-Canadian border export price of $4.47 per million Btu (MMBtu). On January 18, 1980, the Privy Council of the Government of Canada, set the export price for gas at $4.47 per MMBtu effective February 17, 1980.

DATES: Petitions to intervene: to be filed on or before February 14, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, Office of Petroleum Operations, 2000 M Street, N.W., Room 4126, Washington, D.C. 20461, telephone (202) 254–8202.

Mr. Martin S. Kaufman, Deputy Assistant General Counsel for International trade and Emergency Preparedness, 1000 Independence Ave., S.W., Forrestal Building, Room 5E064, Washington, D.C. 20585, telephone (202) 252–2900.

SUPPLEMENTARY INFORMATION: Because the Privy Council Order provided one month's notice prior to implementation of the new price, applicant was precluded from making application to ERA of the DOE 30 days before the implementation, as is required under the procedures established in 18 CFR, Part 153.

Applicant states that the Canadian Government has instructed the National Energy Board of Canada to amend, effective February 17, 1980, existing export licenses to establish the new export price of $4.47 per MMBtu. The company presently purchases gas at a border price of $3.45 per MMBtu ($3.22 per Gigajoule). The applicant states in its petiiton that its ability to meet its customer's requirements depend upon the continued importation of natural gas.

Other Information

The ERA invites petitions for intervention in this proceeding. Such petitions are to be filed with the Economic Regulatory Administration, Room 4126, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 157. 10). Such petitions for intervention will be accepted for consideration if filed no later than 4:30 p.m., on February 14, 1980.

Any person wishing to become a party to these proceedings or to participate as a party in any hearing which may be convened therein must file a petition to intervene. Any person desiring to make any protest with reference to the petitions should file a protest with the ERA in the same manner as indicated above for petitions to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

A formal hearing will not be held unless a motion for such such hearing is made by any party or intervener and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required. If the such hearing is required, due notice will be given.

A copy of applicant's petition is available for public inspection and copying in Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on February 6, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80–4452 Filed 2–8–80; 8:45 am]

BILLING CODE 6450–01–M

[ERA Dockets No. 80–05–NG, FERC Docket Nos. CP75–341 and 42]

Northwest Pipeline Corp.; Application for Amendment To Import Authorizations To Provide for Increase in Border Price of Gas Imported From Canada, and Invitation To Submit Petitions To Intervene

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of the above captioned application to amend current authorizations to continue the importation of natural gas from Canada at the Kingsgate, British Columbia, and Sumas, Washington import points, to reflect the export price set in the recent order of the Privy Council of the Government of Canada. This order, dated January 18, 1980, sets the price at $4.47 per Million British thermal units (MMBtu) of natural gas exported from Canada effective February 17, 1980.

DATES: Petitions to intervene: to be filed on or before February 14, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, Office of Petroleum Operations, 2000 M Street, N.W., Room 4126, Washington, D.C. 20461, telephone (202) 254–8202.

Mr. Martin S. Kaufman, Deputy Assistant General Counsel for International Trade and Emergency Preparedness, 1000 Independence Ave., S.W., Forrestal Building, Room 5E064, Washington, D.C. 20585, telephone (202) 252–2900.

SUPPLEMENTARY INFORMATION: Because the Privy Council Order provided one month's notice prior to implementation of the new price, applicant was precluded from making application to ERA of the DOE 30 days before the implementation, as is required under the procedures established in 18 CFR, Part 153.

Applicant states that it knows of no other supply of natural gas which is available for sale to it in the volumes available pursuant to the export licenses which are the subject of this application. It further states that the loss of an annual volume of natural gas of this magnitude would have a profound adverse impact on those states in the Rocky Mountain and Pacific Northwest areas relying on Northwest for all or a portion of their natural gas requirements and, on a national basis, could contribute to an increased reliance on imported oil.

Other Information

The ERA invites petitions for intervention in this proceeding. Such petitions are to be filed with the Economic Regulatory Administration, Room 4126, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 157.10). Such petitions for intervention will be accepted for consideration if filed no later than 4:30 p.m., on February 14, 1980.

Any person wishing to become a party to these proceedings or to participate as a party in any hearing which may be convened therein must file a petition to intervene. Any person desiring to make any protest with reference to the petitions should file a protest with the ERA in the same manner as indicated above for petitions to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

A formal hearing will not be held unless a motion for such hearing is made by any party or intervenor and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required. If such hearing is required, due notice will be given.

A copy of applicant's petition is available for public inspection and copying in Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on February 6, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80–4453 Filed 2–8–80; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 80–07–NG, FERC Dockets Nos. RP76–110, et al.]

Pacific Gas Transmission Co.; Application for Amendment to Import Authorization To Provide for Increase in Border Price of Gas Imported From Canada, and Invitation To Submit Petitions To Intervene

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of the above captioned application to amend import authorizations under existing National Energy Board of Canada export licenses to reflect the new Canadian border price of natural gas of $4.47 per million British thermal units (MMBtu), set on January 18, 1980, by the Privy Council of the Government of Cananda, effective February 17, 1980.

DATES: Petitions to intervene: to be filed on or before February 14, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, Office of Petroleum Operations, 2000 M Street, N.W., Room 4126, Washington, D.C. 20461, telephone (202) 254–8202.

Mr. Martin S. Kaufman, Deputy Assistant General Counsel for International Trade and Emergency Preparedness, 1000 Independence Ave., S.W., Forrestal Building, Room 5E064, Washington, D.C. 20585, telephone (202) 252–2900.

SUPPLEMENTARY INFORMATION: Because the Privy Council Order provided one month's notice prior to implementation of the new price, applicant was precluded from making application to ERA of the DOE 30 days before the implementation, as is required under the procedures established in 18 CFR, Part 153.

Applicant states that its sole customer, Pacific Gas and Electric Company (PG&E) is a distributor of natural gas to ultimate consumers in a service area covering most of northern and central California and encompassing a population of approximately ten million people. It further states that cutoff of Canadian gas imports would have a disastrous impact on the health and economic welfare of the ten million people serviced by PG&E in northern and central California.

Other Information

The ERA invites petitions for intervention in this proceeding. Such petitions are to be filed with the Economic Regulatory Administration, Room 4126, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 157.10). Such petitions for intervention will be accepted for consideration if filed no later than 4:30 p.m., on February 14, 1980.

Any person wishing to become a party to these proceedings or to participate as a party in any hearing which may be convened therein must file a petition to intervene. Any person desiring to make any protest with reference to the petitions should file a protest with the ERA in the same manner as indicated above for petitions to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

A formal hearing will not be held unless a motion for such hearing is made by any party or intervener and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required. If such hearing is required, due notice will be given.

A copy of applicant's petition is available for public inspection and copying in Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, between the hours of 8:00 a.m., and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on February 6, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80–4454 Filed 2–8–80; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Dockets Nos. RP73-77, etc.]

Alabama Tennessee Natural Gas Co., et al.; Filing of Pipeline Refund Reports and Refund Plans

February 4, 1980.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 20, 1980. Copies of the respective filings are on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
Jan. 21, 1980	Alabama-Tennessee Natural Gas Co	RP73-77	Report.
Jan. 23, 1980	McCulloch Interstate Gas Co	RP75-98	Report.
Jan. 25, 1980	Natural Gas Pipe Line Co. of America	RP71-125	Plan.
Jan. 25, 1980	United Gas Pipe Line Co	RP71-41, *et al*	Report.
Jan. 30, 1980	Columbia Gas Transmission Corp	RP73-65	Plan.

[FR Doc. 80-4234 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-21 (PGA80-2, IPR80-2, LFUT80-1, TT80-1 and AP80-1)]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 4, 1980.

Take notice that Columbia Gas Transmission Corporation (Columbia) on January 30, 1980, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, as follows:

Fifty-ninth Revised Sheet No. 16
Seventh Revised Sheet No. 16A
Nineteenth Revised Sheet No. 64B
Second Revised Sheet Nos. 64E through 64I
First Revised Sheet Nos. 66 and 67

These proposed changes to be effective March 1, 1980, reflect the following:

(1) A PGA rate adjustment, pursuant to Section 20 of the General Terms and Conditions of Columbia's FERC Gas Tariff, Original Volume No. 1, to recover an increase in the cost of gas purchased of $24,648,107 based on the six months ending August 31, 1980.

(2) A Commodity Surcharge, pursuant to Section 20.2 of the General Terms and Conditions of Columbia's FERC Gas Tariff, Original Volume No. 1, to recover the deferred purchased gas cost balance of $78,637,817 at December 31, 1979, over the six month period March 1, 1980, through August 31, 1980.

(3) A Louisiana First Use Tax Sales Adjustment (LFUT) of (0.29¢) and a surcharge to flow thru a credit deferred balance of $3,223,325 at December 31, 1979. Such sales adjustment and surcharge is being filed pursuant to Section 22 of Columbia's FERC Gas Tariff, Original Volume No. 1.

(4) A Transportation Adjustment and Surcharge filed pursuant to Article XI of the Stipulation and Agreement in Docket No. RP78-19, *et al.*, approved by Commission Order issued July 3, 1979. The transportation adjustment provides for the recovery on a current basis of $13,986,144, while the surcharge provides for the recovery of the Deferred Transportation Cost Balance at November 30, 1979 of $12,968,086 over the six month period March 1, 1980, through August 31, 1980.

(5) An Advance Payment Adjustment, pursuant to Article IX of the Stipulation and Agreement in Docket No. RP76-94, *et al.*, approved by Commission Letter Order issued March 16, 1978. Such Advance Payment Adjustment provides for an annual reduction of $839,192.

(6) A revision in the General Terms and Conditions provisions to set out a separate definition of "Calculation Period" as utilized in the computation of the LFUT Sales Rate Adjustment.

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, Union Center Plaza Building, 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 and 1.10). All such petitions or protests should be filed on or before February 20, 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. 80-4237 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-206]

Florida Power Corp.; Filing

February 4, 1980.

The filing Company submits the following:

Take notice that on January 28, 1980 Florida Power Corporation tendered for filing rate schedule revisions which would increase its revenues from wholesale service by $21.5 million, or 15.6% on the basis of a 1980 test period. The filing would increase the rates for all-requirements, partial-requirements and transmission services which the Company provides under its FERC Electric Tariff and partial-requirements rates to customers served under contract.

The filing also contains provisions to eliminate the two-month lag in the present fuel adjustment clause and to provide for recovery of estimated spent nuclear fuel expense.

The Company states that it has experienced a recent deterioration in its earnings and needs to reverse that deterioration in order to finance a construction program which will require it to raise $1.3 billion in outside capital over the five years 1980-1984. The Company requires that the filing be made effective on March 28, 1980.

The Company states that it has served copies of its filing on the affected customers and the Florida Public Service 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 §§ 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 February 25, 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. 80-4238 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-72]

Humko-Sheffield Chemical Division of Kraft, Inc.; Application for Adjustment

February 4, 1980.

On January 22, 1980, Humko-Sheffield Chemical Division of Kraft, Inc., filed with the Federal Energy Regulatory Commission an application for an adjustment under Section 502(c) of the Natural Gas Policy Act and Rule 1.41 of the Commission's Rules of Practice and Procedure, wherein Humko-Sheffield Chemical Division of Kraft, Inc. sought an exemption from 18 CFR Part 282 for a period of one year and requested interim relief during the pendency of its Application for Adjustment.

The procedures applicable to the conduct of this adjustment proceedings are found in § 1.41 of the Commission's rules of practice and procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before February 26, 1980.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-4239 Filed 1-7-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP73-43]

Mid Louisiana Gas Co.; Proposed Refund

February 4, 1980.

Take notice that on January 24, 1980 Mid Louisiana Gas Company filed a request to flow through to its jurisdictional customers the jurisdictional portion of a refund received from United Gas Pipe Line Company in Docket Nos. RP71-41 et al. and RP77-107 covering the period June 1971 through November 1978. The proposed cash refund is in lieu of crediting the jurisdictional amount to its Unrecovered Purchased Gas Cost Account.

Any person wishing to do so may submit comments in writing concerning the subject refund. All such comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 on or before February 19, 1980. Copies of this request are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-4240 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-207]

Pacific Power & Light Co.; Rate Schedule Filing

February 4, 1980.

The filing Company submits the following:

Take Notice that Pacific Power & Light Company (Pacific) on January 28, 1980, tendered for filing, in accordance with § 35.12 of the Commission's regulations, a new rate schedule for power sales to the Nebraska Public Power District (Nebraska). Under this schedule Pacific supplies excess thermal energy to Nebraska.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective January 1, 1980, which it claims is the date service commenced.

Copies of the filing were supplied to Nebraska.

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 §§ 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 Febraury 25, 1980. Protests will 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. 80-4241 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-208]

Pacific Power & Light Co.; Rate Schedule Filing

February 4, 1980.

The filing Company submits the following:

Take Notice that Pacific Power & Light Company (Pacific) on January 28, 1980, tendered for filing, in accordance with § 35.12 of the Commission's Regulations, new rate schedules for emergency electric energy exchange with Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E).

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective January 1, 1979, which it claims is the date service commenced.

Copies of the filing were supplied to SCE and SDG&E.

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 §§ 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 February 25, 1980. Protests will 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. 80-4242 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-65]

World Color Process, Inc.; Application for Adjustment

February 4, 1980.

On January 18, 1980, World Color Process, Inc. filed with the Federal Energy Regulatory Commission an application for an adjustment under 18 CFR Chapter I, 282.203(a)(2), wherein World Color Process, Inc., sought a Commission decision, applicable retroactively to January 1, 1980, (1) that the Salem plant's February 1977 gas

consumption be deemed to be atypical and be disregarded in processing its application for a Section 206(a) exemption, and therefore, (2) that the Salem plant is eligible for an exemption under Section 206(a) based upon its 1977 pattern of natural gas consumption. World Color Press, Inc., submits that such an adjustment is necessary to prevent or alleviate special hardship and inequity which would occur if the requested relief is not granted.

The procedures applicable to the conduct of this adjustment proceeding are found in Section 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed February 26, 1980.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-4243 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. CI63-538 et al.[1]

Certificates of Public Convenience; Order Granting Rehearing for Purposes of Further Consideration and Granting Intervention

Issued: February 5, 1980.

The following petitions for rehearing and petitions for intervention have been filed in the following dockets relating to the orders granting certificates of public convenience and necessity issued on the dates indicated.

Docket No.	Certificate holder	Date certificate order issued	Rehearing applicant
CI63-538, *et al*	Atlantic Richfield Company, *et al*	Dec. 11, 1979	Transcontinental Gas Pipe Line Corporation.
CI80-21	Louisiana Land Offshore Exploration Company, Inc.	Dec. 12, 1979	Texas Eastern Transmission Corporation. [1]
CI80-57	Transco Exploration Company	Dec. 12, 1979	United Gas Pipe Line Company. [1]
G-14396, *et al*	Southland Royalty Company, *et al*	Dec. 31, 1979	United Gas Pipe Line Company. [1]
CI79-529	Gulf Oil Corporation	Dec. 31, 1979	United Gas Pipe Line Company. [1]
CI79-680	Gulf Oil Corporation	Dec. 31, 1979	United Gas Pipe Line Company. [1]
CI80-7	Gulf Oil Corporation	Dec. 31, 1979	United Gas Pipe Line Company. [1]
CI80-35	Gulf Oil Corporation	Dec. 31, 1979	United Gas Pipe Line Company. [1]
CI62-1525, *et al*	CRA, Inc. (Operator), *et al*	Dec. 31, 1979	Sea Robin Pipeline Company. [1]
CI69-912, CI69-913	Dixilyn Corporation, *et al*	Dec. 31, 1979	Sea Robin Pipline Company. [1]
CI73-938	Continental Oil Company	Dec. 11, 1979	El Paso Natural Gas Company. [1]
CI75-605	Cities Service Company	Dec. 11, 1979	El Paso Natural Gas Company. [1]
CI62-1525, *et al*	CRA, (Operator)	Dec. 31, 1979	Transcontinental Gas Pipe Line Corporation.

[1] Also petitioned to intervene.

The certificates were conditioned that if any of the costs associated with processing, dehydration, compression or other conditioning of the subject gas were included in the rates of the purchaser then the purchaser will be required to prove that these costs have not been compensated for in the applicable national ceiling rate. The orders also provided that this condition is subject to whatever action is taken by the Commission on rehearing in Docket Nos. CI77-412, CP77-558 and CP77-577.

The Commission finds.—Participation in this proceeding by petitioners as listed above may be in the public interest.

The Commission orders.—(A) Those parties listed above as petitioning for permission to intervene are permitted to intervene in the captioned proceeding subject to the rules and regulations of the Commission; *Provided, however,* that the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and *Provided, further,* that the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order of the Commission entered in this docket.

(B) The aforelisted applications for rehearing of our orders as shown above are hereby granted solely for the purpose of affording further time for consideration. Since this order is not a final order on rehearing, no response to the order will be entertained by the Commission in accordance with the terms of § 1.34 of the Commission's Rules of Practice and Procedure.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4359 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[1] The petitions addressed by this order have been combined herein solely for administrative convenience. The dockets have not been combined or consolidated by this order for any other purposes.

[Dockets Nos. CP78-545 and CP78-527]

Michigan Wisconsin Pipe Line Co. and Great Lakes Gas Transmission Co.; Petition To Amend

February 6, 1980.

Take notice that on January 23, 1980, Michigan Wisconsin Pipe Line Company (Mich Wisc), One Woodward Avenue, Detroit, Michigan 48226, and Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket Nos. CP78-545 and CP78-527, respectively, a joint petition to amend the order of July 23, 1979, issued in the instant dockets pursuant to Section 7(c) of the Natural Gas Act so as to authorize gas transportation service for Southern Natural Gas Company (Southern) incident to a storage service which Southern has contracted to obtain from ANR Storage Company (ANR), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that to assist Southern in accomplishing its storage service with ANR, Mich Wisc would provide its portion of the transportation service in accordance with the terms and conditions set forth in a transportation agreement between it and Southern dated November 1, 1979. It is stated this agreement provides that Mich Wisc would provide service for an aggregate of up to 1,960,000 Mcf of natural gas, plus compressor fuel requirements. It is stated that during the 1980 summer period, Southern would deliver to Mich Wisc the 1,960,000 Mcf of gas at a daily rate of up to 9,800 Mcf of gas at an existing point of interconnection between the pipeline systems of Mich Wisc and Southern located in Section 49, St. Mary Parish, Louisiana (the Shadyside delivery point). Mich Wisc would, it is stated, transport and redeliver equivalent volumes on a best-efforts basis to Michigan Consolidated Gas Company (Consolidated) at an existing point of

interconnection between the pipeline systems of Mich Wisc and Consolidated located in Section 1 of Ypsilanti Township, Washtenaw County, Michigan (The Willow Run delivery point). It is asserted that Consolidated would transport the quantities so received and redeliver equivalent quantities to Mich Wisc at a point of interconnection between the systems of Mich Wisc and Consolidated located at Mich Wisc's W. G. Woolfolk Compressor Station in Austin Township, Mecosta County, Michigan (the W. G. Woolfolk delivery point), and from this point, Mich Wisc would transport and redeliver the storage volumes to Great Lakes at a point of interconnection between the pipeline systems of Mich Wisc and Great Lakes at Farwell, Michigan (the Farwell delivery point).

During the winter period (November–March), ANR would deliver the storage volumes to Great Lakes at the Kalkaska delivery point for transportation and redelivery to Mich Wisc at the Farwell delivery point, it is stated. Mich Wisc states that it would then transport and redeliver equivalent volumes to Consolidated at the W. G. Woolfolk delivery point at a daily rate of up to 38,514 Mcf, and Consolidated would transport and deliver equivalent volumes to Mich Wisc at the Willow Run delivery point. Mich Wisc would, in turn, redeliver by displacement equivalent volumes to Southern at the Shadyside delivery point, it is stated.

The term of the transportation agreement between Southern and Mich Wisc is for one year commencing on April 1, 1980, it is asserted. It is stated that as consideration for providing the transportation service, Southern would compensate Mich Wisc for compressor fuel usage and would pay Mich Wisc a rate of $90,659 per month. Mich Wisc states that of the 2.5 percent added by Southern to summer period deliveries for compressor fuel usage, Mich Wisc would retain 0.2 percent. In addition Mich Wisc states it would retain 1.6 percent of the gas received for transportation in the winter period.

To implement the above-described service, Mich Wisc and Great Lakes state that they would utilize a previously authorized arrangement between the parties, the terms and conditions of which were set forth in a gas transportation and exchange contract dated May 30, 1978.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 28, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission wil 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. 80-4411 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-211]

Mid-Continent Area Power Pool; Notice of Filing

February 5, 1980.

Take notice that Mid-Continent Area Power Pool (MAPP) tendered for filing on January 29, 1980 amendment No. 10, to the MAPP Agreement.

MAPP requests an effective date of May 1, 1980.

MAPP states that this filing is on behalf of the following who are the jurisdictional parties of the subject Agreement:

Interstate Power Company
Iowa Electric Light and Power Company
Iowa-Illinois Gas and Electric Company
Iowa Power and Light Company
Iowa Public Service Company
Iowa Southern Utilities Company
Lake Superior Utilities Company
Lake Superior District Power Company
Minnesota Power and Light Company
Montana-Dakota Utilities Company
Northern States Power Company (Minnesota)
Northwestern Public Service Company
Otter Tail Power Company

MAPP further states that MAPP Agreement Amendment No. 10 is the result of Pool Service Schedules by the Rates Subcommittee of the Pool Administrative Committee. Specifically Agreement Amendment No. 10 revisions can be summarized as follows:

1. Increase the demand charge rate for Service Schedule B.

2. Increase demand charge rates for Service Schedule K.

3. Change Service schedule F to include reference to Service Schedule K. This was inadvertently omitted when Schedule K was added last year.

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 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 February 25, 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. 80-4394 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-25 (PGA80-2, IPR80-2, LFUT80-1, AP80-1, TT80-1, and STAR80-1)]

Mississippi River Transmission Corp.; Rate Change Filing

February 5, 1980.

Take notice that on January 30, 1980, Mississippi River Transmission Corporation ("Mississippi") tendered for filing Seventy-Fifth Revised Sheet No. 3A and First Revised Sheet No. 3D to its FERC Gas Tariff, First Revised Volume No. 1. An effective date of March 1, 1980 is proposed. Mississippi states that these tariff sheets reflect rate adjustments as follows:

(1) A PGA rate adjustment in accordance with Paragraph 17 of the General Terms and Conditions of Mississippi's Tariff which reflects increases in the current cost of gas purchased from pipeline and producer suppliers;

(2) A PGA rate adjustment which reflects recovery of gas costs in the deferred purchased gas cost account and the flow through of pipeline supplier rate refunds received by Mississippi since the date of its last effective semi-annual PGA filing;

(3) A Louisiana First Use Tax (LFUT) rate adjustment in accordance with Paragraph 19 of the General Terms and Conditions of Mississippi's Tariff;

(4) An Advance Payment tracking adjustment pursuant to Article IV of the Stipulation and Agreement at Docket No. RP78–77;

(5) A Transportation and Compression tracking adjustment pursuant to Articles V and VI of the Stipulation and Agreement at Docket No. RP78–77;

(6) A Storage Loss Amortization tracking adjustment pursuant to Article

VII of the Stipulation and Agreement at Docket No. RP78–77, and

(7) A revision to Mississippi's last previous "reduced PGA" rate, reflecting revised projected incremental pricing surcharges ("MSAC") for the period March 1, 1980 through August 31, 1980.

Mississippi states that the base tariff rates set forth on Seventy-Fifth Revised Sheet No. 3A are based upon the provisions of the Stipuation and Agreement at Docket No. RP78–77, which was approved by Commission letter order dated December 11, 1979.

Mississippi has informed the Commission that the pipeline supplier rate refunds credited to its unrecovered purchased gas cost, referred to in (2) above, represent the entire jurisdictional portion of refunds received by Mississippi since the date of Mississippi's last previous semi-annual PGA filing. Mississippi's filing recognizes that some portion of such credited amounts may be subject to the provisions of Section 282.506 of the Commission's Regulations dealing with the making of lump sum payments with respect to certain refund amounts attributable to non-exempt industrial boiler fuel facilities served by Mississippi's sale-for-resale customers. Mississippi states that it has requested its sale-for-resale customers serving non-exempt industrial boiler fuel facilities to provide the information necessary to determine the amount of such lump sum payments which may be due, but that it has not received such information as of the date of the instant filing. Mississippi proposes to make such lump sum payments when its sale-for-resale customers provide the necessary data and to debit its unrecovered purchased gas cost account for the amount of such payments when they are made. Mississippi states that these procedures will permit sale-for-resale customers to obtain lump sum payments as they provide the necessary information, while avoiding the necessity for delaying the flow through of refund monies not attributable to non-exempt boiler fuel facilities pending the receipt of such information. Mississippi has requested waiver of the Commission's Regulations as well as any provisions of its tariff to the extent necessary to permit the implementation of such procedures.

Mississippi states that copies of its filing have been served on all 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 Section 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 February 20, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–4392 Filed 2–8–80; 8:45 am]

BILLING CODE 6450–01–M

[Dockets Nos. ER80–124 and ER80–125]

Missouri Utilities Co.; Order Accepting for Filing and Suspending Proposed Service Agreement, Severing and Consolidating Dockets and Establishing Procedures

Issued: February 5, 1980.

On April 29, 1977, in Docket No. ER77–354, Missouri Utilities Company (MU) tendered for filing a proposed increase in its SFR–1 rate for the cities of Kennett, Jackson and Malden, Missouri. By order of June 1, 1977, the Commission [1] accepted and suspended the proposed rate applicable to Kennett; however, it interpreted MU's contracts with Jackson and Malden as requiring the existence of a negotiation impasse before MU could unilaterally request an investigation of the existing rate under Section 206 of the Federal Power Act. After finding that such an impasse existed, the rate as it relates to Jackson was set for investigation, with any rate increase to that customer to become effective at the conclusion of Docket No. ER77–354.

On October 5, 1977, MU resubmitted the proposed rate increase to Malden, designated Docket No. ER78–14. After finding that an impasse in negotiations existed between MU and Malden, we conditionally accepted the rate for filing and deferred its use pending the determination of the rate's lawfulness under Section 206 of the Federal Power Act. Docket No. ER78–14 was consolidated with Docket No. ER77–354.[2]

Jackson, Malden and Kennett intervened and actively participated in the Commission's investigation of the SFR–1 rate. The rate, as modified after hearing, was found to be just, reasonable and otherwise lawful. The initial decision also held that Malden and Jackson would be served under the SFR–1 rate after their respective fixed-rate contracts expire.[3] Presently, the consolidated dockets are pending final Commission action.

On September 9, 1979, MU tendered for filing an unexecuted service agreement, under its filed SFR–1 tariff, to apply to Malden, after the expiration of Malden's fixed-rate contract on October 1, 1979. The filing was duly noticed and Malden filed comments, but chose not to intervene. On November 5, 1979, we accepted the service agreement for filing, suspended it for one day, and made the filing subject to the outcome of litigation on the SFR–1 tarriff in Docket Nos. ER77–354 and ER78–14, into which the proceeding was consolidated. We ordered that both Malden and Kennett's service agreements be modified by removal of a resale restriction found to be unduly restrictive and anticompetitive.

Present Filing: On December 7, 1979, MU tendered for filing a notice of termination and cancellation of its fixed rate contract with Jackson which will expire by its own terms on March 2, 1980.[4] Also tendered is an unexecuted service agreement.[5] The tendered service agreement is essentially identical to that filed for MU's service to Malden, Docket No. ER79–642. It provides for service to Jackson under MU's SFR–1 rate schedule, includes provisions for compensation to MU for decreased or curtailed deliveries and specifies the purchaser's load factor.[6]

Section 35.15 of the Commission's Regulations requires the filing of a

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[1] The term "Commission" refers to the Federal Power Commission regarding actions taken prior to October 1, 1977, and otherwise to the Federal Energy Regulatory Commission.

[2] Order issued November 4, 1977.

[3] *Missouri Utilities Company,* Docket Nos. ER77–354 and ER78–14, initial decision issued February 26, 1979.

[4] Docket No. ER80–125.

[5] Docket No. ER80–124.

[6] Section 7.1 *Decreased or Curtailed Deliveries.*

In the event improvements to Purchaser's Municipal Electrical Generating Plant would decrease the quantity of actual previously established level of deliveries of power and energy by the Company to Purchaser's system then Purchaser agrees to compensate the Company in some mutually agreeable method consistent with industry practice for financial liabilities, in connection with transmission facilities and generation and/or purchased power costs, necessitated by the previously established level of deliveries.

Section 7.2 *Load Factor.*

It is agreed that Company will deliver and Purchaser will accept off-peak energy greater than but not less than Purchaser's system load factor.

In the event Purchaser takes firm or on-peak power and energy, it is agreed that Company will deliver and Purchaser will accept deliveries greater than but not less than Purchaser's system load factor.

notice of cancellation where no new rate schedule is to be filed in its place. MU's filing of its superseding service agreement makes the tender of a notice of cancellation unnecessary.

In response to notice issued December 17, 1979, Jackson has petitioned to intervene and has requested a hearing. The city alleges that the service agreement is both discriminatory and anti-competitive. Specifically, the city alleges that Section 1 of the agreement illegally restricts the end use of power and results in an exclusive dealing restriction.[1] Section 7.1 is challenged as a guarantee of use restriction inconsistent with the interruptible power provided. Section 7.2 is alleged to be an effective guarantee of load factor. Jackson contends that the twenty year term provision contained in Section 8, is unnecessary and burdensome.

MU's proposed service agreement with the city of Jackson has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. The tendered filing should be accepted for filing and suspended for one day, to become effective as of March 3, 1980, subject to the outcome of a hearing in this docket and final Commission action in consolidated Docket Nos. ER77–354 and ER78–14. We shall not interfere with the course of litigation on the SFR–1 rate level which has been decided by an administrative law judge and is now before us on exceptions. Therefore, we shall order that a hearing be held only regarding the allegedly restrictive terms and conditions in the unexecuted service agreement governing service to Jackson (and Malden for the reasons described below). We shall direct that a prehearing conference be convened within 30 days so that all issues regarding the unexecuted service agreement may be clearly delineated.

Malden has petitioned to intervene and suggests that Docket No. ER79–642 be consolidated with a hearing on Jackson's service agreement. We shall permit Malden to pursue its allegations regarding the terms and conditions of its service agreement. We shall sever Docket ER79–642 from the consolidated Docket Nos. ER79–354 and ER78–14 and consolidate it with the instant filing.

The Commission Orders:

(A) MU's proposed service agreement with Jackson is hereby accepted for filing and suspended for one day to become effective as of March 3, 1980, subject to refund.

(B) Docket No. ER79–642 is hereby severed from Docket Nos. ER77–354 and ER78–14.

(C) Docket No. ER79–642 is hereby consolidated with Docket No. ER80–124.

(D) The rate levels contained in the filings in Docket Nos. ER79–642 and ER80–124 shall be subject to the outcome of Docket Nos. ER77–354 and ER78–14.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the service agreements proposed by MU in Docket Nos. ER80–124 and ER79–642.

(F) The Cities of Jackson and Malden shall be permitted to intervene in this proceeding pursuant to Section 1.8(a) of the Commission's Rules, subject to the Rules and Regulations of the Commission; *Provided, however,* that participation of the intervenors shall be limited to their allegations as set forth above; and *Provided further,* that the admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders entered by the Commission in this proceeding.

(G) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge pursuant to 18 CFR 3.5(d), shall convene a conference to delineate issues within 30 days after issuance of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding administrative law judge is hereby authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(H) The Secretary shall cause the prompt publication of this order to be made in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–4393 Filed 2–8–80; 8:45 am]

BILLING CODE 6450–01–M

[1] Jackson notes that a similar provision was expressly rejected by our order of November 5, 1979 in Docket No. ER79–642. Jackson fails to note that MU did not include the offending provision in Jackson's service agreement which was tendered for filing after issuance of the November 5, 1979, order.

[Docket No. TA80–1–20 (PGA80–2, IPR80–2, AP80–1, LFUT80–1)]

Algonquin Gas Transmission Co.; Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

February 5, 1980.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on January 17, 1980, tendered for filing 51st Revised Sheet No. 10 and 1st Revised Sheet No. 10–B to its FERC Gas Tariff, First Revised Volume No. 1.

Algonquin Gas states that this sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in Section 17 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1. Such rates reflect the following: (i) an adjustment to amortize the December 31, 1979 balance in Algonquin Gas' Unrecovered Purchased Gas Cost Account (Account 191), (ii) a change in the cost of purchased gas from its supplier, Texas Eastern Transmission Corporation, proposed to be effective February 1, 1980, and (iii) the projected Incremental Pricing Surcharges for the period March through August 1980.

Algonquin Gas requests that the proposed effective date of the revised tariff sheets as prescribed by Section 17 be as of March 1, 1980.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested State 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, DC 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 February 19, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–4384 Filed 2–8–80; 8:45 am]

BILLING CODE 6450–01–M

[Project No. 2999]

Cajun Electric Power Cooperative, Inc.; Application for Preliminary Permit

February 5, 1980.

Take notice that on November 20, 1979, Cajun Electric Power Cooperative, Inc. of New Roads, Louisiana, filed an application for preliminary permit pursuant to the Federal Power Act, 16 U.S.C. Section 791(a)–825(r), for proposed Project No. 2999 to be known as the Lake D'Arbonne Project, located on the Bayou D'Arbonne in Union Parish, Louisiana. The project would be located at an existing dam and on lands and waters owned by the State of Louisiana, Department of Transportation and Development. Correspondence with the Applicant should be directed to: John Randall, President, Cajun Electric Power Cooperative, Inc., Box 578, New Roads, Louisiana 70760 and J. B. Lancaster, Jr., Vice President, Forte and Tablada, Inc., Box 64844, Baton Rouge, Louisiana 70896.

Purpose of Project—Power generated by the project would be used by Cajun Electric Power Cooperative for distribution to its customers.

Proposed Scope and Cost of Studies Under Permit—The work proposed under this preliminary permit would include preliminary designs, economic analysis, preparation of preliminary engineering plans, and environmental assessment studies. 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 work to be performed under this permit would cost $15,000.

Project Description—The project would consist of: (1) an existing 799-foot-long, 51-foot-high concrete spillway; (2) a 1000-foot-long, 61-foot-high earth dam; (3) a 15,000-acre reservoir; (4) a proposed powerhouse containing a bulb or tube-type turbine/generator having a rated capacity of 5 MW; and (5) appurtenant facilities. The proposed project would generate approximately 20,000,000 KWh annually.

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 power, and all other necessary information 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 April 11, 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 June 11, 1980. A notice of intent must conform with the requirements of 18 C.F.R. 4.33 (b) and (c), (*as amended*, 44 *Fed. Reg.* 61328, October 25, 1979). A competing application must conform with the requirements of 18 C.F.R. 4.33 (a) and (d), (*as amended*, 44 *Fed. Reg.* 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests 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, Section 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 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 April 11, 1980. The Commission's address is: 825 North Capitol Street, N.E., 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. 80-4385 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 3000]

Cajun Electric Power Cooperative, Inc.; Application for Preliminary Permit

February 5, 1980.

Take notice that on November 20, 1979, Cajun Electric Power Cooperative, Inc. of New Roads, Louisiana, filed an application for preliminary permit pursuant to the Federal Power Act, 16 U.S.C. Section 791(a)–825(r), for proposed Project No. 3000 to be known as the Columbia Lock and Dam Project located on the Ouachita River in Caldwell Parish, Louisiana. The project would be located on U.S. lands administered by the Corps of Engineers and would affect navigable waters of the United States. Correspondence with the Applicant should be directed to: John Randall, President, Cajun Electric Power Cooperative, Inc., Box 578, New Roads, Louisiana 70760 and J. B. Lancaster, Jr., Vice President, Forte and Tablada, Inc., Box 64844, Baton Rouge, Louisiana 70896.

Purpose of Project—Power generated by the project would be used by Cajun Electric Power Cooperative for distribution to its customers.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geologic investigations, negotiate with the U.S. Army Corps of Engineers for water rights at the project, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be less than $35,000.

Project Description—The proposed project would utilize the U.S. Army Corps of Engineers' Columbia Lock and Dam. The project would consist of a powerplant built adjacent to the dam that would include two to five bulb or tube-type turbine/generators having a total rated capacity from 25 to 75 MW.

Average annual generation would range up to 385,000,000 kWh.

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 power, and all other necessary information 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 *April 11, 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 *June 11, 1980.* A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c), (*as amended,* 44 Fed. Reg. 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d), (*as amended,* 44 *Fed. Reg.* 61328, October 25, 1979.)

Comments, Protests, or Petitions to Intervene:—Anyone desiring to be heard or to make any protests 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, Section 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 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 *April 11, 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. 80-4386 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 3001]

Cajun Electric Power Cooperative, Inc.; Application for Preliminary Permit

February 5, 1980.

Take notice that on November 20, 1979, Cajun Electric Power Cooperative, Inc. of New Roads, Louisiana, filed an application for preliminary permit pursuant to the Federal Power Act, 16 U.S.C. Section 791(a)–825(r), for proposed Project No. 3001 to be known as the Jonesville Lock and Dam Project located on the Black River in Catahoula and Concordia Parishes, Louisiana. The project would be located on U.S. lands administered by the Corps of Engineers and would affect navigable waters of the United States. Correspondence with the applicant should be directed to: John Randall, President, Cajun Electric Power Cooperative, Inc., Box 578, New Roads, Louisiana 70760 and J. B. Lancaster, Jr., Vice President, Forte and Tablada, Inc., Box 64844, Baton Rouge, Louisiana 70896.

Purpose of Project—Power generated by the project would be used by Cajun Electric Power Cooperative for distribution to its customers.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geologic investigations, negotiate with the U.S. Army Corps of Engineers for water rights at the project, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be less than $35,000.

Project Description—The proposed project would utilize the U.S. Army Corps of Engineers' Jonesville Lock and Dam. The project would consist of a powerplant built adjacent to the dam including two to five bulb or tube-type turbine/generators having a total rated capacity from 25 to 75 MW. Average annual generation would range up to 385,000,000 kWh.

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 power, and all other information needed to prepare 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 April 11, 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 June 11, 1980. A notice of intent must conform with the requirements of 18 C.F.R. 4.33(b) and (c), (*as amended,* 44 *Fed. Reg.* 61328, October 25, 1979). A competing application must conform with the requirements of 18 C.F.R. 4.33 (a) and (d), (*as amended,* 44 *Fed. Reg.* 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene:—Anyone desiring to be heard or to make any protests 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, Section 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 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, protests, or petition to intervene must be filed on or before April 11, 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. 80-4387 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 3002]

Cajun Electric Power Cooperative, Inc.; Application for Preliminary Permit

February 5, 1980.

Take notice that on November 20, 1979, Cajun Electric Power Cooperative, of New Roads, Louisiana, filed an application for preliminary permit pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r), for proposed Project No. 3002 to be known as the Caddo Lake Project in Caddo Parish, Louisiana and Marion and Harrison Counties, Texas. The project would be located on the Cypress Bayou at an existing dam and on lands and waters owned by the State of Louisiana, Caddo Levee District. Correspondence with the Applicant should be directed to: John Randall, President, Cajun Electric Power Cooperative, Inc., Box 578, New Roads, Louisiana 70760 and J. B. Lancaster, Jr., Vice President, Forte and Tablada, Inc., Box 64844, Baton Rouge, Louisiana 70896.

Purpose of Project—Power generated by the project would be used by Cajun Electric Power Cooperative for distribution to its customers.

Proposed Scope and Cost of Studies Under Permit—The work proposed under this preliminary permit would include preliminary designs, economic analysis, preparation of preliminary engineering plans, and an environmental assessment. 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 work to be performed under this preliminary permit would cost $20,000.

Project Description—The project would consist of: (1) a 620-foot-long, 47-foot-high earth dam; (2) a 920-foot-long, 37-foot-high concrete spillway; (3) a 860-foot-long, 35-foot-high concrete spillway; (4) a reservoir containing a maximum storage capacity of 755,000 acre-feet; (5) a proposed power house containing one to three bulb or tube-type turbine/generators having a total rated capacity of from 15 to 25 MW. The proposed project would generate up to 50,000,000 kWh annually.

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 power, and all other necessary information for inclusion in an application for a license. In this instance, the Applicant seeks a 36-month permit.

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 *April 11, 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 *June 11, 1980.* A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (*as amended,* 44 *Fed. Reg.* 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (*as amended,* 44 *Fed. Reg.* 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests 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, Section 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in Section 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 *April 11, 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. 80-4388 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-201]

Caterpillar Tractor Co.; Petition for Declaratory Order

February 6, 1980.

Take notice that on January 14, 1980, Caterpillar Tractor Company (Petitioner), 100 N.E. Adams Street, Peoria, Illinois 61629, filed in Docket No. CP80–201 a petition pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) for a declaratory order exempting from the certificate requirements of Section 7(c) of the Natural Gas Act a proposed temporary test installation of a prototype, energy saving natural gas turbine engine on an interstate pipeline system, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

According to Petitioner, its testing program would not alter the operational characteristics of the pipeline system in any way, and would require no expenditures by the participating pipeline company other than *de minimis* expenditures for routine maintenance.

It is stated Petitioner is now ready to test the engine in actual field operations as soon as it can be installed in a natural gas pipeline compressor installation. Petitioner states it has contacted interstate natural gas pipelines who have expressed a willingness to test an engine, provided they can be assured that the testing program complies with all applicable law. Because there previously has been no explicit Commission determination whether an engine testing program requires a certificate of public convenience and necessity, Petitioner states, it is asking the Commission to remove any uncertainty by declaring that the limited testing of Petitioner's

new engine does not require authorization.

The field test, it is stated, would be expected to continue for at least 4,000 hours annually over a period of three to four years.

Petitioner states it would provide, at no cost to the pipeline, an operational system built to site requirement. According to Petitioner, it would cover the cost of system design, equipment procurement, site preparation, assembly, installation, and final check-out, as well as parts and labor to correct failure and make major repairs. Thus, Petitioner states the pipeline ratepayers would not be burdened by costs incident to the field testing program.

Petitioner states that the test installation should not be required to be certificated because its new engine would offer significant fuel savings and the test installation would neither alter the operating characteristics of nor impose any financial burden upon the pipeline system.

Any person desiring to be heard or to make any protest with reference to said petition should on or before February 27, 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. 80-4402 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CI79-4]

Chevron, U.S.A., Inc.; Order Denying Rehearing

February 5, 1980.

Union Carbide Corporation (Union Carbide) and Black Marlin Pipeline Company (Black Marlin) filed on August 30, 1979, an application for rehearing of an order issued by the Commission on August 1, 1979 in the above captioned docket objecting to the issuance of a certificate of public convenience and necessity to Chevron which authorized sales of natural gas produced from High Island Black 140, Offshore Texas, in the Gulf of Mexico to Transcontinental Gas Pipe Line Corporation (Transco). Rehearing was granted solely for purposes of further consideration by order issued October 1, 1979.

Black Marlin operates a 54-mile long pipeline extending from the High Island area in the Gulf of Mexico, Offshore Texas, to Union Carbide's petrochemical plant in Texas City, Texas. On February 1, 1967, Union Carbide entered into a gas purchase and sales agreement with Chevron U.S.A., Inc., then Standard Oil Company of Texas, to sell the gas produced in High Island Block 140, Offshore Texas. The agreement provided that, for fifteen years from the date of the agreement, chevron would supply to Union Carbide for use at its Texas City petrochemical facility a given quantity of gas. The gas would be transported through the Black Marlin pipeline to the petrochemical complex in Texas City, Texas.

In Opinion No. 18, issued July 12, 1978, the Commission held that Black Marlin had violated Section 7(c) of the Natural Gas Act by transporting Chevron's gas without certificate authorization. The Commission also refused to issue a certificate to Black Marlin authorizing such transportation and ordered Black Marlin to cease any further transportation of the Chevron gas.

Subsequently, Chevron notified Union Carbide that Chevron terminated their gas purchase and sales agreement. On September 21, 1978, Chevron entered a gas purchase contract with Transco to sell the gas produced in High Island Block 140, Offshore Texas. The August 1, 1979 order certificated the sale to Transco.

Union Carbide and Black Marlin filed a petition on November 13, 1978 for leave to intervene in Docket No. CI79-4. The Commission's order of August 1, 1979 granted intervention.

Black Marlin's and Union Carbide's Position

Black Marlin and Union Carbide argue that since Chevron still has a contractual obligation to sell the gas to Union Carbide the grant of the certificate to Transco was in error. They request an evidentiary hearing to determine the contractual rights of Chevron and Union Carbide and the power of the Commission to issue the certificate.

Discussion

In Opinion No. 10, *Tenneco Oil Co., et al.*, issued March 20, 1978, the FERC stated that permitting producers to retain significant volumes of offshore federal domain gas for their own use, or for direct sales, deprives the interstate market of a substantial supply of natural gas. Consequently, the Commission concluded that it would no longer consider applications for authorization to transport gas from the offshore federal domain where such gas was intended for the producers' own use or for direct sale. In Opinion No. 18, the Commission held that this policy was applicable to Marlin's proposal to transport Chevron's gas for use in the Union Carbide petrochemical plant where a significant amount of the gas is being used for low priority boiler fuel and where 71% of Union Carbide's direct fired boiler capacity has been converted so that fuel oil can be burned. The Commission refused to sanction the diversion of this gas from the general interstate market for this low priority use.

The Commission has determined in Opinion No. 18 that the delivery of this gas to Union Carbide would not serve the public interest. Union Carbide and Black Marlin erroneously contend that Union Carbide's contractual rights preclude the Commission from finding the Transco sale to be in the public convenience and necessity.

In an analogous case, the Court of Appeals stated in *Transcontinental Gas P.L. Corp.* v. *FERC*, 488 F.2d 1325, 1329 (D.C. Cir. 1973):

> Thus it is conceded that private long term contracts, at least where they are part of a Commission approved settlement agreement, must be accorded significant weight in the determination of the overall public interest. But to argue that anything less than controlling weight would be "disastrous" grossly overstates the case. Rigid deferral to contractual arrangements without a searching inquiry into other factors relevant to the public interest as required by § 7(b) simply is an inadequate means to assure vindication of the transcendant interests of the public.

The Commission recognized in Opinion No. 10 that:

> * * * the public convenience and necessity does not support the use of interstate facilities and offshore federal domain gas to fulfill a producer's pre-existing intrastate commitment.

Similarly, the public convenience and necessity does not require that the proposed sale of gas to Transco be denied because of Union Carbide's alleged continuing contractual right to purchase the gas. Of course, Union Carbide may pursue whatever contractual rights, if any, it might have against Chevron in an appropriate court action.

An evidentiary hearing is not required when the pleadings and argument reveal that there are no disputes as to material facts, and the only issues to be decided are questions of law or the application of administrative policy. *United Gas*

Pipe Line Co. v. *FPC*, 551 F.2d 460 (D.C. Cir. 1977); *Municipal Light Board, Mass.* v. *FPC*; 450 1341 (D.C. Cir. 1971); *Citizens of Allegan County, Inc.* v. *FPC*, 414 F.2d 1125 (D.C. Cir. 1969). Because of the Commission's policy, as stated in Opinion Nos. 10 and 18, Union Carbide's contractual rights are not material. Therefore, neither the November 13, 1978 petition to intervene nor the August 30, 1979 petition for rehearing of Union Carbide and Black Marlin raise issues requiring an evidentiary hearing.

The Commission orders.—The application for rehearing filed by Union Carbide and Black Marlin in this docket is hereby denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4389 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-205]

Consolidated Gas Supply Corp.; Application

February 6, 1980.

Take notice that on January 22, 1980, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP80-205 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the replacement of certain pipeline facilities in Wetzel and Marshall Counties, West Virginia, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated, Applicant proposes to replace approximately 1.63 miles of its existing Line Nos. H-3, H-4, and H-106, located in Wetzel and Marshall Counties, West Virginia. These 20-inch pipelines, Applicant states, would be replaced with a single 0.45 mile 30-inch pipeline, to be designated Line No. TL-404 extension.

Applicant states that the portions of Line Nos. H-3, H-4, and H-106 which would be replaced were originally constructed in 1907, 1913, and 1917, respectively, and consist largely of lap-welded bare pipe, and are not cathodically protected. It is stated that the present facilities are situated in an area which has become inundated with water due to changes in the level of the nearby Ohio River caused by construction of the Hannibal Locks and Dam near New Martinsville, West Virginia.

According to Applicant, the proposed pipeline facilities would have approximately the same flow characteristics as the existing pipelines and would be located in a nearby area free of excess water.

Applicant states that the proposed replacement project would cost approximately $446,000, which cost is to be financed from funds on hand or to be obtained from Applicant's parent corporation, Consolidated Natural Gas Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 28, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing wil 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, unles otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-4403 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-198]

Columbia Gas Transmission Corp.; Application

Februry 6, 1980.

Take notice that on January 18, 1980, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP80-198 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon natural gas storage services to certain of its wholesale customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant seeks permission and approval to terminate storage service to eight of its wholesale customers and to cancel their service agreements under Applicant's Rate Schedule CSS and to collect their proportionate shares of certain unrecovered costs in connection with the service to be abandoned. The eight customers, which Applicant states have elected to discontinue said service as of April 1, 1980, and have agreed to pay the unrecovered costs relating thereto are: Baltimore Gas and Electric Company (Baltimore); The Cincinnati Gas and Electric Company (Cincinnati); Elizabethtown Gas Company (Elizabethtown), The City of Lancaster, Ohio (Lancaster); Orange and Rockland Utilities, Inc. (Orange and Rockland); Penn Fuel Gas, Inc. (Penn Fuel); Roanoke Gas Company (Roanoke); and Union Light, Heat and Power Company (Union), it is stated. Applicant further states that nine other wholesale customers presently purchasing natural gas storage service from Applicant have elected to continue purchasing said service and, accordingly, Applicant proposes to retain its Rate Schedule CSS and the underlying service agreements with those nine customers in full force and effect.

It is stated that by Commission order issued April 10, 1978, in Docket No. CP77-636 Applicant was authorized to provide natural gas storage service to seventeen wholesale customers. According to Applicant, this service gave its customers flexibility in using their available gas supplies, particularly during the heating season.

Applicant states, however, its supply/requirements situation has now changed substantially and its wholesale customers are no longer subject to specific allocations of gas during each separate summer and winter season, it is stated. Furthermore, Applicant states

it has changed its system storage design to provide its wholesale customers with protection against 10 percent colder-than-normal weather for each winter season.

Therefore, Applicant states it determined that it should offer its wholesale customers the opportunity to terminate storage service under its Rate Schedule CSS and to cancel their underlying service agreements. In response to Applicant's offer, Applicant states eight of seventeen customers presently purchasing storage service from Applicant elected to cancel their service agreements under Applicant's Rate Schedule CSS.

Applicant asserts that these eight customers have agreed to pay their proportionate shares of the unrecovered costs associated with the actual cost of service under its Rate Schedule CSS. Applicant states that Baltimore, Lancaster and Penn Fuel have chosen to pay their shares in twelve equal monthly installments; whereas, Cincinnati, Elizabethtown, Orange and Rockland, Roanoke and Union have elected to pay their respective shares in one lump sum.

It is stated that all prepayments received by Applicant for storage service quantities injected into storage but not withdrawn prior to April 1, 1980, and delivered to the eight customers that have elected to terminate service would be reflected as credits on their billing statements. Applicant states the additional storage capacity of approximately 2,600,000 Mcf that would become available as a result of the herein proposed abandonment would be utilized by Applicant in its overall system storage operations and would not result in any excess storage capability.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 27, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission 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 permission and approval for the proposed abandonment are 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. 80-4404 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-191]

Columbia Gas Transmission Corp.; Application

February 6, 1980.

Take notice that on January 16, 1980, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP80-191 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of 70 interconnecting tap facilities to provide additional points of delivery to existing wholesale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the following new points of delivery for the following wholesale customers:

(1) Proposed new point of delivery to Baltimore Gas and Electric Company, 1 tap for residential service—Estimated annual usage of 450 Mcf.

(2) Proposed new points of delivery to Columbia Gas of Ohio, Inc., 41 taps for residential service, 1 tap for commercial service—Estimated annual usage of 10,200 Mcf.

(3) Proposed new points of delivery to Columbia Gas of Pennsylvania, Inc., 17 taps for residential service—Estimated annual usage of 2,500 Mcf.

(4) Proposed new point of delivery to Union Light, Heat and Power Company, 1 tap for residential service—Estimated annual usage of 250 Mcf.

(5) Proposed new points of delivery to Columbia Gas of Virginia, Inc., 2 taps for residential service, 1 tap for commercial service—Estimated annual usage of 1,780 Mcf.

(6) Proposed new points of delivery to Columbia Gas of West Virginia, Inc., 6 taps for residential service—Estimated annual usage of 900 Mcf.

Applicant states further that it does not propose to increase its currently authorized level of sales.

It is stated that the total cost of the interconnections is estimated to be $21,100, which would be financed by internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 27, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-4405 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-187]

Columbia Gas Transmission Corp.; Application

February 6, 1980.

Take notice that on January 14, 1980, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP80-187 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Anchor Hocking Corporation (Anchor Hocking), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to transport natural gas for Anchor Hocking, which gas would be received by Applicant at an existing point of delivery from Gas Transport, Inc. (Gas Transport) in Washington County, Ohio, and delivered by Applicant to Panhandle Eastern Pipe Line Company (PEPL) by displacement at an existing point of delivery from PEPL to Columbia, located near Maumee, Lucas County, Ohio, for ultimate delivery to Anchor Hocking's Winchester, Indiana, plant.

Applicant states it has agreed to transport up to 4,000 Mcf per day on a best-efforts basis for a period of one year from the date of first receipt of such volumes from Gas Transport. It is stated Applicant's transportation charge for the service proposed herein would be 20.36 cents per Mcf of gas delivered to Applicant by Gas Transport. Applicant further states it would retain 2.51 percent of the volumes delivered for company-use and unaccounted-for gas.

Applicant states 3,200 Mcf of gas per day would be utilized to replace fuel oil and the remaining 800 Mcf per day proposed for transportation herein would be utilized to meet Priority 2 requirements.

By certificate issued August 20, 1979, by the Economic Regulatory Commission in Docket No. 79-CERT-070 the use of natural gas to replace fuel oil at Anchor Hocking's Winchester plant was approved up to a maximum of 3,200 Mcf per day, it is stated.

By order issued January 27, 1977, in Docket No. CP77-64 the Commission approved the transportation of up to 790 Mcf of gas per day by Applicant for high-priority uses in Anchor Hocking's Winchester plant for a term of two years, it is asserted. It is stated that the authorization requested herein would permit the continued transportation of these volumes if deliveries of gas to the Winchester plant are curtailed by PEPL.

Applicant states it would not be required to construct any facilities to perform the proposed transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 27, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-4406 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-208]

Consolidated Gas Supply Corp.; Application

February 6, 1980.

Take notice that on January 23, 1980, Consolidated Gas Supply Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP80-208 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, operation, and relocation of certain facilities in West Virginia, and for permission and approval to abandon certain other facilities in West Virginia, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically Applicant proposes to:

(1) Abandon 26.64 miles of Line No. TL-313 in Lincoln, Boone, and Kanawha Counties;

(2) Abandon 24.86 miles of Line No. TL-311 in Roane, Clay and Kanawha Counties;

(3) Abandon 29.16 miles of Line No. H-192 in Calhoun and Gilmer Counties;

(4) Abandon 54.06 miles of Line No. H-162 and 8.82 miles of Line No. H-155 from a point near Cornwell Compressor Station in Kanawha County to Oxford Junction in Doddridge County;

(5) Abandon 1.13 miles of Line No. TL-297, and construct and operate 2.27 miles of Line No. TL-297 and install related heating and regulating facilities on Line No. TL-297, in Gilmer County;

(6) Abandon 3.6 miles of Line No. H-192 in Doddridge County;

(7) Abandon 750 horsepower Iaeger Compressor Station in McDowell County, and relocate one 375 horsepower compressor unit from Iaeger Compressor Station to Madison Compressor Station in Boone County;

(8) Abandon 1,540 horsepower Jackson Compressor Station in Kanawha County, and relocate one 660 horsepower compressor unit from Jackson Station to Cornwell Compressor Station in Kanawha County, and make certain piping changes at the latter station;

(9) Abandon 3,200 horsepower Oxford Compressor Station in Doddridge County, and install gas heating and regulating equipment at the site of the Oxford Station for use in connection with existing facilities, to connect existing Line No. TL-430 with Line No. TL-345, the primary feed for Applicant's Parkersburg, West Virginia, market area;

(10) Abandon one 880 horsepower compressor unit at Madison Compressor Station in Boone County, and replace the same with a 375 horsepower compressor unit to be relocated from Iaeger Compressor Station;

(11) Retain in service 8.84 miles of Line No. H-192 in Ritchie and Doddridge Counties. This portion of Line No. H-192 has been scheduled for abandonment pursuant to the Commission's April 12, 1978, order, as amended, in Docket No. CP78-143;

(12) Convert 5.08 miles of Line No. H-192 in Ritchie County from wet gas

transmission service to dry gas transmission service; and

(13) Maintain 1.15 miles of Line No. TL–371 and 1.16 miles of Line No. TL–345 in Doddridge County for possible future use in emergency service.

Applicant states that the proposed construction, operation, and relocation of facilities is a part of its plan to improve and modernize its low-pressure dry gas transmission system in West Virginia. Applicant further states that the capital cost of the proposed facilities would be $1,707,839, to be financed from funds on hand or from Applicant's parent, Consolidated Natural Gas Company.

It is stated that proposed modifications would provide a more economical, safe and reliable operation of Applicant's facilities and would result in a reduction in Applicant's expenses of approximately $1,442,750 per annum.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 28, 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) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission 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 and permission and approval for the proposed abandonment are 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. 80–4407 Filed 2–8–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ES80–24]

El Paso Electric Co.; Application

February 6, 1980.

Take notice that on January 30, 1980, El Paso Electric Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking permission to negotiate privately the lease financing of a combustion turbine power plant at its Copper Station.

Applicant is incorporated under the laws of Texas with its principal business office at El Paso, Texas, and is engaged in the electric utility business in portions of Texas and New Mexico.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–4408 Filed 2–8–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. RP80–32]

El Paso Natural Gas Co.; Tariff Filing

February 5, 1980.

Take notice that on January 24, 1980, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations Under the Natural Gas Act, Fourth Revised Sheet No. 67–C, Sixth Revised Sheet No. 67–D, First Revised Sheet No. 67–D.1 and Original Sheet No. 67–D.2 to its FERC Gas Tariff, Original Volume No. 1 and Sixth Revised Sheet No. 1–I, First Revised Sheet No. 1–J and First Revised Sheet No. 1–K to its Original Volume No. 2A Tariff, in substitution for their respective counterparts filed with the Commission on November 1, 1979, at Docket Nos. RM79–14 and RP80–32.

El Paso states that on November 1, 1979, it tendered to the Commission certain revised tariff sheets which reflected modifications to the existing Purchased Gas Cost Adjustment ("PGAC") and the PGAC Clean High Pressure Gas ("PGAS-CHPG") provisions, contained in El Paso's Original Volume Nos. 1 and 2A Tariff, respectively, which were required to implement the incremental pricing program established in the Commission's Order No. 49, issued September 28, 1979, at Docket No. RM79–14. Said tariff sheets were conditionally accepted and made effective as of December 1, 1979, by the Commission's "Order Conditionally Accepting Tariff Sheets and Granting Waiver" issued November 30, 1979, at Docket Nos. RP80–39, *et al.*, subject to further review and evaluation of their compliance with said Order No. 49. Such order also directed the Commission's Staff to contact affected pipelines regarding necessary revisions to the filings establishing incremental pricing tariff provisions.[1]

Subsequently, the Commission issued its Order No. 49–A which amended the provisions of Order No. 49 by, *inter alia*, establishing language clarifying certain of the rules and regulations governing the operation of the incremental pricing program. El Paso states that the tendered tariff sheets were submitted n substitution for their respective counterparts filed November 1, 1979, in order to conform its incremental pricing tariff language with the Commission Staff's recommendations and the amended rules and regulations promulgated in Order No. 49–A. El Paso further states that the minor conforming changes reflected on the tendered tariff sheets were made for clarification purposes only and did not fundamentally alter the reduced PGAC methodology and incremental pricing surcharge provisions reflected on El Paso's tariff sheets filed November 1, 1979, and conditionally accepted by the Commission's order issued November 30, 1979, at Docket Nos. RP80–39, *et al.*

El Paso has requested that the

[1] El Paso representatives and the Commission's Staff met on December 12, 1979, and agreed to the modifications to El Paso's FERC Gas Tariff which would be necessary to comply with said Order No. 49.

Commission grant such waiver of its Regulations Under the Natural Gas Act, as may be necessary, in order to accept the tendered tariff sheets in substitution for their respective counterparts filed November 1, 1979, and permit them to become effective as of December 1, 1979, the effective date provided for incremental pricing tariff provisions by Section 282.601(c) of the Commission's Regulations Under the NGPA.

El Paso states that copies of the filing have been served upon all parties of record in Docket No. RP80–32 and upon all of El Paso's interstate transmission system customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before Feb. 20, 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) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commssion and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–4390 Filed 2–8–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP74–192]

Florida Gas Transmission Co.; Staff Visit

February 5, 1980.

Take notice that on February 8, 1980 at 9 a.m. members of the technical staff assigned to the above-referenced proceeding will meet with the Port Director and other employees of the Port Everglades Authority, Port Everglades, Florida 33316. For further information regarding this visit, please contact Leonard Crook, Federal Energy Regulatory Commission, (202) 357–9040.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–4391 Filed 2–8–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER80–213]

Iowa Electric Light & Power Co.; Rate Schedule Changes

February 6, 1980.

The filing Company submits the following:

Take notice that Iowa Electric Light and Power Company (Iowa Electric) on January 31, 1980 tendered for filing with the Federal Energy Regulatory Commission (FERC) proposed changes to its Rate Schedules RES–1 and RES–2 contained within its FERC Electric Service Tariff, Original Volume No. 1. The proposed changes would increase revenues from expected jurisdictional sales by $730,549 for the 12-month period ending June 30, 1979.

Iowa Electric also filed simultaneously with its proposed wholesale electric rate increase a settlement agreement executed by Iowa Electric and its wholesale customers which, if approved by the Commission, would result in an increase in electric rates equal to $547,598.

The reasons for this increase in Iowa Electric's Federal Energy Regulatory Commission jurisdictional rates are increased costs of capital, wages, property and payroll taxes, and fixed costs associated with the placing in service of generating facilities necessary to meet its customers' requirements. The Company contends that increased revenues are necessary to provide a reasonable return to the Company and its investors.

Copies of this filing were served upon the Company's jurisdictional customers and Iowa State Commerce Commission.

Anyone 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 Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.10). All such petitions or protests should be filed on or before February 26, 1980. Protests shall 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 persons 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–4409 Filed 2–8–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. CP75–57]

Kansas-Nebraska Natural Gas Co., Inc.; Petition To Amend

February 6, 1980.

Take notice that on January 17, 1980, Kansas-Nebraska Natural Gas Company, Inc. (Petitioner), P.O. Box 608, Hastings, Nebraska 68901, filed in Docket No. CP75–57 a petition to amend the order issued pursuant to Section 7(c) of the Natural Gas Act on May 11, 1977,[1] in the instant docket so as to authorize an additional delivery point under the Bowdoin exchange agreement between Petitioner and Montana Dakota Utilities Company (MDU), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued May 11, 1977, Petitioner was authorized to exchange, transport, and sell natural gas to MDU in accordance with the Bowdoin agreement between the two companies dated May 10, 1974. Petitioner requests that said order be amended to permit it to receive gas from MDU under the Bowdoin exchange agreement at an additional delivery point immediately upstream of Petitioner's Casper, Wyoming, compressor plant in Natrona County, Wyoming.

MDU has, it is stated, been purchasing gas from the Powell II Unit in Converse County, Wyoming, to supply its intrastate, Sheridan system requirements. The Powell II Unit, it is stated, is capable of producing gas in excess of its Sheridan system requirements and, thus, MDU desires to use those excess volumes to augment its general system supply. It is stated that in order to do so, MDU has made arrangements with Northern Utilities, Inc. (NU) and Petitioner to provide for the transportation and exchange of such gas. Under the arrangement between MDU and NU, it is stated that the excess Powell II gas is to be delivered by MDU to NU's intrastate Northern Pipeline Division line which extends from Billy Creek in Johnson County, Wyoming, to Casper in Natrona County, Wyoming; and NU, pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 and the Commission's Regulations thereunder, is to redeliver equivalent volumes to Petitioner at the existing interconnection of NU's and Petitioner's Casper, Wyoming, compressor plant. It is asserted that the transportation charge incurred by MDU for the delivery of the excess Powell II gas would be passed through to Petitioner. Petitioner

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

further states that MDU would receive from Petitioner in Phillips and Valley Counties, Montana, volumes equivalent to the deliveries of excess Powell II gas pursuant to an amendment to the Bowdoin agreement adding the additional delivery point.

Implementation of the above arrangement would, it is asserted, result in a decrease in the total Bowdoin gas transportation costs which would otherwise be incurred by Petitioner. It is stated that, currently, the Bowdoin gas is delivered by Petitioner in the Bowdoin area of Montana and MDU redelivers, by exchange, Petitioner's share to NU in Fremont County, Wyoming. NU, in turn, it is stated, transports the gas to Petitioner's Casper compressor plant. Petitioner states that with the addition of the new delivery point, a portion of the Bowdoin gas would only be subject to the charge for transporting the excess Powell II gas to the Casper compressor plant which is less than the sum of the MDU charge for redelivering Bowdoin gas in Fremont County and the NU charge for transporting the Bowdoin gas to Casper.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 27, 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) 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-4410 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-209]

Montaup Electric Co.; Filing

February 5, 1980

The filing Company submits the following:

Take notice that on January 29, 1980 Montaup Electric Company ("Montaup") tendered for filing a service agreement between itself and the Town of Mansfield, Massachusetts. The service agreement provides for transmission service under Montaup's FERC Electric Tariff, Original Volume No. II. Montaup states that the service agreement, in the standard tariff format, is intended to cover commitments for transmission service as negotiated from time to time pertaining to specific quantities of power for specific periods. Under the terms of the service agreement, those commitments are to be filed as "Exhibit A's" without the need to modify the service agreement itself. The Exhibit A attached to the service agreement reflects Montaup's agreement to transmit 2000 kW of power purchased by Mansfield from the Massachusetts Municipal Wholesale Electric Company for the period November 1, 1979 through April 30, 1980.

Montaup requests that the service agreement together with the attached Exhibit A be allowed to become effective on November 1, 1979.

Montaup states that copies of its filing were served on Mansfield and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before February 25, 1980, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedures (18 CFR 1.8 or 1.10).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The documents filed by Montaup Electric Company are on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-4395 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP78-78]

Natural Gas Pipeline Co. of America; Proposed Changes in FERC Gas Tariff

February 5, 1980.

Take notice that on January 30, 1980, Natural Gas Pipeline Company of America, (Natural) tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1. Natural states that the proposed changes will make effective Third Revised Sheet No. 118 for the purpose of incorporating the necessary revisions to Natural's PGA tariff clause to permit it to track variations of BTU's related directly to sales. In accordance with Natural's settlement agreement, upon the Commission's approval of the tariff sheet as submitted, Natural will revise, beginning December 1, 1978, its Deferred Purchased Gas Cost Account to reflect the monthly variations in actual BTU sales requirements from that date forward.

Copies of this filing were served upon the company's jurisdictional customers, interested state commissions, and all parties to Docket No. RP78-78.

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 Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 20, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4396 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. ER80- 66, 67, and 68]

New England Power Service; Filing

February 6, 1980.

The filing Company submits the following:

Take notice that on January 29, 1980, New England Power Service (NEP) filed amendments to NEP's FERC Electric Tariff, Original Volume Number 1, pursuant to ordering paragraph (D) of the Commission's Order issued December 31, 1979 in the above-styled proceeding.

Copies of this filing have been sent to all affected companies, and to the regulatory commission's of the states of Massachusetts, New Hampshire, Vermont, and Rhode Island.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., 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 and 1.10). All such

protests should be filed on or before February 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4414 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-204]

Northern Natural Gas Co., Columbia Gas Transmission Corp., and Columbia Gulf Transmission Co.; Application

February 6, 1980.

Take notice that on January 21, 1980, Northern Natural Gas Company (Northern) 2223 Dodge Street, Omaha, Nebraska 68102, Columbia Gas Transmission Corporation (Columbia Gas), 1700 MacCorkle Avenue, S.E., Charlestown, West Virginia 25314, and Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama Avenue, Houston, Texas 77027, filed in Docket No. CP80-204 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants propose to exchange natural gas pursuant to the terms of a gas exchange agreement dated October 31, 1979. Applicants state Northern has obtained a commitment from Texas Gulf, Inc. (Texas Gulf) for its 25 percent interest in natural gas reserves in West Cameron Area Block 405, offshore Louisiana. In addition, according to Applicants, Northern's Exploration and Production Division (E and P) has a 25 percent interest in West Cameron Block 405. It is stated that Northern also has obtained a commitment from Exxon Company, U.S.A. (Exxon) for 50 percent of Exxon's 100 percent interest in natural gas reserves in Vermilion Area Block 372 all of which are located in offshore Louisiana. Applicants state such gas reserves are remote from Northern's system and, therefore, necessitate various transportation and exchange arrangements with other pipeline companies in order to cause delivery of Northern's offshore gas volume to its system in the most economical and efficient manner.

According to Applicants, Columbia Gas has secured the right to purchase gas volumes attributable to Exxon's remaining 50 percent interest in natural gas reserves from Vermilion Block 372.

In accordance with the terms of the exchange agreement, Applicants state, Columbia Gulf would receive for Northern's account at West Cameron Blocks 616 and 630 Northern's West Cameron Block 405 gas; and Columbia Gas would cause delivery of exchange volumes to Northern in Vermilion Area Block 372. The agreement provides for the exchange of up to 20,000 Mcf per day, it is stated. According to Applicants, an imbalance resulting from the herein proposed exchange would be eliminated within 60 days by the respective party delivering or causing to be delivered equivalent quantities of gas at one or more of the balancing points as set forth in the agreement.

It is stated that the proposed exchange would be on an equivalent BTU basis and no monetary consideration would be given by any party for the exchange of gas as described herein.

According to Applicants, the primary term of the proposed exchange would be ten years, and from year to year thereafter.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 28, 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) 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 considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-4413 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-206]

Northern Natural Gas Co.; Application

February 6, 1980.

Take notice that on January 22, 1980, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80-206 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain compressor facilities and for permission and approval to abandon and remove certain compressor facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate four 2,070 horsepower two-stage compressor units at its existing Sublette Compressor Station in Seward County, Kansas. It is stated that two of the 2,070 horsepower units are needed to provide the necessary horsepower to achieve lower line pressure, such reduced pressure being necessary to maintain production delivery capability from within the Sublette Field gathering system. Applicant states that the compressor addition would compress gas produced from 216 wells located within the Sublette Field gathering system. Applicant further states that the volumes presently produced are being compressed by five 1,034 horsepower units and one 157 horsepower unit at the Sublette Compressor Station and discharged into Applicant's "A" mainline. It is stated that the gradual decline in flowing wellhead pressure necessitates the lowering of the gathering line's pressure in order to maintain delivery from such wells.

Applicant states that the proposed compressor addition would lower the Sublette Field gas pressure to a level which would allow for a peak day delivery capability of 68,200 Mcf of natural gas, thus assisting in maintenance of delivery capability from the subsystem. Applicant further states that the operation of the proposed

Sublette Compressor Station addition would prevent a production decline of 14,100 Mcf per day for the 1980–1981 heating season.

It is stated that the cost of the proposed facilities would be $8,927,600, which sum would be financed from funds on hand.

Applicant states that due to the inability of the existing compressor units to achieve the above-stated goals, Applicant proposes to abandon and remove from its Sublette Compressor Station the five existing 1,034 horsepower units. It is further stated that the 157 horsepower unit would be relocated under Applicant's budget authority.

Applicant states that the cost of removing said facilities would be $106,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 28, 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) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission 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 and permission and approval for the proposed abandonment are 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. 80-4412 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-203]

Northern Natural Gas Co.; Application

February 6, 1980.

Take notice that on January 21, 1980, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP80-203 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to continue operation of certain sales measuring facilities to serve as an additional point of delivery to Wisconsin Gas Company (Wisconsin Gas) in Jackson County, Wisconsin, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that on November 8, 1979, it commenced the emergency operation of a sales measuring station on its 6-inch branch line located in Jackson County, Wisconsin, in order to continue natural gas service to Wisconsin Gas for the community of Black River falls, Wisconsin, pursuant to Section 157.47 of the Regulations under the Natural Gas Act.

Applicant asserts that such action was necessitated by plans to demolish the Black River bridge because distribution facilities of Wisconsin Gas which serve the community of Black River Falls are located on both the east and west sides of the river, and are connected by a distribution line spanning the river via the Black River bridge. Applicant states that it provides the sale and delivery of gas to Wisconsin Gas through the facilities of Black River Falls TBS No. 1, which is located west of the river.

It is stated that Applicant commenced the emergency operation of said sales measuring station in order to maintain continuity of service to Wisconsin Gas with regard to its Black River Falls service area located east of the river. Applicant proposes, pursuant to a request of Wisconsin Gas to retain said sales measuring station as a permanent point of delivery to serve that part of Wisconsin Gas' distribution system located east of the river. It is further stated that such authorization would obviate Wisconsin Gas' need to increase the expense of reconnecting its distribution system on the east side of the river to its distribution system served by the Black River Falls TBS No. 1 on the west side of the river once the new Black River bridge has been constructed.

It is stated that volumes of natural gas to be provided through the subject facilities would be served out of Wisconsin Gas' presently effective contract demand.

It is further stated that the cost of the proposed facilities would be $80,920, of which Wisconsin Gas would reimburse Applicant the total actual cost of construction.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 28, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jursidiction 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. 80-4370 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-210]

Northern States Power Co.; Filing

February 5, 1980.

Take notice that Northern States Power Company (NPS) tendered for filing on January 28, 1980 supplement No. 8 to FERC No. 52 to the agreement dated June 1, 1970 between NSP and the Village of Trempealeau.

NPS states that the Village of Trempealeau recently changed the distribution voltage of their system from 2,400 volts to 4,160 volts. NPS further states that the point of delivery was also changed at this time.

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 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 February 25, 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. 80-4397 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Project 2993]

Ohio Edison Co.; Application for Preliminary Permit

February 6, 1980.

Take notice that an application was filed on November 5, 1979, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, by the Ohio Edison Company for a preliminary permit. The project is to be known as the Willow Island Hydroelectric Project, located at the U.S. Army Corps of Engineers' Willow Island Locks and Dam, on the Ohio River at river mile 161.7, in Pleasants County, West Virginia. Correspondence with the Applicant on this matter should be addressed to: Mr. Lynn Firestone, Senior Vice President, Ohio Edison Company, 76 South Main Street, Akron, Ohio 44308.

Purpose of Project—Project energy will be utilized in the Applicant's electric distribution system and sold to public utility customers in the service area.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geologic investigations, negotiate with the U.S. Army Corps of Engineers for water rights at the project, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be less than $400,000.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Willow Island Locks and Dam on the Ohio River.

The project would consist of: (1) a powerhouse to be located at the east (left) abutment of the existing dam; (2) two or three turbine-generator units installed in the powerhouse with a proposed generating capacity between 30 MW and 50 MW; (3) an approach channel; (4) a tailrace channel; (5) a training wall which may be necessary to prevent currents or eddies downstream caused by power plant discharge; (6) an outdoor equipment erection pad; (7) a transformer/switching area; (8) improved recreational facilities; and (9) appurtenant facilities. The existing upper pool elevation is 602.0 feet m.s.l., and tailwater elevation is a minimum of 582.0 feet m.s.l., providing a maximum available head of 20 feet. Applicant estimates the annual generation would average about 192,500,000 kWh.

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 power, and all other necessary information 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 a 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 April 11, 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 June 10, 1980. A notice of intent must conform with the requirements of 18 C.F.R. 4.33(b) and (c), (*as amended,* 44 *Fed. Reg.* 61328, October 25, 1979). A competing application must conform with the requirements of 18 C.F.R., 4.33 (a) and (d), (*as amended,* 44 *Fed. Reg.* 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 comment, protest, or petition to intervene must be filed on or before April 11, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4371 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Project 2989]

Ohio Edison Co.; Application for Preliminary Permit

February 6, 1980.

Take notice that an application was filed on November 5, 1979, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, by the Ohio Edison Company for a preliminary permit. The project is to be known as the Hannibal Hydroelectric Project, located at the U.S. Army Corps

of Engineers' Hannibal Locks and Dam, on the Ohio River at river mile 126.4, in the City of New Martinsville, in Wetzel County, West Virginia. Correspondence with the Applicant on this matter should addressed to: Mr. Lynn Firestone, Senior Vice President, Ohio Edison Company, 76 South Main Street, Akron, Ohio 44308

Purpose of Project—Project energy will be utilized in the Applicant's electric distribution system and sold to public utility customers in the service area.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geologic investigations, negotiate with the U.S. Army Corps of Engineers for water rights at the project, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be less than $400,000.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Hannibal Locks and Dam on the Ohio River.

The project would consist of: (1) a powerhouse to be located at the east (left) abutment of the existing dam; (2) two or three turbine-generator units installed in the powerhouse with a proposed generating capacity between 3 MW and 50 MW; (3) an approach channel; (4) a tailrace channel; (5) a training wall which may be necessary to prevent currents or eddies downstream caused by power plant discharge; (6) an outdoor equipment erection pad; (7) a transformer/switching area; (8) improved recreational facilities; and (9) appurtenant facilities. The existing upper pool elevation is 623.0 feet m.s.l., and tailwater elevation is a minimum of 602.0 feet m.s.l., providing a maximum available head of 21 feet. Applicant estimates the annual generation would average about 230,000,000 kWh.

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 power, and all other necessary information 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 a 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 April 14, 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 June 13, 1980. A notice of intent must conform with the requirements of 18 C.F.R. 4.33(b) and (c), (*as emended*, 44 *Fed. Reg.* 61328, October 25, 1979). A competing application must conform with the requirements of 18 C.F.R., 4.33 (a) and (d), (*as amended*, 44 *Fed. Reg.* 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 comment, protest, or petition to intervene must be filed on or before April 14, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4372 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Project 2992]

Ohio Edison Co.; Application for Preliminary Permit

February 6, 1980.

Take notice that an application was filed on November 5, 1979, under the Federal Power Act, 16 U.S.C. §§ 791a–825r, by the Ohio Edison Company for a preliminary permit. The project is to be known as the Belleville Hydroelectric Project, located at the U.S. Army Corps of Engineers' Belleville Locks and Dam, on the Ohio River at river mile 203.9, in Wood County, West Virginia. Correspondence with the Applicant on this matter should be addressed to: Mr. Lynn Firestone, Senior Vice President, Ohio Edison Company, 76 South Main Street, Akron, Ohio 44308.

Purpose of Project—Project energy will be utilized in the Applicant's electric distribution system and sold to public utility customers in the service area.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geologic investigations, negotiate with the U.S. Army Corps of Engineers for water rights at the project, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be less than $400,000.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Belleville Locks and Dam on the Ohio River.

The project would consist of: (1) a powerhouse to be located at the east (left) abutment of the existing dam; (2) two or three turbine-generators units installed in the powerhouse with a proposed generating capacity between 33 MW and 50 MW; (3) an approach channel; (4) a tailrace channel; (5) a training wall which may be necessary to prevent currents or eddies downstream

caused by power plant discharge; (6) an outdoor equipment erection pad; (7) a transformer/switching area; (8) improved recreational facilities; and (9) appurtenant facilities. The existing upper pool elevation is 582.0 feet m.s.l., and tailwater elevation is a minimum of 560.0 feet m.s.l., providing a maximum available head of 22 feet. Applicant estimates the annual generation would average about 255,000,000 kWh.

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 power, and all other necessary information 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 a 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 April 11, 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 June 10, 1980. 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 comment, protest, or petition to intervene must be filed on or before April 11, 1980. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4373 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-200]

Oklahoma Natural Gas Co.; Application

February 6, 1980.

Take notice that on January 11, 1980,[1] Oklahoma Natural Gas Company (Applicant), 624 South Boston Avenue, Tulsa, Oklahoma 74119, filed in Docket No. CP80-200 an application pursuant to Section 7(c) of the Natural Gas Act and Section 284.222 of the Commission's Regulations for a certificate of public convenience and necessity for blanket authorization to transport, sell and assign natural gas in interstate commerce just as if Applicant were an intrastate pipeline as defined in the Natural Gas Policy Act of 1978 (NGPA), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to transport, sell and assign natural gas in interstate commerce just as if Applicant were an intrastate pipeline as defined in the Natural Gas Policy Act of 1978 (NGPA) and able to make transportation, sales and assignments under Section 311 and Section 312 of the NGPA pursuant to the Commission's Order No. 63 issued January 3, 1980, in Docket No. RM79-24.

Applicant states that on three different occasions it has received a declaration that, with respect to specific facilities and services found to be relevant, it was exempt from the Commission's jurisdiction under Section 1(c) of the Natural Gas Act as follows:

1. Oklahoma Natural Gas Company, 33 FPC 1137 (1965);
2. Oklahoma Natural Gas Company, 44 FPC 270 (1970);
3. Oklahoma Natural Gas Company, order issued May 10, 1976, in Docket No. CP76-23, *et al.* 44 FPC ——.

Applicant asserts that for the 12-month period ending November 30, 1979, Applicant purchased within or at the state boundaries of Oklahoma from interstate pipelines 836,000 Mcf, the receipt of such gas being exempt from Commission jurisdiction by virtue of Section 1(c) of the Natural Gas Act, and for this same period, Applicant purchased 339,999,000 Mcf of gas from all sources of supply.

Applicant states that it would comply with Section 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 20, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its 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

[1] The application was initially tendered for filing on January 11, 1980; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until January 21, 1980; thus, the filing was not completed until the later date.

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4379 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER-80-215]

Pacific Gas & Electric Co.; Proposed Changes in Rates and Charges

February 6, 1980.

The filing Company submits the following:

Take notice that on January 31, 1980, Pacific Gas and Electric Company (PGandE) tendered for filing proposed changes in its Rate Schedule FPC No. 53 contained in its FPC Electric Tariff Original Volume No. 1. PGandE states that the rates and charges proposed in the filing are the result of settlement negotiations between PGandE and its customer under Rate Schedule FPC No. 53, City and County of San Francisco. The proposed changes would increase revenues from jurisdictional sales and service by $1,321,000 based on the 12 month estimated test period ending December 31, 1980.

Copies of the filing were served upon the Public Utilities Commission of the City and County of San Francisco and the California Public Utilities 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, 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 February 26, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4375 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER-80-214]

Pacific Gas & Electric Co.; Proposed Changes in Rates and Charges

February 6, 1980.

The filing Company submits the following:

Take notice that on January 31, 1980, Pacific Gas and Electric Company (PGandE) tendered for filing a notice of change in rates and charges of certain electric resale rate schedules under its FPC Electric Tariffs, Original Volumes Nos. 1 and 2. The proposed changes would increase revenues from jurisdictional sales and service by $3,472,000 based on the 12 month estimated test period ending December 31, 1980. The proposed effective date for the increased rates is April 1, 1980.

Copies of the filing were served upon PGandE's jurisdictional customers, the California Public Utilities Commission and the Public Service Commission of Nevada.

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, 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 February 26, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4376 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. ER79-478 and ER79-479]

Public Service Co. of New Mexico; Filing

February 5, 1980.

The filing company submits the following:

Take notice that on or about January 17, 1980, Public Service Company of New Mexico (PNM) submitted a revised filing pursuant to the Commission's Order issued December 18, 1979 and the Errata Notice issued January 7, 1980 in the above styled proceeding.

Copies of this filing have been mailed to the affected parties.

Any person desiring to be heard or to protest said filing should file a 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 and 1.10). All such protests should be filed on or before February 25, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-4398 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RA80-9]

Southland Oil Co./VSG Corp.; Filing of Petition for Review Under 42 U.S.C. 7194

Issued: February 4, 1980.

Take notice that Southland Oil Company/VSG Corporation on January 25, 1980 filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before February 22, 1980 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement and Litigation, Department of Energy, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4382 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. EL80-5]

Town of Springfield, Vt. v. Central Vermont Public Service Corp.; Extension of Time

February 5, 1980.

On January 21, 1980, Central Vermont Public Service Corporation filed a request for an extension of time to respond to a Motion for Summary Judgment filed January 15, 1980, by the

Town of Springfield, Vermont, in the above-docketed proceeding. In its motion for an extension of time, Central Vermont Public Service Corporation states that additional time is needed because the Motion for Summary Judgment raises factual as well as legal issues which cannot be analyzed in the established time period.

Upon consideration, notice is hereby given that an extension is granted to and including February 13, 1980, for the filing of responses to the Motion for Summary Judgment.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-4399 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-17 (AP80-2)]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 5, 1980.

Take notice that Texas Eastern Transmission Corporation on January 30, 1980 tendered for filing as a part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets:

Fifty-third Revised Sheet No. 14
Fifty-third Revised Sheet No. 14A
Fifty-third Revised Sheet No. 14B
Fifty-third Revised Sheet No. 14C
Fifty-third Revised Sheet No. 14D

Texas Eastern is reducing its rates pursuant to Article V of the Stipulation and Agreement submitted to the Commission on May 20, 1976 under Docket No. RP75-73, as modified and accepted by Commission Orders issued June 6, 1977 and August 1, 1977. According to the terms and conditions of Article V of the Stipulation and Agreement in Docket No. RP75-73, Texas Eastern is required to file any rate reduction pursuant to this article within thirty days after the month in which the rate reduction obligation occurs. This filing is based on the balance of advance payments outstanding as of December 31, 1979.

The proposed effective date of the above tariff sheets is March 1, 1980.

Copies of the filing were served on 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, N.E., Washington, DC 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 *Feb. 20, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4400 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TA80-1-29 (PGA80-2, IPR80-2, DCA80-1 and LFUT80-1)]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

February 5, 1980.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on January 30, 1980 Seventeenth Revised Sheet No. 12, Seventeenth Revised Sheet No. 15 and First Revised Sheet No. 16 to Second Revised Volume No. 1, and Twenty-Third Revised Sheet No. 121 to Original Volume No. 2 of Transco's FERC Gas Tariff. These tariff sheets, which are proposed to be effective March 1, 1980, reflect a net increase of 49.0¢ per dekatherm (dt) in the commodity or delivery charge of Transco's CD, G, OG, E, PS and S-2 rate schedules, an increase of 49.4¢ per dt in the commodity charge under the ACQ rate schedule, and an increase of 0.1¢ per dt in the delivery charge of the X-20 rate schedule.

Transco states that these changes have been computed in accordance with the tracking provisions contained in the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. The tracking rate change under the PGA clause (Secion 22) amounts to an increase of 48.9¢ per dt in the commodity or delivery charge in Transco's CD, G, OG, E, PS, S-2 and ACQ rate schedules. The tracking rate change to reflect curtailment credits (Section 20) is a decrease of 0.4¢ per dt in the commodity or delivery charge under Transco's CD, G, OG, E, PS, S-2 and X-20 rate schedules. The tracking rate change for Louisiana First Use Tax (Section 25) is an increase of 0.5¢ per dt in the commodity or delivery charge of Transco's CD, G, OG, E, PS, S-2, ACQ and X-20 rate schedules.

The Company states that copies of the filing are being mailed to each of its 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, N.E., 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 petition or protests should be filed on or before February 20, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4401 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP80-195]

Trunkline Gas Co.; Application

February 6, 1980.

Take notice that on January 17, 1980, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP80-195 an application pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation of natural gas under a transportation contract between Applicant and Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a transportation agreement between Applicant and Panhandle dated January 15, 1980, Applicant states it has agreed to transport for Panhandle from the point of receipt in East Cameron Block 353, offshore Louisiana, to the existing point of redelivery at the interconnection of Applicant's and Panhandle's facilities in Douglas County, Illinois, up to 1,500 Mcf of gas per day on a firm basis. Columbia Gas Transmission Corporation (Columbia Gas) and Columbia Gulf Transmission Company (Columbia Gulf) would, it is stated, exchange the volumes of natural gas delivered by Applicant to the pipeline system jointly owned by Columbia Gulf and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), in West Cameron Block 601 to Stingray Pipeline Company (Stingray). Stingray would then deliver the gas to the interconnection between Stingray and High Island Offshore System (HIOS) in High Island Block A-330 for the account of Applicant, it is stated.

Applicant states that it has obtained transportation capacity as follows which may be used to transport volumes

for Panhandle as proposed herein: (1) Applicant has arranged for pipeline capacity in HIOS and U–T Offshore System (U–TOS); and (2) Applicant has arranged with Natural Gas Pipeline Company of America (Natural) to transport volumes of gas from the onshore terminus of U–TOS to Applicant's onshore facilities. Applicant further states that it has agreed to redeliver a daily quantity of gas equal to the quantity received by Applicant less 5 percent of the volumes delivered for fuel use and line loss.

For the proposed transportation service, it is stated, Panhandle would pay Applicant a monthly charge of $25,737.

The monthly charge is based on a daily transportation quantity of 1,500 Mcf. The monthly charge would be 56.40 cents for each Mcf above or below 1,500 which Applicant takes or fails or is unable to take on any day or days. The monthly charge is further subject to increase or decrease pursuant to any change in rates paid by Applicant to HIOS, U–TOS, Natural or others; increase or decrease pursuant to a rate proceeding of Applicant; increase upon installation of facilities to maintain capacity or to provide transportation for Panhandle hereunder; or decrease in the transportation quantity nominated by Panhandle under the transportation agreement, it is stated.

Applicant states that approval of this application would enable it to assist Panhandle in moving its East Cameron Block 353 gas supplies to the interstate market and facilitate such sales by Panhandle.

It is asserted that the term of the transportation agreement is ten years from the date of first delivery and year to year thereafter. It is further asserted that Panhandle may reduce the daily transportation quantity six months prior to the end of the first five years of the transportation agreement, but such reduction shall not be less than 50 percent of the daily transportation quantity in effect at the date such reduction is made.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 27, 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) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80–4377 Filed 2–8–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER80–212]

Union Electric Co.; Revised Service Schedules

February 6, 1980.

The filing Company submits the following: Take notice that on January 30, 1980 Union Electric Company (Union) tendered for filing Sixth Revised Service Schedules, C, E, and F to the Interconnection Agreement dated February 18, 1972 between Union, Central Illinois Public Service Company and Illinois Power Company.

Union indicates that said Revised Service Schedules revise the reservation charges for Maintenance, Short-term Non-firm, and Short-term Firm Power transactions.

Union requests an effective date of April 1, 1980 for the Revised Service Schedules.

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 Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 DFT 1.8, 1.10). All such petitions or protests should be filed on or before February 26, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–4378 Filed 2–8–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER80–219]

Union Electric Co.; Filing

February 6, 1980.

The filing Company submits the following: Take notice that on January 31, 1980, Union Electric Company (Union) tendered for filing a Letter Agreement revising the reservation charge for Maintenance Energy Transactions under the Interconnection Agreement dated November 1, 1969 between the Tennessee Valley Authority and Central Illinois Public Service Company, Illinois Power Company, and Union.

Union indicates that the Letter Agreement provides for an increase in the reservation charge for Maintenance Energy Transactions and that the proposed reservation charge was arrived at through negotiations.

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 should be filed on or before February 26, 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 available for public inspection at the Federal Energy Regulatory Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–4379 Filed 2–8–80; 8:45 am]

BILLING CODE 6450–01–M

[Docket Nos. RP74-20, etc.]

United Gas Pipe Line Co., Interest Reimbursement; Granting Further Extension of Time

February 4, 1980.

On November 16, 1979, Commission Staff Counsel filed a motion to suspend procedural dates in this proceeding for an indefinite period of time because of certain remanded advance payment cases and a petition for a writ of certiorari which has been filed with the Supreme Court.

United's answer to Staff's motion states that if briefing dates were suspended, the Commission should also suspend the interest which would otherwise continue to accrue on any sums United may finally be ordered to refund.

Since no action has yet been taken on these filings, a further limited extension of time will be granted. The date for filing briefs on exceptions is extended to and including April 4, 1980. Briefs opposing exceptions will be due on or before April 24, 1980.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-4381 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-218]

West Texas Utilities Co.; Rate Schedule Changes

February 6, 1980.

The filing Company submits the following: Take notice that West Texas Utilities Company ("WTU") on January 31, 1980, tendered for filing Supplement No. 1 to its FERC Electric Rate Schedule No. 40, relating to the provision of wholesale electric service to the City of Coleman, Texas, and Supplement No. 1 to its FERC Rate Schedule No. 42, relating to the provision of wholesale electric service to the City of Brady, Texas.

The Cities of Coleman and Brady have informed WTU of their need to perform extraordinary maintenance on their respective generating plants during the spring of 1980. Such maintenance will result in the Cities' purchasing increased power and energy from WTU from time to time during such period. The filed supplements to Rate Schedule Nos. 40 and 42 provide, in effect, that the peak demands of the respective Cities during the months of January through May of 1980, inclusive, will be disregarded in establishing the additional capacity commitments of the Cities under said rate schedules in succeeding months.

WTU also states that a copy of the complete filing was served on the City of Coleman, Texas and the City of Brady, Texas and on the Public Utilities Commission of Texas.

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 Procedures (18 C.F.R. 1.8, 1.10). All such petitions or protest should be filed on or before February 26, 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 the application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-4380 Filed 2-8-80; 8:45 am]

BILLING CODE 6450-01-M

[No. 144]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

January 30, 1980.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

California Department of Conservation, Division of Oil and Gas

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-12265/79-1-0001
2. 04-037-21991-0000
3. 103 000 000
4. Exxon Corporation
5. City of Long Beach No. 58
6. Long Beach
7. Los Angeles CA
8. 17.0 million cubic feet
9. January 7, 1980
10.

Indiana Department of Natural Resources, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-12295
2. 13-051-00000-0000
3. 102 000 000
4. Ram Oil Company
5. John Braselton No. 1
6. North Owensville
7. Gibson IN
8. 2.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80-12296
2. 13-051-00000-0000
3. 102 000 000
4. Ram Oil Company
5. John Braselton No. 2
6. North Owensville
7. Gibson IN
8. 2.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80-12297
2. 13-051-00000-0000
3. 102 000 000
4. Ram Oil Company
5. John Braselton No. 3
6. North Owensville
7. Gibson IN
8. 4.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80-12298
2. 13-051-00000-0000
3. 102 000 000
4. Ram Oil Company
5. John Braselton No. 4
6. North Owensville
7. Gibson IN
8. 4.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80-12299
2. 13-051-00000-0000
3. 102 000 000
4. Ram Oil Company
5. Rosa Braselton Heirs No. 1
6. North Owensville
7. Gibson IN
8. 15.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80-12300
2. 13-051-00000-0000
3. 102 000 000
4. Ram Oil Company
5. Rosa Braselton Heirs No. 2
6. North Owensville
7. Gibson IN
8. 15.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80-12301
2. 13-051-00000-0000
3. 102 000 000
4. Ram Oil Company
5. Dunigan A 1
6. North Owensville

7. Gibson IN
8. 3.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80–12302
2. 13–051–00000–0000
3. 102 000 000
4. Ram Oil Company
5. Dunigan A 2
6. North Owensville
7. Gibson IN
8. 3.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80–12303
2. 13–051–00000–0000
3. 102 000 000
4. Ram Oil Company
5. Dunigan A 3
6. North Owensville
7. Gibson IN
8. 3.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80–12304
2. 13–051–00000–0000
3. 102 000 000
4. Ram Oil Company
5. Dunigan A 5
6. North Owensville
7. Gibson IN
8. .0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80–12305
2. 13–051–00000–0000
3. 102 000 000
4. Ram Oil Company
5. Robert Haase No. 1
6. North Owensville
7. Gibson IN
8. 1.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80–12306
2. 13–051–00000–0000
3. 102 000 000
4. Ram Oil Company
5. Robert Haase No. 3
6. North Owensville
7. Gibson IN
8. 3.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80–12307
2. 13–051–00000–0000
3. 102 000 000
4. Ram Oil Company
5. Robert Haase No. 5
6. North Owensville
7. Gibson IN
8. 2.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80–12308
2. 13–051–00000–0000
3. 102 000 000
4. Ram Oil Company
5. M KOLB No. 1
6. North Owensville
7. Gibson IN
8. 1.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80–12309
2. 13–051–00000–0000
3. 102 000 000
4. Ram Oil Company
5. M KOLB No. 2
6. North Owensville
7. Gibson IN
8. 1.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80–12310
2. 13–051–00000–0000
3. 102 000 000
4. Ram Oil Company
5. M KOLB No. 3
6. North Owensville
7. Gibson IN
8. 1.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80–12311
2. 13–051–00000–0000
3. 102 000 000
4. Ram Oil Company
5. M KOLB No. 4
6. North Owensville
7. Gibson IN
8. 2.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80–12312
2. 13–051–00000–0000
3. 102 000 000
4. Ram Oil Company
5. M KLOB No. 5
6. North Owensville
7. Gibson IN
8. 1.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80–12313
2. 13–051–00000–0000
3. 102 000 000
4. Ram Oil Company
5. M KOLB No. 6
6. North Owensville
7. Gibson IN
8. 6.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80–12314
2. 13–051–00000–0000
3. 102 000 000
4. Ram Oil Company
5. M Kolb #7
6. North Owensville
7. Gibson, IN
8. 1.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80–12315
2. 13–051–00000–0000
3. 102 000 000
4. Ram Oil Company
5. M Kolb #8
6. North Owensville
7. Gibson, IN
8. 2.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80–12316
2. 13–051–00000–0000
3. 102 000 000
4. Ram Oil Company
5. M Kolb #9
6. North Owensville
7. Gibson, IN
8. 1.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80–12317
2. 13–051–00000–0000
3. 102 000 000
4. Ram Oil Company
5. M Kolb #10
6. North Owensville
7. Gibson, IN
8. 1.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80–12318
2. 13–051–00000–0000
3. 102 000 000
4. Ram Oil Company
5. M Kolb #11
6. North Owensville
7. Gibson, IN
8. 2.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80–12319
2. 13–051–00000–0000
3. 102 000 000
4. Ram Oil Company
5. P Massey 1R (Pooled Unit)
6. North Owensville
7. Gibson, IN
8. 3.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80–12320
2. 13–051–00000–0000
3. 102 000 000
4. Ram Oil Company
5. Flora Mounts 1R (Pooled Unit)
6. North Owensville
7. Gibson, IN
8. 5.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

1. 80–12321
2. 13–051–00000–0000
3. 102 000 000
4. Ram Oil Company
5. Flora Mounts 2R (Pooled Unit)
6. North Owensville
7. Gibson, IN
8. 5.0 million cubic feet
9. January 14, 1980
10. Crystal Oil Company

Kansas Corporation Commission

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–12365/K–78–0047
2. 15–019–21071–0000
3. 102 000 000
4. Ramoil
5. Rogers B #1
6. Oliver Ext
7. Chautauqua, KS
8. 730.0 million cubic feet
9. January 18, 1980

10. Gas Associated Systems Inc
1. 80–12366/K–78–0033
2. 15–035–21725–0000
3. 102 000 000
4. Petroleum Enterprises
5. Collinson B #3
6. Posey
7. Cowley, KS
8. 27.5 million cubic feet
9. January 18, 1980
10. Colonial Corp
1. 80–12367/K–78–0036
2. 15–035–21724–0000
3. 102 000 000
4. Petroleum Enterprises
5. Grover Collinson #7
6. Posey
7. Cowley, KS
8. 58.4 million cubic feet
9. January 18, 1980
10. Colonial Corp

Michigan Department of Natural Resources

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80–12266
2. 21–137–00000–0000
3. 107 000 000
4. Janet Allen Fruehauf
5. Ausable No #6
6. Ausable
7. Otsego, MI
8. 8.7 million cubic feet
9. January 7, 1980
10. Michigan Consolidated Gas Co
1. 80–12267
2. 21–137–00000–0000
3. 107 000 000
4. Janet Allen Fruehauf
5. Ausable No #8
6. Ausable
7. Otsego, MI
8. 30.0 million cubic feet
9. January 7, 1980
10. Michigan Consolidated Gas Co
1. 80–12268
2. 21–137–00000–0000
3. 107 000 000
4. Janet Allen Fruehauf
5. Ausable No #9
6. Ausable
7. Otsego, MI
8. 37.5 million cubic feet
9. January 7, 1980
10. Michigan Consolidated Gas Co

Montana Board of Oil and Gas Conservation

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80–12264/237
2. 25–071–21326–0000
3. 108 000 000
4. Midlands Gas Corporation
5. 1661–1 State
6. Bowdoin
7. Phillips, MT
8. 21.0 million cubic feet
9. January 14, 1980
10. Kansas-Nebraska Natural Gas Co Inc

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80–12361
2. 30–025–00000–0000
3. 103 000 000
4. Holly Energy Inc
5. Pogo State No. 1
6. (Wildcat)
7. Lea, NM
8. 182.5 million cubic feet
9. January 18, 1980
10. Conoco Inc
1. 80–12362
2. 30–005–20687–0000
3. 103 000 000
4. Union Oil Company of Calif
5. Tom 36 State #2
6. Tomahawk San Andres
7. Chaves, NM
8. 8.0 million cubic feet
9. January 18, 1980
10.
1. 80–12363
2. 30–045–07859–0000
3. 108 000 000
4. Estate of Roy L. Cook
5. Sullivan #3 429N11W25E00FT
6. Aztec Fruitland
7. San Juan, NM
8. 11.5 million cubic feet
9. January 18, 1980
10. El Paso Natural Gas Co
1. 80–12364
2. 30–025–26490–0000
3. 103 000 000
4. John Yuronka
5. Harrison A #2
6. Langlie Mattix
7. Lea, NM
8. 34.0 million cubic feet
9. January 18, 1980
10. El Paso Natural Gas Company

Oklahoma Corporation Commission

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10.
1. 80–12212/01029
2. 35–111–20461–0000
3. 108 000 000
4. Tamarack Petroleum Company Inc
5. Kerr #1
6. Henryetta District
7. Okmulgee, OK
8. 12.0 million cubic feet
9. January 11, 1980
10. Phillips Petroleum Company
1. 80–12213/01131
2. 35–047–00000–0000
3. 108 000 000
4. Harper Oil Company
5. R T Spohrer 2
6. S E Lahoma
7. Garfield, OK
8. 4.0 million cubic feet
9. January 11, 1980
10. Exxon Company USA
1. 80–12214/01367
2. 35–061–20208–0000
3. 102 000 000
4. Service Drilling Co
5. Kirk #1–7
6. West Stigler
7. Haskell, OK
8. 737.0 million cubic feet
9. January 11, 1980
10. Delhi Gas Pipeline Company Columbia Gas Transmission Corp Tennessee Gas Pipeline Co
1. 80–12215/01364
2. 35–061–20207–0000
3. 102 000 000
4. Service Drilling Co
5. Cantrell #1–9
6. West Stigler
7. Haskell, OK
8. 942.0 million cubic feet
9. January 11, 1980
10. Delhi Gas Pipeline Company Columbia Gas Transmission Corp Tennessee Gas Pipeline Co
1. 80–12216/01361
2. 35–061–20195–0000
3. 102 000 000
4. Service Drilling Co
5. Whitefield #1–13
6. West Stigler
7. Haskell, OK
8. 1360.0 million cubic feet
9. January 11, 1980
10. Delhi Gas Pipeline Company Columbia Gas Transmission Corp Tennessee Gas Pipeline Co
1. 80–12217/01350
2. 35–061–20220–0000
3. 102 000 000
4. Service Drilling Co
5. Holden #1–12
6. West Stigler
7. Haskell, OK
8. 1090.0 million cubic feet
9. January 11, 1980
10. Delhi Gas Pipeline Company Columbia Gas Transmission Corp Tennessee Gas Pipeline Co
1. 80–12218/00823
2. 35–017–20791–0000
3. 103 000
4. Kaiser Francis Oil Company
5. Kitson #1
6. E Lookeba
7. Canadian, OK

8. .0 million cubic feet
9. January 11, 1980
10. Michigan Wisconsin Pipeline Company

1. 80–12219/01331
2. 35–121–20558–0000
3. 103 000 000
4. Gadsco Inc
5. Dominic Silva #1–(BD)
6. Se Reams
7. Pittsburg, OK
8. 140.0 million cubic feet
9. January 11, 1980
10. Arkansas Louisiana Gas Company

1. 80–12220/01129
2. 35–047–21698–0000
3. 103 000 000
4. Harper Oil Company
5. Noble Long A–2
6. Sooner Trend
7. Garfield, OK
8. 44.0 million cubic feet
9. January 11, 1980
10. Exxon Corporation. Arkansas La. Gas Co

1. 80–12221/01076
2. 35–015–00000–0000
3. 103 000 000
4. Natomas North America, Inc
5. Cantrell Unit #1
6. Bridgeport
7. Caddo, OK
8. 100.0 million cubic feet
9. January 11, 1980
10. Public Service Company of Oklahoma

1. 80–12222/00545
2. 35–130–00000–0000
3. 108 000 000
4. Getty Oil Company
5. A D Lewter No. 1
6. Guymon Hugoton
7. Texas, OK
8. 16.0 million cubic feet
9. January 11, 1980
10. Cities Service Gas Company

1. 80–12223/01264
2. 35–007–00000–0000
3. 108 000 000
4. Crawley Petroleum Corporation
5. Gray Unit L
6. Camerick-Morrow
7. Beaver, OK
8. .0 million cubic feet
9. January 11, 1980
10. Natural Gas Pipeline Company of AME

1. 80–12224/01290
2. 35–007–21549–0000
3. 102 000 000
4. Natural Gas Anadarko, Inc
5. Mathis #1–5
6.
7. Beaver, OK
8. 100.0 million cubic feet
9. January 11, 1980
10. Panhandle Eastern Pipeline Company

1. 80–12225/00739
2. 35–007–21519–0000
3. 102 000 000
4. Natural Gas Anadarko, Inc
5. Sager #1–34
6.
7. Beaver, OK
8. 400.0 million cubic feet
9. January 11, 1980
10. Northern Natural Gas Company

1. 80–12226/001221
2. 35–059–20635–0000
3. 103 000 000
4. Arco Oil and Gas Company
5. Canfield Gas Unit Well No. 2
6. N W Lovedale
7. Harper, OK
8. 16.4 million cubic feet
9. January 11, 1980
10. Cities Service Gas Co

1. 80–12227/00857
2. 35–045–20690–0000
3. 103 000 000
4. Tenneco Oil Company
5. J W Dunn 2–12
6. Peek South
7. Ellis, OK
8. 110.0 million cubic feet
9. January 11, 1980
10. Panhandle Eastern Pipeline Co

1. 80–12228/00754
2. 35–007–21328–0000
3. 102 000 000
4. Natural Gas Anadarko Inc
5. Mansfield A #1–25
6.
7. Beaver, OK
8. 600.0 million cubic feet
9. January 11, 1980
10. Northern Natural Gas Company

Texas Railroad Commission, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10.Purchaser(s)

1. 80–12322/10060
2. 42–389–00000–0000
3. 108 000 000
4. Continental Oil Company
5. Ford-Geraldine Unit No 237
6. Geraldine/Ford
7. Reeves TX
8. .3 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Co

1. 80–12323/10064
2. 42–389–00000–0000
3. 108 000 000
4. Continental Oil Company
5. Ford-Geraldine Unit No. 260
6. Geraldine/Ford
7. Reeves, TX
8. 1.0 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Co.

1. 80–12324/10082
2. 42–389–00000–0000
3. 108 000 000
4. Continental Oil Company
5. Ford-Geraldine Unit No. 275
6. Geraldine/Ford
7. Reeves, TX
8. .3 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Co.

1. 80–12325/10084
2. 42–389–00000–0000
3. 108 000 000
4. Continental Oil Company
5. Ford-Geraldine Unit No. 287
6. Geraldine/Ford
7. Reeves, TX
8. 1.0 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Co.

1. 80–12326/10085
2. 42–389–00000–0000
3. 108 000 000
4. Continental Oil Company
5. Ford-Geraldine Unit No. 286
6. Geraldine/Ford
7. Reeves, TX
8. 1.4 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Co.

1. 80–12327/10086
2. 42–389–00000–0000
3. 108 000 000
4. Continental Oil Company
5. Ford-Geraldine Unit No. 283
6. Geraldine/Ford
7. Reeves, TX
8. 1.4 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Co.

1. 80–12328/10135
2. 42–389–00000–0000
3. 108 000 000
4. Continental Oil Company
5. Ford-Geraldine Unit No. 272
6. Geraldine/Ford
7. Reeves, TX
8. .3 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Co.

1. 80–12329/10119
2. 42–003–00000–0000
3. 108 000 000
4. Continental Oil Company
5. West Fuhrman-Mascho Unit No 17
6. Fuhrman-Mascho
7. Andrews, TX
8. .3 million cubic feet
9. January 14, 1980
10. Phillips Petroleum Co.

1. 80–12330/10091
2. 42–389–00000–0000
3. 108 000 000
4. Continental Oil Company
5. Ford-Geraldine Unit No. 273
6. Geraldine/Ford
7. Reeves, TX
8. .3 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Co

1. 80–12331/10088
2. 42–389–00000–0000
3. 108 000 000
4. Continental Oil Company
5. Ford-Geraldine Unit No. 281
6. Geraldine/Ford
7. Reeves, TX
8. .3 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Co.

1. 80–12332/10087
2. 42–389–00000–0000
3. 108 000 000
4. Continental Oil Company
5. Ford-Geraldine Unit No 279
6. Geraldine/Ford
7. Reeves, TX
8. 1.4 million cubic feet

9. January 14, 1980
10. El Paso Natural Gas Co.

1. 80–12333/10211
2. 42–389–00000–0000
3. 108 000 000
4. Continental Oil Company
5. Ford-Geraldine Unit No. 276
6. Geraldine/Ford
7. Reeves, TX
8. .3 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Co.

1. 80–12334/10210
2. 42–389–00000–0000
3. 108 000 000
4. Continental Oil Company
5. Ford-Geraldine Unit No. 284
6. Geraldine/Ford
7. Reeves, TX
8. 1.0 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Co.

1. 80–12335/10209
2. 42–389–00000–0000
3. 108 000 000
4. Continental Oil Company
5. Ford-Geraldine Unit No. 285
6. Geraldine/Ford
7. Reeves, TX
8. 2.1 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Co.

1. 80–12336/10208
2. 42–389–00000–0000
3. 108 000 000
4. Continental Oil Company
5. Ford-Geraldine Unit No. 265
6. Geraldine/Ford
7. Reeves, TX
8. 1.0 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Co.

1. 80–12337/10207
2. 42–389–00000–0000
3. 108 000 000
4. Continental Oil Company
5. Ford-Geraldine Unit No. 267
6. Geraldine/Ford
7. Reeves, TX
8. .3 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Co.

1. 80–12338/10197
2. 42–135–00000–0000
3. 108 000 000
4. Continental Oil Company
5. Gist Unit No. 9
6. Foster
7. Ector, TX
8. .3 million cubic feet
9. January 14, 1980
10. Odessa Natural Gasoline Co.

1. 80–12339/10184
2. 42–135–00000–0000
3. 108 000 000
4. Continental Oil Company
5. J. L. Johnson No. 17
6. Foster
7. Ector, TX
8. .7 million cubic feet
9. January 14, 1980
10. Odessa Natural Gasoline Co.

1. 80–12340/10136
2. 42–389–00000–0000
3. 108 000 000
4. Continental Oil Company
5. Ford-Geraldine Unit No. 268
6. Geraldine/Ford
7. Reeves, TX
8. .3 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Co.

1. 80–12341/10981
2. 42–371–00000–0000
3. 107 000 000
4. Exxon Corporation
5. University Block 23–15 gas unit #1
6. Wildcat
7. Pecos TX
8. 365.0 million cubic feet
9. January 14, 1980
10.

1. 80–12342/10320
2. 42–295–00000–0000
3. 108 000 000
4. Henry Grace Production Company
5. H L King B No 1 21798
6. Bradford West/Tonkawa
7. Lipscomb TX
8. 4.0 million cubic feet
9. January 14, 1980
10. Northern Natural Gas Company

1. 80–12343/10248
2. 42–389–00000–0000
3. 108 000 000
4. Continental Oil Company
5. G E Ramsey Jr 8 No 19
6. Geraldine/Ford
7. Reeves TX
8. 3.2 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Co

1. 80–12344/10247
2. 42–389–00000–0000
3. 108 000 000
4. Continental Oil Company
5. G E Ramsey Jr 8 No 9
6. Geraldine/Ford
7. Reeves TX
8. 4.0 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Co

1. 80–12345/10245
2. 42–389–00000–0000
3. 108 000 000
4. Continental Oil Company
5. G E Ramsey Jr 7 No 9
6. Geraldine/Ford
7. Reeves TX
8. 3.6 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Co

1. 80–12346/10231
2. 42–389–00000–0000
3. 108 000 000
4. Continental Oil Company
5. Ford-Geraldine Unit No 43
6. Geraldine/Ford
7. Reeves TX
8. 2.1 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Co

1. 80–12368/09709
2. 42–105–00000–0000
3. 108 000 000
4. Delta Drilling Company
5. Couch A #1
6. Ozona Southwest (Canyon)
7. Crockett TX
8. 4.9 million cubic feet
9. January 14, 1980
10. Northern Natural Gas

1. 80–12369/09707
2. 42–105–00000–0000
3. 108 000 000
4. Argee Oil Company
5. James Baggett 2–156
6. Adams-Baggett Ranch (Canyon SD)
7. Crockett TX
8. 3.6 million cubic feet
9. January 14, 1980
10. Detroit-Texas Gas Gathering Co Inc

1. 80–12370/09706
2. 42–105–00000–0000
3. 108 000 000
4. Argee Oil Company
5. James Baggett 1–165
6. Adams-Baggett Ranch (Canyon SD)
7. Crockett TX
8. 8.0 million cubic feet
9. January 14, 1980
10. Detroit-Texas Gas Gathering Co Inc

1. 80–12371/09705
2. 42–105–00000–0000
3. 108 000 000
4. Argee Oil Company
5. James Baggett 1–157
6. Adams-Baggett Ranch (Canyon SD)
7. Crockett TX
8. 8.4 million cubic feet
9. January 14, 1980
10. Detroit-Texas Gas Gathering Co Inc

1. 80–12372/09704
2. 42–105–00000–0000
3. 108 000 000
4. Argee Oil Company
5. James Baggett 1–156
6. Adams-Baggett Ranch (Canyon Sd)
7. Crockett Tx
8. 4.8 million cubic feet
9. January 14, 1980
10. Detroit-Texas Gas Gathering Co Inc

1. 80–12373/09703
2. 42–105–00000–0000
3. 108 000 000
4. Argee Oil Company
5. James Baggett 1–125
6. Adams-Barggett Ranch (Canyon Sd)
7. Crockett Tx
8. 5.9 million cubic feet
9. January 14, 1980
10. Detroit-Texas Gas Gathering Co Inc

1. 80–12374/09702
2. 42–105–00000–0000
3. 108 000 000
4. Argee Oil Company
5. James Baggett 1–117
6. Adams-Baggett Ranch (Canyon Sd)
7. Crockett Tx
8. 1.5 million cubic feet
9. January 14, 1980
10. Detroit-Texas Gas Gathering Co Inc

1. 80–12375/09701
2. 42–105–00000–0000
3. 108 000 000
4. Argee Oil Company
5. James Baggett 1–116
6. Adams-Bargett Ranch (Canyon Sd)
7. Crockett Tx
8. 6.9 million cubic feet
9. January 14, 1980
10. Detroit-Texas Gas Gathering Co Inc

1. 80–12376/09700

2. 42–105–00000–0000
3. 108 000 000
4. Argee Oil Company
5. Clay Adams Est 2–126
6. Adams-Baggett Ranch (Canyon Sd)
7. Crockett Tx
8. 13.2 million cubic feet
9. January 14, 1980
10. Detroit-Texas Gas Gathering Co Inc

1. 80–12377/09699
2. 42–105–00000–0000
3. 108 000 000
4. Argee Oil Company
5. Clay Adams Estate 2–155
6. Adams-Barggett Ranch (Canyon Sd)
7. Crockett Tx
8. 5.1 million cubic feet
9. January 14, 1980
10. Detroit-Texas Gas Gathering Co Inc

1. 80–12378/09698
2. 42–105–00000–0000
3. 108 000 000
4. Argee Oil Company
5. Clay Adams Est 1–155
6. Adams-Baggett (Canyon Sd)
7. Crockett Tx
8. 4.4 million cubic feet
9. January 14, 1980
10. Detroit-Texas Gas Gathering Co Inc

1. 80–12379/09697
2. 42–105–00000–0000
3. 108 000 000
4. Argee Oil Company
5. Clay Adams Est 1–126
6. Adams-Barggett Ranch (Canyon Sd)
7. Crockett Tx
8. 6.0 million cubic feet
9. January 14, 1980
10. Detroit-Texas Gas Gathering Co Inc

1. 80–12380/09696
2. 42–105–00000–0000
3. 108 000 000
4. Argee Oil Company
5. Emma Phillips Adams 1–166
6. Adams-Baggett Ranch (Canyon Sd)
7. Crockett Tx
8. 3.8 million cubic feet
9. January 14, 1980
10. Detroit-Texas Gas Gathering Co Inc

1. 80–12381/09413
2. 42–301–00000–0000
3. 108 000 000
4. Saxet Oil Corporation
5. Wheat A/C 126 Well No 1
6. Wheat
7. Loving Tx
8. 3.3 million cubic feet
9. January 14, 1980
10. Phillips Petroleum Company

1. 80–12382/09249
2. 42–413–30302–0000
3. 108 000 000
4. Hng Oil Company
5. Bacon 188 #1 Id 65530
6. Sawyer (Canyon)
7. Schleicher Tx
8. 3.5 million cubic feet
9. January 14, 1980
10. Intratex Gas Company

1. 80–12383/09248
2. 42–435–31152–0000
3. 108 000 000
4. Hng Oil Company
5. Askew & Glimp 18 #2 Id #64931
6. Sawyer (Canyon)
7. Sutton Tx
8. 4.0 million cubic feet
9. January 14, 1980
10. Transwestern Pipeline Company

1. 80–12384/09197
2. 42–179–23691–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Beasley #2
6. Panhandle West
7. Gray Tx
8. 21.3 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Company

1. 80–12385/09196
2. 42–435–30557–0000
3. 108 000 000
4. El Paso Natural Gas Company
5. Thomson C #4
6. Sonora (Canyon Upper)
7. Sutton Tx
8. 18.0 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Company

1. 80–12389/0009159
2. 42–105–00000–0000
3. 108 000 000
4. J Cleo Thompson
5. Thompson Fee No 9–RRC No 47666
6. Ozona Canyon Sand
7. Crockett Tx
8. .0 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Co Shell Oil Co

1. 80–12387/0009157
2. 42–105–00000–0000
3. 108 000 000
4. J Cleo Thompson
5. W R Baggett No 1–RRC No 57545
6. Ozona (Canyon Sd)
7. Crockett Tx
8. .0 million cubic feet
9. January 14, 1980
10. Shell Oil Co

1. 80–12388/08698
2. 42–421–00000–0000
3. 108 000 000
4. Detra Producing Company
5. Hamilton Mcree #1
6. Texas Hugoton
7. Sherman Tx
8. 6.0 million cubic feet
9. January 14, 1980
10. Phillips Petroleum Company

1. 80–12389/08697
2. 42–421–00000–0000
3. 108 000 000
4. Detra Producing Company
5. Ira Oldaker #1
6. Texas Hugoton
7. Sherman Tx
8. 1.0 million cubic feet
9. January 14, 1980
10. Phillips Petroleum Company

1. 80–12390/08627
2. 42–371–00000–0000
3. 108 000 000
4. Atapco
5. Moss-State #1 47317
6. Coyanosa Ne (Delaware)
7. Pecos Tx
8. 18.0 million cubic feet
9. January 14, 1980
10. Delhi Gas P l Corp

1. 80–12391/08559
2. 42–479–30450–0000
3. 108 000 000
4. Peninsula Resources Corp
5. Dawson #1 #53844
6. Ton Walsh (Olmos)
7. Webb Tx
8. 11.3 million cubic feet
9. January 14, 1980
10. Tejas Gas Corp

1. 80–12392/08547
2. 42–089–00000–0000
3. 108 000 000
4. Goldking Production Co
5. L A Johnson No 2 (06357)
6. N Garwood (2000)
7. Colorado Tx
8. 18.0 million cubic feet
9. January 14, 1980
10. Channel Industries

1. 80–12393/08546
2. 42–089–00000–0000
3. 108 000 000
4. Goldking Production Company
5. J R McLane A/C 2 No 3 (47176)
6. N Garwood (2100)
7. Colorado Tx
8. 10.0 million cubic feet
9. January 14, 1980
10. Channel Industries

1. 80–12394/07752
2. 42–105–00000–0000
3. 108 000 000
4. Delta Drilling Company
5. Couch C #2
6. Ozona Southwest (Canyon)
7. Crockett Tx
8. 8.8 million cubic feet
9. January 14, 1980
10. Northern Natural Gas

1. 80–12395/07751
2. 42–105–00000–0000
3. 108 000 000
4. Delta Drilling Company
5. Couch C #1
6. Ozona Southwest (Canyon)
7. Crockett Tx
8. 11.7 million cubic feet
9. January 14, 1980
10. Northern Natural Gas

1. 80–12396/07747
2. 42–105–00000–0000
3. 108 000 000
4. Delta Drilling Company
5. Couch 22 #2
6. Ozona Southwest (Canyon)
7. Crockett Tx
8. 14.3 million cubic feet
9. January 14, 1980
10. Northern Natural Gas

1. 80–123997/07746
2. 42–105–00000–0000
3. 108 000 000
4. Delta Drilling Company
5. Roy Henderson 27 #1
6. Ozona Southwest (Canyon)
7. Crockett Tx
8. 19.5 million cubic feet
9. January 14, 1980
10. Northern Natural Gas

1. 80–12398/07745
2. 42–105–00000–0000
3. 108 000 000
4. Delta Drilling Company
5. Couch D #2
6. Ozona Southwest (Canyon)

7. Crockett Tx
8. 13.3 million cubic feet
9. January 14, 1980
10. Northern Natural Gas
1. 80–12399/07744
2. 42–105–00000–0000
3. 108 000 000
4. Delta Drilling Company
5. Couch 2 #1
6. Ozona Southwest (Canyon)
7. Crockett Tx
8. 21.9 million cubic feet
9. January 14, 1980
10. Northern Natural Gas
1. 80–12400/07743
2. 42–105–00000–0000
3. 108 000 000
4. Delta Drilling Company
5. Couch 30 #2
6. Ozona Southwest (Canyon)
7. Crockett Tx
8. 17.6 million cubic feet
9. January 14, 1980
10. Northern Natural Gas
1. 80–12401/07740
2. 42–435–00000–0000
3. 108 000 000
4. Delta Drilling Company
5. Shurley B #1
6. Sonora (Canyon)
7. Sutton Tx
8. 16.1 million cubic feet
9. January 14, 1980
10. Northern Natural Gas
1. 80–12402/07739
2. 42–413–00000–0000
3. 108 000 000
4. Delta Drilling Company
5. Delhi-Jones #1
6. Eldorado (Canyon)
7. Schleicher TX
8. 14.4 million cubic feet
9. January 14, 1980
10. Northern Natural Gas
1. 80–12403/07737
2. 42–105–00000–0000
3. 108 000 000
4. Delta Drilling Company
5. Couch 29 #1
6. Ozona Southwest (Canyon)
7. Crockett TX
8. 11.9 million cubic feet
9. January 14, 1980
10. Northern Natural Gas
1. 80–12404/07709
2. 42–025–00000–0000
3. 108 000 000
4. Fred W Shield
5. Mrs Georgia Heard #3
6. Heard Ranch (3700) Field
7. Bee TX
8. 18.6 million cubic feet
9. January 14, 1980
10. Trunkline Gas Company
1. 80–12405/05198
2. 42–233–00000–0000
3. 108 000 000
4. J M Huber Corporation
5. Stevenson A No 20
6. Panhandle
7. Hutchinson TX
8. .7 million cubic feet
9. January 14, 1980
10. Phillips Petroleum Company
1. 80–12406/05199
2. 42–233–00000–0000
3. 108 000 000
4. J M Huber Corporation
5. Stevenson A No 26
6. Panhandle
7. Hutchinson TX
8. .7 million cubic feet
9. January 14, 1980
10. Phillips Petroleum Company
1. 80–12407/05206
2. 42–233–00000–0000
3. 108 000 000
4. J M Huber Corporation
5. Stevenson A No 25
6. Panhandle
7. Hutchinson TX
8. .7 million cubic feet
9. January 14, 1980
10. Phillips Petroleum Company
1. 80–12408/05215
2. 42–233–00000–0000
3. 108 000 000
4. J M Huber Corporation
5. Stevenson A No 13
6. Panhandle
7. Hutchinson TX
8. .7 million cubic feet
9. January 14, 1980
10. Phillips Petroleum Company
1. 80–12409/05299
2. 42–233–00000–0000
3. 108 000 000
4. J M Huber Corporation
5. State AC No 56
6. Panhandle
7. Hutchinson TX
8. 1.7 million cubic feet
9. January 14, 1980
10. Phillips Petroleum Company
1. 80–12410/05329
2. 42–233–00000–0000
3. 108 000 000
4. J M Huber Corporation
5. Payne Herring No 3
6. Panhandle
7. Hutchinson TX
8. 3.2 million cubic feet
9. January 14, 1980
10. Phillips Petroleum Company
1. 80–12411/05995
2. 42–065–00000–0000
3. 108 000 000
4. Continental Oil Co
5. G W Deahl No 2R
6. W Panhandle
7. Carson TX
8. 10.3 million cubic feet
9. January 14, 1980
10. Cities Service Gas Company (4911)
1. 80–12412/05996
2. 42–179–00000–0000
3. 108 000 000
4. Continental Oil Co
5. Mary Wall No 2
6. W Panhandle
7. Gray TX
8. 9.7 million cubic feet
9. January 14, 1980
10. Cities Service Gas Company (4911)
1. 80–12413/05997
2. 42–179–00000–0000
3. 108 000 000
4. Continental Oil Co
5. T B Cobb 1–B
6. W Panhandle
7. Gray TX
8. 15.8 million cubic feet
9. January 14, 1980
10. Cities Service Gas Company (4911)
1. 80–12414/06011
2. 42–065–00000–0000
3. 108 000 000
4. Continental Oil Co
5. Burnett 51A
6. W Panhandle
7. Carson TX
8. 17.8 million cubic feet
9. January 14, 1980
10. Cities Service Gas Company (4911)
1. 80–12415/06016
2. 42–065–00000–0000
3. 108 000 000
4. Continental Oil Co
5. C E Deahl No 2
6. W Panhandle
7. Carson TX
8. 12.7 million cubic feet
9. January 14, 1980
10. Cities Service Gas Company (4911)
1. 80–12416/07708
2. 42–025–00000–0000
3. 108 000 000
4. Fred W Shield
5. Mrs Georgia Heard #10
6. Heard Ranch
7. Bee TX
8. 7.7 million cubic feet
9. January 14, 1980
10. Trunkline Gas Company
1. 80–12417/01007
2. 42–421–00000–0000
3. 103 000 000
4. W R Edwards Jr
5. Riffe Well No 2
6. Texas Hugoton
7. Sherman TX
8. 46.0 million cubic feet
9. January 14, 1980
10. Phillips Petroleum Company
1. 80–12418/01006
2. 42–421–00000–0000
3. 103 000 000
4. W R Edwards Jr
5. Murphy-Bundy Well No 1
6. Texas Hugoton
7. Sherman TX
8. 73.0 million cubic feet
9. January 14, 1980
10. Diamond Shamrock Corporation
1. 80–12419/01001
2. 42–421–30197–0000
3. 103 000 000
4. W R Edwards Jr
5. Olson Well No 1
6. Texas Hugoton
7. Sherman TX
8. 55.0 million cubic feet
9. January 14, 1980
10. Transwestern Pipeline Co
1. 80–12420/01000
2. 42–421–30198–0000
3. 103 000 000
4. W R Edwards Jr
5. Sloan Well No 1
6. Texas Hugoton
7. Sherman TX
8. 46.0 million cubic feet
9. January 14, 1980
10. Transwestern Pipeline Company
1. 80–12421/00622

2. 42–355–30872–0000
3. 103 000 000
4. McMoran Exploration Company
5. State Tract 350 Well No 1
6. Red Fish Bay (Zone 13 S)
7. Nueces TX
8. 800.0 million cubic feet
9. January 14, 1980
10. United Gas Pipeline Co

1. 80–12422/00376
2. 42–003–00000–0000
3. 108 000 000
4. Wood McShane & Thams
5. Crews & Mast Arco Unit #1 RRC #7038
6. Block A–34 (Yates)
7. Andrews TX
8. 2.1 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Company

1. 80–12423/00375
2. 42–003–00000–0000
3. 108 000 000
4. Wood McShane & Thams
5. Crews & Mast A #1 RRC #68274
6. Block A–34 (Yates)
7. Andrews TX
8. 1.9 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Company

1. 80–12424/00374
2. 42–003–00000–0000
3. 108 000 000
4. Wood McShane & Thams
5. Fannie Mathews #1—RRC #69501
6. Block A–34 (Yates)
7. Andrews TX
8. 1.9 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Company

1. 80–12425/00373
2. 42–003–00000–0000
3. 108 000 000
4. Wood McShane & Thams
5. G T Hall A #2—RRC 69417
6. Block A–34 (Yates)
7. Andrews TX
8. 1.7 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Company

1. 80–12426/00371
2. 42–003–00000–0000
3. 108 000 000
4. Wood McShane & Thams
5. Crews & Mast #1 RRC #67509
6. Block A–34 (Yates)
7. Andrews TX
8. 1.6 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Company

1. 80–12427/03600
2. 42–237–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Mary Worthington No 1
6. Boonsville Bend Conglomerate
7. Jack TX
8. 8.2 million cubic feet
9. January 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–12428/03599
2. 42–237–00000–0000
3. 108 000 000
4. Gulf Oil Corp
5. Andrew Worthington No 1
6. Boonsville Bend Conglomerate
7. Jack TX
8. 7.0 million cubic feet
9. January 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–12429/03597
2. 42–237–00000–0000
3. 108 000 000
4. Gulf Oil Corporation
5. Fayette Yates No 6
6. Boonsville Bend Conglomerate
7. Jack TX
8. 9.3 million cubic feet
9. January 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–12430/02287
2. 42–367–31271–0000
3. 102 000 000
4. Mitchell Energy Corporation
5. B G Fulks #1 ID #79609
6. Reno (Congl)
7. Parker TX
8. 27.5 million cubic feet
9. January 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–12431/02077
2. 42–079–30881–0000
3. 103 000 000
4. Monsanto Company
5. F O Masten #57
6. Levelland
7. Cochran TX
8. 2.2 million cubic feet
9. January 14, 1980
10. Cities Service Gas Company

1. 80–12432/02076
2. 42–079–00000–0000
3. 103 000 000
4. Monsanto Company
5. F O Mastern #56 #03692
6. Levelland
7. Cochran, TX
8. 1.4 million cubic feet
9. January 14, 1980
10. Cities Service Gas Company

1. 80–12433/02066
2. 42–079–00000–0000
3. 103 000 000
4. Monsanto Company
5. F O Mastern #46 #03692
6. Levelland
7. Cochran, TX
8. 2.2 million cubic feet
9. January 14, 1980
10. Cities Service Gas Company

1. 80–12434/02065
2. 42–079–30990–0000
3. 103 000 000
4. Monsanto Company
5. Reed #13 62260
6. Levelland
7. Cochran, TX
8. 11.2 million cubic feet
9. January 14, 1980
10. Cities Service Gas Company

1. 80–12435/02064
2. 42–079–30991–0000
3. 103 000 000
4. Monsanto Company
5. Reed #9 62260
6. Levelland
7. Cochran, TX
8. 11.7 million cubic feet
9. January 14, 1980
10. Cities Service Gas Company

1. 80–12436/01361
2. 42–135–32706–0000
3. 103 000 000
4. Sun Oil Company (Delaware)
5. Foster-Johnson Unit No 714
6. Foster
7. Ector, TX
8. 4.0 million cubic feet
9. January 14, 1980
10. Odessa Natural Corp

1. 80–12437/01264
2. 42–469–00000–0000
3. 103 000 000
4. Logue and Patterson Inc
5. McCan J #1
6. McFaddin North (3550)
7. Victoria, TX
8. 192.0 million cubic feet
9. January 14, 1980
10. United Gas Pipeline Co

1. 80–12438/04335
2. 42–179–00000–0000
3. 108 000 000
4. Texaco Inc
5. Gray Co Dev Co Dial Unit #3
6. Panhandle East
7. Gray, TX
8. 8.8 million cubic feet
9. January 14, 1980
10. Pioneer Natural Gas Co

1. 80–12439/04311
2. 42–179–00000–0000
3. 108 000 000
4. Texaco Inc
5. W P Dial B NCT–1 #3
6. Panhandle East
7. Gray, TX
8. 19.0 million cubic feet
9. January 14, 1980
10. Pioneer Natural Gas Co

1. 80–12440/04310
2. 42–179–00000–0000
3. 108 000 000
4. Texaco Inc
5. B H Love (NCT–1) #4
6. Panhandle East
7. Gray, TX
8. 15.7 million cubic feet
9. January 14, 1980
10. Coltexo Corp

1. 80–12441/04177
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. C A Lawrence #6 28722
6. Boonsville Bend Cong
7. Wise, TX
8. 8.7 million cubic feet
9. January 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–12442/04174
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. Katie Mosier #1 58902
6. Alvord (Caddo Cong)
7. Wise, TX
8. 6.0 million cubic feet
9. January 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–12443/04170
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. R D Grantham #1 28661
6. Boonsville Bend Cong

7. Wise, TX
8. 10.4 million cubic feet
9. January 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–12444/04122
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. Coke L Gage-B-#2 58945
6. Greenwood (Atoka)
7. Wise, TX
8. 13.2 million cubic feet
9. January 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–12445/04102
2. 42–497–30141–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. C C Robinson #1 55470
6. Greenwood (Atoka)
7. Wise, TX
8. 3.6 million cubic feet
9. January 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–12446/04085
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. Roy Rogers #1 28796
6. Boonsville Bend Cong
7. Wise, TX
8. 11.2 million cubic feet
9. January 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–12447/04084
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. Ernest Smith #1 37444
6. Boonsville Bend Cong
7. Wise, TX
8. 10.8 million cubic feet
9. January 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–12448/04081
2. 42–497–00000–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. Stella Young #2 33581
6. Boonsville Bend Cong
7. Wise, TX
8. 1.0 million cubic feet
9. January 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–12449/04050
2. 42–237–00000–0000
3. 108 000 000
4. Mitchell Energy Corporation
5. John Shinners #1 21522
6. Meander West (Bend Congl)
7. Jack, TX
8. 5.2 million cubic feet
9. January 14, 1980
10. Natural Gas Pipeline Co of America

1. 80–12450/03959
2. 42–357–30847–0000
3. 103 000 000
4. Cotton Petroleum Corporation
5. Trayler No 1
6. Perryton (Lower Morrow)
7. Ochiltree, TX
8. 98.3 million cubic feet
9. January 14, 1980
10. Northern Natural Gas Company

1. 80–12451/03703
2. 42–431–30711–0000
3. 103 000 000
4. R C Bennett
5. Bade C #1
6. Conger (Penn)
7. Sterling, TX
8. 150.0 million cubic feet
9. January 14, 1980
10. Lo-Vaca Gathering Company

1. 80–12452/03628
2. 42–435–30378–0000
3. 108 000 000
4. Amoco Production Company
5. Edwin S Mayer Jr D No 1
6. Sawyer/Canyon
7. Sutton, TX
8. 9.0 million cubic feet
9. January 14, 1980
10. Lone Star Gas Company

1. 80–12453/05197
2. 42–233–00000–0000
3. 108 000 000
4. J M Huber Corporation
5. Stevenson A No 22
6. Panhandle
7. Hutchinson, TX
8. .7 million cubic feet
9. January 14, 1980
10. Phillips Petroleum Company

1. 80–12454/05196
2. 42–233–00000–0000
3. 108 000 000
4. J M Huber Corporation
5. Stevenson A No 14
6. Panhandle
7. Hutchinson, TX
8. .7 million cubic feet
9. January 14, 1980
10. Phillips Petroleum Company

1. 80–12455/05195
2. 42–233–00000–0000
3. 108 000 000
4. J M Huber Corporation
5. Stevenson A No 28
6. Panhandle
7. Hutchinson, TX
8. .7 million cubic feet
9. January 14, 1980
10. Phillips Petroleum Company

1. 80–12456/05188
2. 42–233–00000–0000
3. 108 000 000
4. J M Huber Corporation
5. Stevenson A No 12
6. Panhandle
7. Hutchinson, TX
8. .7 million cubic feet
9. January 14, 1980
10. Phillips Petroleum Company

1. 80–12457/05185
2. 42–233–00000–0000
3. 108 000 000
4. J M Huber Corporation
5. Stevenson A No 11
6. Panhandle
7. Hutchinson, TX
8. .7 million cubic feet
9. January 14, 1980
10. Phillips Petroleum Company

1. 80–12458/05184
2. 42–233–00000–0000
3. 108 000 000
4. J M Huber Corporation
5. Stevenson A No 10
6. Panhandle
7. Hutchinson, TX
8. .7 million cubic feet
9. January 14, 1980
10. Phillips Petroleum Company

1. 80–12459/05121
2. 42–495–30490–0000
3. 103 000 000
4. Getty Oil Company
5. S M Halley Well No 256
6. Weiner (Colby Sand)
7. Winkler, TX
8. 55.0 million cubic feet
9. January 14, 1980
10. Cabot Corporation

1. 80–12460/04886
2. 42–383–00000–0000
3. 103 000 000
4. Petroleum Expl & Dev Funds Inc
5. University 13 #1
6. V-Bar (San Andres)
7. Reagan, TX
8. 1.3 million cubic feet
9. January 14, 1980
10.

1. 80–12461/04837
2. 42–357–30814–0000
3. 103 000 000
4. Falcon Petroleum Company
5. Thomas No 1 04317
6. Crest (Des Moines)
7. Ochiltree, TX
8. 55.0 million cubic feet
9. January 14, 1980
10. Phillips Petroleum Company

1. 80–12462/04790
2. 42–495–30958–0000
3. 103 000 000
4. Hilliard Oil & Gas Inc
5. Sealy-Smith H No 2
6. Arenoso (Strawn Detritus)
7. Winkler Tx
8. 43.3 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Compnay

1. 80–12463/04789
2. 42–495–30874–0000
3. 103 000 000
4. Hilliard Oil & Gas Inc
5. Sealy-Smith H No 1
6. Arenoso (Strawn Detritus)
7. Winkler Tx
8. 100.0 million cubic feet
9. January 14, 1980
10. El Paso Natural Gas Company

1. 80–12464/04744
2. 42–383–31260–000
3. 103 000 000
4. Houston Oil & Minerals Corp
5. Merchant Estate 13 No 5
6. Spraberry (Trend Area)
7. Reagan Tx
8. 35.0 million cubic feet
9. January 14, 1980
10. Union Texas Petroleum

1. 80–12465/04594
2. 42–427–31210–0000
3. 103 000 000
4. Continental Oil
5. M M Garcia–F No 14 02376
6. Rincon (Vicksburg Sand)
7. Starr Tx
8. 11.0 million cubic feet
9. January 14, 1980
10. Tennessee Gas Pipeline Co

1. 80–12466/04591

2. 42–323–31210–0000
3. 103 000 000
4. Continental Oil
5. N J Chittim No 3859 02082
6. Sacatosa (San Miguel No 1 Sand)
7. Maverick Tx
8. 6.8 million cubic feet
9. January 14, 1980
10. Lovaca Gathering Company

1. 80–12467/04588
2. 42–505–30998–0000
3. 103 000 000
4. Continental Oil
5. S Martinez No 3 79844
6. Hundido (Lobo)
7. Zapata Tx
8. 146.0 million cubic feet
9. January 14, 1980
10. Houston Pipeline Company

1. 80–12468/04587
2. 42–427–31190–0000
3. 103 000 000
4. Continental Oil
5. T. B. Slick Est A No 151–U 74043
6. Rincon (B–2 Frio)
7. Starr Tx
8. 109.0 million cubic feet
9. January 14, 1980
10. Tennessee Gas Pipeline Co

1. 80–12469/04586
2. 42–323–31253–0000
3. 103 000 000
4. Continental Oil
5. N J Chittim No 4165 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick Tx
8. 6.8 million cubic feet
9. January 14, 1980
10. Lovaca Gathering Company

1. 80–12470/04585
2. 42–323–31177–0000–
3. 103 000 000
4. Continental Oil
5. N J Chittim No 7112 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick Tx
8. 6.8 million cubic feet
9. January 14, 1980
10. Lovaca Gathering Company

1. 80–12471/04584
2. 42–323–31214–0000
3. 103 000 000
4. Continental Oil
5. N J Chittim No 7115 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick Tx
8. 6.8 million cubic feet
9. January 14, 1980
10. Lovaca Gathering Company

1. 80–12472/04580
2. 42–323–31168–0000
3. 103 000 000
4. Continental Oil
5. N J Chittim No 7018 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick Tx
8. 6.8 million cubic feet
9. January 14, 1980
10. Lovaca Gathering Company

1. 80–12473/04575
2. 42–323–31165–0000
3. 103 000 000
4. Continental Oil
5. N J Chittim No 3855 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick Tx
8. 6.8 million cubic feet
9. January 14, 1980
10. Lovaca Gathering Company

1. 80–12474/04570
2. 42–323–31213–0000
3. 103 000 000
4. Continental Oil
5. N J Chittim No 3858 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick Tx
8. 6.8 million cubic feet
9. January 14, 1980
10. Lovaca Gathering Company

1. 80–12475/04568
2. 42–427–31191–0000
3. 103 000 000
4. Continental Oil
5. T B Slick Est—A No 150–L 74210
6. Rincon (E 1 & 2)
7. Starr Tx
8. 64.0 million cubic feet
9. January 14, 1980
10. Tennessee Gas Pipline Co

1. 80–12476/04566
2. 42–323–31176–0000
3. 103 000 000
4. Continental Oil
5. N J Chittim No 7113 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick Tx
8. 6.8 million cubic feet
9. January 14, 1980
10. Lovaca Gathering Company

1. 80–12477/04564
2. 42–323–31167–0000
3. 103 000 000
4. Continental Oil
5. N J Chittim No 3856 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick Tx
8. 6.8 million cubic feet
9. January 14, 1980
10. Lovaca Gathering Company

1. 80–12478/04563
2. 42–323–31216–0000
3. 103 000 000
4. Continental Oil
5. N J Chittim No 7210 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick Tx
8. 6.8 million cubic feet
9. January 14, 1980
10. Lovaca Gathering Company

1. 80–12479/04562
2. 42–323–31301–0000
3. 103 000 000
4. Continental Oil
5. N J Chittim No 9915 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick Tx
8. 6.8 million cubic feet
9. January 14, 1980
10. Lovaca Gathering Company

1. 80–12480/04561
2. 42–323–31293–0000
3. 103 000 000
4. Continental Oil
5. N J Chittim No 7116 02082
6. Sacatosa (San Miguel #1 Sand)
7. Maverick Tx
8. 6.8 million cubic feet
9. January 14, 1980
10. Lovaca Gathering Company

1. 80–12481/09873
2. 42–495–30889–0000
3. 107 000 000
4. Getty Oil Company
5. University 42–21 No 1
6. Little Joe
7. Winkler Tx
8. 700.0 million cubic feet
9. January 14, 1980
10. Intratex Gas Company

Wyoming Oil and Gas Conservation Commission

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. Country, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–12347/NG–306–79
2. 49–009–21492–000
3. 103 000 000
4. Chinook Resources Inc
5. Chinook 2–11 No 21496
6. Mikes Draw
7. Converse WY
8. 5.0 million cubic feet
9. January 14, 1980
10. McCulloch Gas Processing

1. 80–12348/NG–304–79
2. 49–037–21121–000
3. 102 000 000
4. Amoco Production Company
5. Champlin 221 Amoco C #1
6. Wells Bluff
7. Sweetwater Wy
8. 91.0 million cubic feet
9. January 14, 1980
10. Cities Service Gas Company

1. 80–12349/NG–303–79
2. 49–037–21220–000
3. 102 000 000
4. Amoco Production Company
5. Champlin 242 Amoco F Well #1
6. Echo Springs
7. Sweetwater WY
8. 225.0 million cubic feet
9. January 14, 1980
10. Cities Service Gas Company

1. 80–12350 /NG–301–790
2. 49–005–24615–000
3. 103 000 000
4. Amoco Production Company
5. Christensen Unit B No 1
6. Hartzog Draw
7. Campbell WY
8. 2.1 million cubic feet
9. January 14, 1980
10. Panhandle Eastern Pipeline Co

1. 80–12351 /NG–334–79
2. 49–041–20227–0000
3. 102 000 000
4. Champlin Petroleum Company
5. No 1 CPC UDC 1–33
6. Bruff Field
7. Uinta Wy
8. 803.0 million cubic feet
9. January 14, 1980
10. Mountain Fuel Supply Co

1. 80–12352 /NG–335–79
2. 49–007–20370–000
3. 102 000 000

4. Amoco Production Company
5. Champlin 336 Amoco B Well #1
6. Wild Rose
7. Carbon Wy
8. 83.2 million cubic feet
9. January 14, 1980
10. Cities Service Gas Company

1. 80–12353 /NG–338–79
2. 49–035–20536–0000
3. 103 000 000
4. Belco Petroleum Corporation
5. Mills 1–22 20536
6. Tip Top Field
7. Sublette WY
8. 1600.0 million cubic feet
9. January 14, 1980
10. Northwest Pipeline Corporation

1. 80–12354 /NG–339–79
2. 49–009–21522–0000
3. 103 000 000
4. Petroleum Inc
5. Campbell Estate No 2
6. Mikes Draw (Teapot)
7. Converse Wy
8. 20.0 million cubic feet
9. January 14, 1980
10. Phillips Petroleum Company

1. 80–12355 /NG–316–79
2. 49–037–21106–0000
3. 102 000 000
4. Amoco Production Company
5. Seven Mile Gulch Unit No 4
6. Seven Mile Gulch Unit
7. Sweetwater Wy
8. 210.0 million cubic feet
9. January 14, 1980
10. Cities Service Gas Company

1. 80–12356/NG–326–79
2. 49–037–21281–0000–
3. 102 000 000
4. Amoco Production Company
5. Champlin 206 Amoco B #1
6. Bruff
7. Sweetwater WY
8. 365.0 million cubic feet
9. January 14, 1980
10. Cities Service Gas Company

1. 80–12357/NG–328–79
2. 49–037–21343–0000–
3. 102 000 000
4. Amoco Production Company
5. Bitter Creek II Well #2A
6. Bitter Creek
7. Sweetwater WY
8. 83.0 million cubic feet
9. January 14, 1980
10. Cities Service Gas Company

1. 80–12358/NG–329–79
2. 49–037–21146–0000–
3. 103 000 000
4. Amoco Production Company
5. Siberia Ridge Unit Well #7A
6. Siberia Ridge
7. Sweetwater WY
8. 58.1 million cubic-feet
9. January 14, 1980
10. Cities Service Gas Company

1. 80–12359/NG–330–79
2. 49–007–20342–0000–
3. 102 000 000
4. Amoco Production Company
5. Champlin 276 Amoco B Well No 1
6. Echo Springs
7. Carbon WY
8. 621.0 million cubic feet
9. January 14, 1980
10. Cities Service Gas Company

1. 80–12360/NG–331–79
2. 49–037–21185–0000–
3. 102 000 000
4. Danis Oil Company
5. Great Divide #2
6. Wildcat
7. Sweetwater WY
8. 52.0 million cubic feet
9. January 14, 1980
10. Panhandle Eastern Pipeline Co

U.S. Geological Survey, Albuquerque, N. Mex.

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80–12269/NM–4433–79
2. 30–045–23365–0000–0
3. 103 000 000
4. Tenneco Oil Company
5. Florance 112
6. Blanco Pictured Cliffs
7. San Juan NM
8. 110.0 million cubic feet
9. January 8, 1980
10. El Paso Natural Gas Company

1. 80–12270/NM–4432–79
2. 30–045–23363–0000–0
3. 103 000 000
4. Tenneco Oil Company
5. Florance 109
6. Blanco Pictured Cliffs
7. San Juan NM
8. 100.0 million cubic feet
9. January 8, 1980
10. El Paso Natural Gas Company

1. 80–12271/NM–4431–79
2. 30–045–23420–0000–0
3. 103 000 000
4. Tenneco Oil Company
5. Florance 108
6. Blanco Pictured Cliffs
7. San Juan NM
8. 75.0 million cubic feet
9. January 8, 1980
10. El Paso Natural Gas Company

1. 80–12272/NM–4430–79
2. 30–039–21958–0000–0
3. 103 000 000
4. Arco Oil and Gas Company
5. Tonkin No 4
6. W Lindrith Gallup/Dakota
7. Rio Arriba NM
8. 65.0 million cubic feet
9. January 8, 1980
10.

1. 80–12273/NM–4429–79
2. 30–039–21949–0000–0
3. 103 000 000
4. El Paso Natural Gas Company
5. San Juan 28–7 Unit #72A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 140.0 million cubic feet
9. January 8, 1980
10. El Paso Natural Gas Company

1. 80–12274/NM–4428–79
2. 30–039–21653–0000–0
3. 103 000 000
4. El Paso Natural Gas Company
5. San Juan 28–7 Unit #252
6. Basin Dakota
7. Rio Arriba NM
8. 60.0 million cubic feet
9. January 8, 1980
10. El Paso Natural Gas Company

1. 80–12275/NM–4427–79
2. 30–039–21691–0000–0
3. 103 000 000
4. El Paso Natural Gas Company
5. San Juan 28–7 Unit #192
6. Basin Dakota
7. Rio Arriba NM
8. 70.0 million cubic feet
9. January 8, 1980
10. El Paso Natural Gas Company

1. 80–12276/NM–4426–79
2. 30–045–22912–0000–0
3. 103 000 000
4. El Paso Natural Gas Company
5. San Juan 32–9 Unit #13A
6. Blanco Mesaverde
7. San Juan NM
8. 180.0 million cubic feet
9. January 8, 1980
10. El Paso Natural Gas Company

1. 80–12277/NM–4446–79
2. 30–045–23370–0000–0
3. 103 000 000
4. Southland Royalty Company
5. Hampton #5
6. Blanco Mesa Verde
7. San Juan NM
8. 100.0 million cubic feet
9. January 8, 1980
10. Southern Union Gathering Company

1. 80–12278/NM–4445–79
2. 30–045–23031–0000–0
3. 103 000 000
4. Oklahoma Oil Company
5. Bolack J–1 J–28–27n–11W
6. West Kutz
7. San Juan NM
8. 21.0 million cubic feet
9. January 8, 1980
10. El Paso Natural Gas Company

1. 80–12279/NM–4444–79
2. 30–045–23030–0000–0
3. 103 000 000
4. Oklahoma Oil Company
5. Bolack B–1 B–28–27N–11W
6. West Kutz Fruitland
7. San Juan County NM
8. 11.0 million cubic feet
9. January 8, 1980
10. El Paso Natural Gas Company

1. 80–12280/NM–4441–79
2. 30–039–05812–0000–0
3. 108 000 000
4. Getty Oil Company
5. Jicarilla C No 9
6. Blanco Pictured Cliffs & Otero Chac
7. Rio Arriba NM
8. 19.6 million cubic feet
9. January 8, 1980
10. El Paso Natural Gas Co

1. 80–12281/NM–4440–79
2. 30–045–23295–0000–0
3. 103 000 000
4. Tenneco Oil Company
5. Mansfield A #1

6. Dakota
7. San Juan NM
8. 208.8 million cubic feet
9. January 8, 1980
10. El Paso Natural Gas Company

1. 80-12282/NM-4436-79
2. 30-039-22007-0000-0
3. 103 000 000
4. Arco Oil and Gas Company
5. Chacon Hill No 1
6. Chacon/Dakota
7. Rio Arriba NM
8. .0 million cubic feet
9. January 8, 1980
10.

1. 80-12283/NM-4435-79
2. 30-045-23292-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Roelofs #3
6. Basin Dakota
7. San Juan NM
8. 125.0 million cubic feet
9. January 8, 1980
10. El Paso Natural Gas Company

1. 80-12284/NM-4434-79
2. 30-045-23421-0000-0
3. 103 000 000
4. Tenneco Oil Company
5. Hamner #9
6. Blanco Pictured Cliffs
7. San Juan NM
8. 30.0 million cubic feet
9. January 8, 1980
10. El Paso Natural Gas Company

1. 80-12285/NM-4455-79
2. 30-045-23320-0000-0
3. 103 000 000
4. Southland Royalty Company
5. Thompson #7-A
6. Blanco Mesa Verde
7. San Juan NM
8. 125.0 million cubic feet
9. January 8, 1980
10. Southern Union Gathering Company

1. 80-12286/NM-4454-79
2. 30-045-23317-0000-0
3. 103 000 000
4. Southland Royalty Company
5. Thompson #4A
6. Blanco Mesaverde
7. San Juan NM
8. 150.0 million cubic feet
9. January 8, 1980
10. Southern Union Gathering Company

1. 80-12287/NM-4453-79
2. 30-045-23321-0000-0
3. 103 000 000
4. Southland Royalty Company
5. Thompson #3A
6. Blanco Mesaverde
7. San Juan NM
8. 150.0 million cubic feet
9. January 8, 1980
10. Southern Union Gathering Company

1. 80-12288/NM4452-79
2. 30-045-23318-0000-0
3. 103 000 000
4. Southland Royalty Company
5. Thompson #2A
6. Blanco Mesa Verde
7. San Juan, NM
8. 150.0 million cubic feet
9. January 8, 1980
10. Southern Union Gathering Company

1. 80-12289/NM4451-79
2. 30-045-23319-0000-0
3. 103 000 000
4. Southland Royalty Company
5. Thompson #9A
6. Blanco Mesa Verde
7. San Juan, NM
8. 100.0 million cubic feet
9. January 8, 1980
10. Southern Union Gathering Company

1. 80-12290/NM4450-79
2. 30-045-21804-0000-0
3. 103 000 000
4. Southland Royalty Company
5. Johns #2
6. Blanco Pictured Cliffs
7. San Juan, NM
8. 80.0 million cubic feet
9. January 8, 1980
10. El Paso Natural Gas Company

1. 80-12291/NM4449-79
2. 30-045-23308-0000-0
3. 103 000 000
4. Southland Royalty Company
5. Hill #5
6. Blanco Pictured Cliffs
7. San Juan, NM
8. 30.0 million cubic feet
9. January 8, 1980
10. Southern Union Gathering Company

1. 80-12292/NM4448-79
2. 30-045-23307-0000-0
3. 103 000 000
4. Southland Royalty Company
5. Hill #4
6. Blanco Pictured Cliffs
7. San Juan, NM
8. 75.0 million cubic feet
9. January 8, 1980
10. Southern Union Gathering Company

1. 80-12293/NM4447-79B
2. 30-045-23454-0000-0
3. 103 000 000
4. Southland Royalty Company
5. Hare #22-A
6. Aztec Pictured Cliffs
7. San Juan, NM
8. 75.0 million cubic feet
9. January 8, 1980
10. Southern Union Gathering Company

1. 80-12294/NM4447-79A
2. 30-045-23454-0000-0
3. 103 000 000
4. Southland Royalty Company
5. Hare #22-A
6. Blanco Mesa Verde
7. San Juan, NM
8. 150.0 million cubic feet
9. January 8, 1980
10. Southern Union Gathering Company

U.S. Geological Survey, Casper, Wyo.

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 80-12239/CC1105-9
2. 05-081-06330-0000-0
3. 103 000 000
4. Energy Reserves Group, Inc.
5. USA Joyce Wolf #4
6. Powder Wash
7. Moffat Co.
8. 58.0 million cubic feet
9. January 11, 1980
10. Mountain Fuel Supply Company

1. 80-12249/CC1058-9
2. 05-077-08157-0000-0
3. 102 000 000
4. Norris Oil Co.
5. Federal 36-2
6. Shire Gulch
7. Mesa Co.
8. 80.0 million cubic feet
9. January 11, 1980
10. Rocky Mountain Natural Gas Co., Inc.

1. 80-12251/CC1039-9
2. 05-045-06152-0000-0
3. 103 000 000
4. Palmer Oil & Gas Company
5. Federal #7-1
6.
7. Garfield County Co.
8. 75.0 million cubic feet
9. January 11, 1980
10. Colorado Interstate Gas Company

1. 80-12253/CC1041-9
2. 05-045-06153-0000-0
3. 103 000 000
4. Palmer Oil & Gas Company
5. Federal #1-15
6. Prairie Canyon
7. Garfield Co.
8. 213.0 million cubic feet
9. January 11, 1980
10. Southwest Gas Corporation

1. 80-12254/CC1042-9
2. 05-045-06159-0000-0
3. 103 000 000
4. Palmer Oil & Gas Company
5. Federal #6-13
6.
7. Garfield County Co.
8. 337.0 million cubic feet
9. January 11, 1980
10. Colorado Interstate Gas Company

1. 80-12255/CC1051-9A
2. 05-103-08058-0000-0
3. 103 000 000
4. Northwest Exploration Company
5. Philadelphia Creek #10
6. Cathedral
7. Rio Blanco Co.
8. 6.0 million cubic feet
9. January 11, 1980
10. Northwest Pipeline Corporation

1. 80-12256/CC1053-9A
2. 05-103-08061-0000-0
3. 103 000 000
4. Northwest Exploration Company
5. Philadelphia Creek #13
6. Cathedral
7. Rio Blanco Co.
8. 7.0 million cubic feet
9. January 11, 1980
10. Northwest Pipeline Corporation

1. 80-12258/CC1075-9
2. 05-103-08183-0000-0
3. 102 000 000
4. David M. Munson, Inc.
5. David M. Munson, Inc. 36-1-100
6.
7. Rio Blanco Co.
8. .0 million cubic feet

9. January 11, 1980
10. Northern Natural Gas
1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 80–12230/M1114–9
2. 25–071–21500–0000–0
3. 108 000 000
4. Midlands Gas Corporation
5. 2332 Federal 1–2332
6. Bowdoin
7. Phillips Mt.
8. 20.0 million cubic feet
9. January 11, 1980
10. Kansas-Nebraska Natural Gas Co., Inc.
1. 80–12233/M1095–9
2. 25–071–21596–0000–0
3. 103 000 000
4. Odessa Natural Corporation
5. 13 33 33
6. Bowdoin
7. Phillips Mt.
8. 14.6 million cubic feet
9. January 11, 1980
10. Kansas-Nebraska Natural Gas Co., Inc.
1. 80–12234/M1101–9
2. 25–071–21605–0000–0
3. 103 000 000
4. Odessa Natural Corporation
5. 15 33 31
6. Bowdoin
7. Phillips Mt.
8. 36.5 million cubic feet
9. January 11, 1980
10. Kansas-Nebraska Natural Gas Co., Inc.
1. 80–12235/M1103–9
2. 25–071–21599–0000–0
3. 103 000 000
4. Odessa Natural Corporation
5. 3 34 32
6. Whitewater
7. Phillips Mt.
8. 36.5 million cubic feet
9. January 11, 1980
10. Kansas-Nebraska Natural Gas Co., Inc.
1. 80–12238/M1104–9
2. 25–071–21594–0000–0
3. 103 000 000
4. Odessa Natural Corporation
5. 26 33 33
6. Bowdoin
7. Phillips Mt.
8. 36.5 million cubic feet
9. January 11, 1980
10. Kansas-Nebraska Natural Gas Co., Inc.
1. 80–12243/M1097–9
2. 25–071–21601–0000–0
3. 103 000 000
4. Odessa Natural Corporation
5. 25 33 31
6. Bowdoin
7. Phillips Mt.
8. 36.5 million cubic feet
9. January 11, 1980
10. Kansas-Nebraska Natural Gas Co., Inc.
1. 80–12244/M1099–9
2. 25–071–21597–0000–0
3. 103 000 000
4. Odessa Natural Corporation
5. 33 35 32
6. White Water
7. Phillips Mt.
8. 36.5 million cubic feet
9. January 11, 1980
10. Kansas-Nebraska Natural Gas Co., Inc.
1. 80–12245/M1100–9
2. 25–071–21607–0000–0
3. 103 000 000
4. Odessa Natural Corporation
5. 22 33 33
6. White Water
7. Phillips Mt.
8. 36.5 million cubic feet
9. January 11, 1980
10. Kansas-Nebraska Natural Gas Co., Inc.
1. 80–12248/M1054–9
2. 25–025–21139–0000–0
3. 103 000 000
4. Shell Oil Company
5. Pennel 13–24
6. Pennel
7. Fallon Mt.
8. 5.6 million cubic feet
9. January 11, 1980
10. Montana-Dakota Utilities
1. 80–12260/M1093–9
2. 25–071–21609–0000–0
3. 103 000 000
4. Odessa Natural Corporation
5. 8 35 31
6. White Water
7. Phillips MT
8. 36.5 million cubic feet
9. January 11, 1980
10. Kansas-Nebraska Gas Company Inc
1. 80–12261/M1094–9
2. 25–071–21598–0000–0
3. 103 000 000
4. Odessa Natural Corporation
5. 29 35 32
6. White Water
7. Phillips MT
8. 36.5 million cubic feet
9. January 11, 1980
10. Kansas-Nebraska Gas Company Inc
1. 80–12262/M1096–9
2. 25–071–21608–0000–0
3. 103 000 000
4. Odessa Natural Corporation
5. 6 35 31
6. White Water
7. Phillips MT
8. 36.5 million cubic feet
9. January 11, 1980
10. Kansas-Nebraska Gas Company Inc
1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 80–12229/ND–968–9
2. 33–053–00749–0000–0
3. 102 000 000
4. Pennzoil Company
5. Pennzoil-Depco Federal No 28–11
6. Mondak
7. McKenzie ND
8. 28.0 million cubic feet
9. January 11, 1980
10. Montana Dakota Utilities
1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 80–12250/UC1037–9
2. 43–019–30404–0000–0
3. 103 000 000
4. Cisco Drilling and Development Inc
5. Cisco Federal No 3
6.
7. Grand UT
8. 4.4 million cubic feet
9. January 11, 1980
10. Norsthwest Pipeline Corp
1. 80–12252/UC1040–9
2. 43–019–30497–0000–0
3. 103 000 000
4. Palmer Oil & Gas Company
5. Federal No 5–4
6. San Arroyo
7. Grand UT
8. 194.0 million cubic feet
9. January 11, 1980
10. Southwest Gas Corporation
1. 80–12257/UC1064–9
2. 43–047–30485–0000–0
3. 103 000 000
4. Gas Producing Enterprises Inc
5. Natural Buttes Cige 20–20–10–21
6. Bitter Creek
7. Uintah UT
8. 90.0 million cubic feet
9. January 11, 1980
10. Colorado Interstate Gas Co
1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 80–12231/W1131–9
2. 49–023–20281–0000–0
3. 102 000 000
4. Marathon Oil Company
5. Fabian Ditch No. 1–34
6. Fabian Ditch
7. Lincoln WY
8. 867.0 million cubic feet
9. January 11, 1980
10.
1. 80–12232/W1130–9
2. 49–005–25239–0000–0
3. 103 000 000
4. Conoco Inc
5. Conoco Federal 20 No. 13
6. House Creek
7. Campbell WY
8. 11.0 million cubic feet
9. January 11, 1980
10. Phillips Petroleum
1. 80–12236/W1086–9

2. 49–019–20422–0000–0
3. 102 000 000
4. Webb Resources Inc
5. #7–B Federal Hollar Draw
6. Table Mountain Field
7. Johnson WY
8. 45.0 million cubic feet
9. January 11, 1980
10. Phillips Petroleum Company
1. 80–12237/W1038–9
2. 49–037–20839–0000–0
3. 102 000 000
4. Energetics Inc
5. #32–22 Federal
6.
7. Sweetwater WY
8. 210.0 million cubic feet
9. January 11, 1980
10. Colorado Interstate Gas Company
1. 80–12240/W1126–9
2. 49–037–21214–0000–0
3. 102 000 000
4. Marathon Oil Company
5. Lincoln Road Unit #11
6. Lincoln Road Unit
7. Sweetwater WY
8. 675.0 million cubic feet
9. January 11, 1980
10.
1. 80–12241/W1128–9
2. 49–013–20842–0000–0
3. 102 000 000
4. Mapco Production Company
5. Hardwick Tribal No. 1–11
6. Boysen
7. Fremont WY
8. 180.0 million cubic feet
9. January 11, 1980
10. Montana-Dakota Utilities Co
1. 80–12242/W1088–9
2. 49–037–21413–0000–0
3. 103 000 000
4. Cotton Petroleum Corporation
5. Chorney Federal 30–1
6. Wild Rose
7. Sweetwater WY
8. 340.0 million cubic feet
9. January 11, 1980
10. Colorado Interstate Gas Co
1. 80–12246/W1060–9
2. 49–007–20375–0000–0
3. 103 000 000
4. Sinclair Oil Corporation
5. Fair Federal 3–1
6. Blue Gap
7. Carbon WY
8. 685.0 million cubic feet
9. January 11, 1980
10. Colorado Interstate Gas Co
1. 80–12247/W1059–9
2. 49–007–20363–0000–0
3. 103 000 000
4. Sinclair Oil Corporation
5. Sinclair Federal 1–18
6. Wild Rose
7. Carbon WY
8. 411.0 million cubic feet
9. January 11, 1980
10. Colorado Interstate Gas Co
1. 80–12259/W1089–9
2. 49–037–21407–0000–0
3. 103 000 000
4. Cotton Petroleum Corporation
5. Chorney Federal 4–1
6. Wild Rose
7. Sweetwater WY
8. 340.0 million cubic feet
9. January 11, 1980
10. Colorado Interstate Gas Co
1. 80–12263/W1090–9
2. 49–037–21409–0000–0
3. 103 000 000
4. Cotton Petroleum Corporation
5. Marshall-Winston Federal 12–1
6. Wild Rose
7. Sweetwater WY
8. 340.0 million cubic feet
9. January 11, 1980
10. Colorado Interstate Gas Co

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 office of public information, room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the **Federal Register.**

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–4383 Filed 2–8–80; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1410–2]

Ambient Air Monitoring Reference and Equivalent Methods; Reference Method Designation Monitor Labs, Inc., Model 8840, Nitrogen Oxides Analyzer

Notice is hereby given that EPA, in accordance with 40 CFR Part 53 (40 FR 7044, 41 FR 11255, 41 FR 52694) has designated another reference method for the measurement of ambient concentrations of nitrogen dioxide. The new reference method is an automated method (analyzer) which utilizes the measurement principle (gas phase chemiluminescence) and calibration procedure specified in Appendix F of 40 CFR Part 50 (41 FR 52688). The method is described as follows:

RFNA–0280–042, "Monitor Labs Model 8840 Nitrogen Oxides Analyzer," operated on a range of either 0–0.5 ppm or 0–1.0 ppm, with an internal time constant setting of 60 seconds, a TFE sample filter installed on the sample inlet line, and with or without any of the following options:

02—Flowmeter
03A—Rack Ears
03B—Slides
05A—Zero/Span Valves
05B—Valve/Relay
06—Status
07A—Input Power Transformer 100 VAC, 50/60 Hz
07B—Input Power Transformer 220/240 VAC, 50 Hz
08A—Pump Pac Assembly with 09A (115 VAC)
08B—Pump Pac Assembly with 09B (100 VAC)
08C—Pump Pac Assembly with 09C (220/240 VAC)
08D—Rack Mount Panel Assembly
09A—Pump 115 VAC 50/60 Hz
09B—Pump 100 VAC 50/60 Hz
09C—Pump 220/240 VAC 50 Hz
011A—Recorder Output 1 Volt
011B—Recorder Output 100 MV
011C—Recorder Output 10 MV
012A—DAS Output 1 Volt
012B—DAS Output 100 MV
012C—DAS Output 10 MV

This method is available from Monitor Labs, Incorporated, 10180 Scripps Ranch Blvd., San Diego, California 92131.

A notice of receipt of application for this method appeared in the **Federal Register,** Volume 44, September 20, 1979, page 54546.

A test analyzer representative of this method has been tested by the applicant, in accordance with the test procedures specified in 40 CFR Part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as a reference method. The information submitted by the applicant will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As a reference method, this method is acceptable for use by States and other control agencies for purposes of 40 CFR Part 58, Ambient Air Quality Surveillance (44 FR 27571, May 10, 1979). For such use, the method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of Part 58 are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users are specified under § 2.8 of Appendix C to Part 58 (44 FR 27585).

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B–1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been included in the reference or equivalent method designation.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the analyzer has been cancelled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representation), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice under 40 CFR 53.8(b) of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated non-compliance with any of these conditions should be reported to: Director, Environmental Monitoring Systems Laboratory, Department E (MD–77), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of this reference method will provide assistance to the States in establishing and operating their air quality surveillance systems under Part 58. Additional information concerning this action may be obtained by writing to the address given above. Technical questions concerning the method should be directed to the manufacturer.

Courtney Riordan,

Acting Assistant Administrator for Research and Development.

February 5, 1980.

[FR Doc. 80–4289 Filed 2–8–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1410–3]

Enforcement Policy for Sulphur Dioxide Emission Limitations in Ohio

The United States Environmental Protection Agency is announcing a policy concerning sulfur dioxide emission limitations in Ohio. This policy amends those previously announced on February 15, 1978 (43 FR 6646) and August 22, 1979 (44 FR 49296).

The promulgated sulfur dioxide implementation plan requires subject sources to achieve specified emission limitations and demonstrate compliance using test methods specified in 40 CFR Part 60. U.S. EPA has initiated a review of its policies and procedures for regulating sulfur dioxide emissions from coal-fired plants and has addressed the question of sulfur variability in that context. As part of this review, U.S. EPA has announced intention to propose policy and regulatory changes which would permit states to analyze the air quality impact of variable sulfur emissions in their attainment demonstrations. Since changes to the rules and policies are required for the new evaluation technicuqe, a final determination on the acceptability can only be made after public comments on the policies are reviewed and final decisions are published.

In the interim, while the sulfur variability issue is under review, the Agency will focus its enforcement resources on those plants which present the greatest environmental threat. While the State of Ohio is re-evaluating the emission limitations in a manner consistent with U.S. EPA's proposed policy and is proceeding with a coal washing program for high sulfur coal, U.S. EPA will give enforcement priority to those plants in Ohio which fail to meet certain conditions which are listed below. This policy will, in effect, mean for the next year that U.S. EPA will not initiate SO_2 enforcement actions in Ohio against sources which satisfy the following conditions:

(a) The source is meeting the currently applicable, promulated SO_2 emission limits applied as a 30-day rolling, weighted average.

(b) The source obtains daily information on SO_2 emissions through use of in-stack monitors or fuel sampling and analysis techniques as set forth in 40 CFR Part 60 and makes this information available to the State and the U.S. EPA upon request.

(c) The emissions of SO_2 in any one day do not exceed 1.5 times the emission limit in the currently applicable SIP.

Any source failing to meet all these conditions will be subject to enforcement of the regulations as originally promulgated.

Dated: February 5, 1980.

John McGuire,

Regional Administator, Region V.

[FR Doc. 80–4290 Filed 2–8–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1410–4]

National Air Pollution Control Techniques Advisory Committee; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a meeting of the National Air Pollution Control Techniques Advisory Committee will be held at 9:00 a.m. on February 27 and 28, 1980, at the Hotel Hilton, Roosevelt Room, 1707 Hillsborough Street, Raleigh, North Carolina 27605. The commercial telephone number is (919) 828–0811.

The tentative agenda for the meeting is as follows:

February 27 (Wednesday)

9:00 a.m., Retrofit Guidelines for Coal-Fired Power Plants Required by Section 169(a) of the Clean Air Act; Metal Furniture Industry (VOC), New Source Performance Standard; Electric Arc Furnaces in Ferrous Foundries, New Source Performance Standard.

February 28 (Thursday)

8:30 a.m., Electric Arc Furnaces in Ferrous Foundries, New Source Performance Standard; Sodium Carbonate Industry (Particulate), New Source Performance Standard; SO_x Control Technology Document; Adjourn.

All meetings are open to the public. Anyone wishing to make a presentation should contact Mrs. Naomi Durkee or Mrs. Mary Jane Clark, Emission Standards and Engineering Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, by February 22, 1980. The commercial telephone number is (919) 541–5271, and the FTS number is 629–5271.

Dockets containing material relevant to the sodium carbonate production standard (Docket Number A–79–54), the metal furnace industry (Docket Number A–79–47), and the foundry electric arc furnaces (Docket Number A–80–3) rulemaking are located in the U.S. Environmental Protection Agency, Central Docket Section, Room 2903B, 401 M Street, S.W., Washington, D.C. 20460. The dockets may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays, and a reasonable fee may be charged for copying.

Dated: January 30, 1980.

David G. Hawkins,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 80–4291 Filed 2–8–80; 8:45 am]

BILLING CODE 6560–01–M

[PP 9G2255/T220; FRL 1409–8]

O-Phenylphenol; Establishment of a Temporary Tolerance

Pennwalt Corp., 1713 South Carolina Ave., Monrovia, CA 91016, submitted a pesticide petition (PP9G2255) to the Environmental Protection Agency (EPA). This petition requested that a temporary tolerance be established for residues of the fungicide O-phenylphenol and its sodium salt in or on the raw agricultural commodity kiwi fruit at 20.0 parts per million (ppm). This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit, 4581–EUP–33, that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

An evaluation of the scientific data reported and other relevant material showed that the requested tolerance was adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerance would protect the public health. The temporary tolerance has been established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Pennwalt Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the food and Drug Administration.

This temporary tolerance expires July 1, 1980. Residues not in excess of 20.0 ppm remaining in or on kiwi fruit after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Henry Jacoby, Product Manager 21, Registration Division (TS–767), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460 (202/755–2562).

(Sec. 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 34a(j))

Dated: February 4, 1980.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 80–4288 Filed 2–8–80; 8:45 am]

BILLING CODE 6560–01–M

[OPP–180412; FRL 1409–5]

Washington Department of Agriculture; Issuance of Specific Exemption To Use Napropamide on Mint To Control Annual Grasses

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the Washington State Department of Agriculture (hereafter referred to as the "Applicant") to use napropamide on up to 15,000 acres of mint in Washington. The specific exemption expires on April 30, 1980.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, annual grasses are serious weed pests in mint. Weed competition during the growing season reduces yields and the quality of the oil and affects recovery of the mint after harvest to the extent that the crop is weakened. This results in winter kill and poor stands of mint the succeeding year. The Applicant states that populations of annual grasses increased dramatically in 1979. The Applicant claims that currently registered herbicides either provide inadequate control or are phytotoxic to the furrow-irrigated mint grown in these areas. Data indicate that napropamide would be an effective alternative for control of annual grasses in mint.

The Applicant estimates that uncontrolled annual grass infestations could result in a loss of $780,000 to Washington mint growers.

The Applicant plans to make a single application of Devrinol 50–WP (napropamide) using ground equipment. Two to four pounds active ingredient (a.i.) in 20 to 40 gallons of water per acre will be used to treat approximately 12,000 acres of furrow-(rill) irrigated mint and 3,000 acres of sprinkler-irrigated mint.

EPA has determined that residues of napropamide (N,N-diethyl-2-(1-naphthalenyloxy) propionamide) from the proposed use are not expected to exceed 0.1 part per million (ppm) in the fresh mint hay, oil, and spent mint hay. This residue level has been judged adequate to protect the public health. While EPA is unable to evaluate the hazard to applicators because of existing data gaps, it has been determined that there will be negligible incremental risk associated with this specific exemption since: (1) Devrionol 50–WP has been registered for a number of years for use on citrus, nuts pome fruits, small fruits, stone fruits, vegetables, and tobacco without development of any known applicator hazards; (2) most registered uses involve the same rates and mixing and application technique as recommended in this requested use on mint; (3) the product is not restricted; and (4) treatment of the requested acreage will result in negligible applicator exposure when compared to the acreage planted to crops for which Devrinol 50–WP is registered. The proposed use should not pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that (a) pest outbreaks of annual grasses in mint have occurred in Washington (b) there is no effective pesticide presently registered and available for use to control these weeds in Washington; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the weeds are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until April 30, 1980, to the extent

and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Devrinol 50–WP, EPA Reg. No. 476–2108, manufactured by Stauffer Chemical Co., is authorized. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label;

2. A single application of Devrinol will be made by ground equipment at a maximum rate of 4 pounds a.i. in 20 to 40 gallons of water per acre;

3. A maximum of 15,000 acres may be treated;

4. A maximum of 60,000 pounds a.i. may be applied;

5. All applications wil be made by State-licensed commercial applicators or certified growers;

6. All applicable directions, restrictions, and precautions on the EPA-registered product label must be followed;

7. Devrinol 50–WP must be kept out of lakes, streams, and ponds. Care must be taken to prevent contamination of water by the cleaning of equipment or disposal of wastes;

8. This pesticide may not be applied in the vicinity of apiaries nor may it be allowed to drift to weeds in bloom on which significant numbers of bees are actively foraging;

9. Treatment of mint as proposed should not result in residues of napropamide exceeding 0.1 ppm in or on fresh mint hay, oil, and spent mint hay. These commodities with residues not exceeding that level may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

10. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption; and

11. The Applicant shall be responsible for assuring that all provisions of this specific exemption are met and must submit a report summarizing the results of this program by October 30, 1980.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: February 4, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–4287 Filed 2–8–80; 8:45 am]

BILLING CODE 6560–01–M

[OPP–180395A; FRL 1409–2]

California Department of Food and Agriculture; Amendment to Specific Exemption To Use Trifluralin To Control Field Bindweed and Russian Thistle in Asparagus

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of amendment to a specific exemption.

SUMMARY: EPA has issued an amendment to a specific exemption granted to the California Department of Food and Agriculture (hereafter referred to as the "Applicant") to use trifluralin to control field bindweed and Russian thistle in dormant asparagus. The amendment permits an additional 660 acres in San Benito County, California, to be treated.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: On Thursday, January 10, 1980 (45 FR 2093), EPA published a notice in the **Federal Register** which announced the granting of a specific exemption to the Applicant to treat 2,460 acres of dormant asparagus in Monterey County with trifluralin. Since then the Applicant has requested authorization to make treatments in San Benito County which adjoins Monterey County and of which a large portion lies in the Salinas Valley.

After reviewing the application and other information, EPA has determined that the same emergency situation exists in San Benito County as in Monterey County and that it would be impractical to limit application only to that portion of the county in the Salinas Valley. EPA has also determined that the requested amendment would not result in significant environmental risks. Accordingly, EPA has granted the amendment to permit application of trifluralin (Treflan) to 660 acres of dormant asparagus in San Benito County, California, in addition to those previously authorized in Monterey County. All other terms and conditions of the specific exemption granted on November 8, 1979, still apply.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: February 4, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–4284 Filed 2–8–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1410–6]

Hampton Roads Energy Co.; Approval of Prevention of Significant Air Quality Deterioration Permit

On January 25, 1980, the Environmental Protection Agency issued a Prevention of Significant Air Quality Deterioration (PSD) permit to Hampton Roads Energy Company to construct an oil refinery and marine terminal at Portsmouth, Virginia. This permit was issued under then applicable regulations published in 40 CFR Part 52, and was subject to several conditions, including a limitation on sulfur in fuel burned by vessels at the proposed terminal.

Issuance of the permit was a local or regionally applicable final action of the Administrator and in accordance with section 307(b)(1) of the Clean Air Act, may be reviewed only in the United States Court of Appeals for the Fourth Circuit. Petitions for review must be filed on or before April 11, 1980.

Copies of the permit, the comments submitted by the public and other relevant materials are available for inspection during regular business hours at the following locations:

EPA, Region III, Curtis Bldg., 10th Floor, 6th & Walnut Streets, Philadelphia, Pa. 19106, Attn: Ms. Eileen M. Glen (3AH11) 215–597–8187.

VSAPCB, Region VI, Pembroke Office Park, Pembroke IV, Suite 409, Virginia Beach, Virginia 23462, Attn: Mr. Lucien McDonald, 804–499–6845.

Dated: January 25, 1980.

Alvin R. Morris,

Acting Regional Administrator.

[FR Doc. 80–4281 Filed 2–8–80; 8:45 am]

BILLING CODE 6560–01–M

[OPP–180410; FRL 1408–8]

Idaho Department of Agriculture; Issuance of Specific Exemption To Use Propham To Control Cheatgrass and Volunteer Grain in Fallow Wheat Fields

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the Idaho Department of

Ariculture (hereafter referred to as the "Applicant") to use propham to control cheatgrass (downy brome) and volunteer grain in 30,000 acres of fallow wheat fields in semi-arid wheat-growing areas of Idaho. The specific exemption expires on March 1, 1980.

FOR FURTHER INFORMATION CONTACT:
Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room: E–214, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION:
According to the Applicant, summer cheatgrass infestations pose a serious threat in semi-arid wheat-growing areas of Idaho where summer fallow is utilized in order to conserve valuable soil moisture. While mechanical cultivation has been used in the past, it is disruptive to the recently developed practice of stubble mulch farming which prevents soil erosion. In addition, mechanical cultivation increases surface evaporation, thus depleting available soil moisture for the subsequent crop. The Applicant indicates that there are no federally registered herbicides which adequately control downy brome and volunteer grain in fallow ground. The Applicant estimates a loss of up to 85 percent of subsequent wheat plantings if downy brome infestations are not controlled.

The Applicant proposes to make a single pre- or post-emergence application to fallow land of Chem Hoe 135 FL3 (propham formulated with PPG–124, an inert ingredient) using ground or air equipment. The Applicant will apply a maximum of 90,000 pounds active ingredient (a.i.) at a rate of three pounds a.i. per acre. Treated fields will be planted to wheat in the fall of 1980.

EPA has established interim tolerances for residues of propham on various agricultural crops at rates ranging from 0.05 part per million (ppm) to 2 ppm. EPA has concluded that residue levels of propham from the proposed use are not likely to exceed 0.1 ppm in or on wheat grain or straw and that residues of PPG–124 (p-chlorophenyl N-methylcarbamate and its metabolites, calculated as the parent compound) should not exceed 0.1 ppm in or on wheat grain and 0.3 ppm in or on wheat straw. These levels have been judged adequate to protect the public health. Unreasonable adverse effects to fish and wildlife are not anticipated.

After reviewing the application and other available information, EPA has determined that (a) pest outbreaks of cheatgrass and volunteer grains have occurred; (b) there is no effective pesticide presently registered and available for use to control these pests in Idaho; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pests are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until March 1, 1980. The specific exemption is also subject to the following conditions:

1. The product Chem Hoe 135 FL3 may be applied at a rate of three pounds a.i. per acre;
2. A single application is authorized;
3. Ground application will be made in a minimum of 20 gallons of water, and aerial application will be made in five to ten gallons of water;
4. All applications of propham are limited to fallow fields that will be planted to wheat during the fall of 1980;
5. A maximum of 30,000 acres may be treated;
6. Applications shall be made by State-licensed commercial applicators or qualified growers;
7. All applicable directions, restrictions, and precautions on the product label will be observed;
8. Precautions will be taken to avoid or minimize spray drift to non-target areas;
9. This use of propham is not expected to result in either residues of propham in wheat grain, straw, or forage in excess of 0.1 ppm or residues of p-chlorophenyl N-methylcarbamate and its metabolites (calculated as the parent compound) in wheat grain in excess of 0.1 ppm and in wheat straw in excess of 0.3 ppm. Wheat grain, forage and straw with residues that do not exceed these levels may be offered in interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action. Existing tolerances are adequate to cover secondary residues in meat and milk;
10. The EPA shall be immediately informed of any adverse effects to man or the environment resulting from the use of propham in connection with this exemption; and
11. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by June 15, 1980.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)).

Dated: February 4, 1980.

Edwin L. Johnson,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–4282 Filed 2–8–80; 8:45 am]
BILLING CODE 6560–01–M

[OPP–180415; FRL 1409–3]

New York State Department of Environmental Conservation; Issuance of Specific Exemption To Use Benomyl To Control Fungus on Cabbage, Cauliflower, Broccoli, and Brussels Sprouts Seeds

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has issued a specific exemption to the New York State Department of Environmental Conservation (hereafter referred to as the "Applicant") to use benomyl on commercial cabbage, cauliflower, broccoli, and Brussels sprouts seeds to control infestations of the fungus *Phoma lingam*, which causes the plant disease called "blackleg." The specific exemption ends on June 30, 1980.

FOR FURTHER INFORMATION CONTACT:
Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room E–124, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION:
According to the Applicant, *Phoma lingam*, the causal agent of blackleg disease in these crucifers (plants of the family *Cruciferae*), is frequently present on seed, but epidemic outbreaks depend on the weather conditions in seed growing, transplant, and food production areas. The organism, which may remain viable on plant debris for up to four years, can be introduced into new fields by seed transmission. The Applicant claimed that effective seed control requires treatment of seed stock used for seed production as well as the treatment of commercial seed lots. IN 1973, a disastrous outbreak of cabbage blackleg occurred in eastern growing states, and New York lost ten percent of its cabbage crop valued at $1.6 million. This acreage could not be planted back to cruciferous crops for three years.

A specific exemption was granted to Washington State to treat crucifer seeds with Benlate to control *P. lingam*. The Applicant stated that some of their crucifer seed does not originate in Washington. In addition, some seed from Washington, brought into New York for curing, processing, and treating, has not been treated under Washington's specific exemption.

The Applicant requested treatment of up to 100,000 pounds of seed. Benomyl (Benlate 50% Wettable Powder, EPA Reg. No. 352–354) will be applied at a rate of eight ounces Benlate formulation in sufficient water for seed coverage per hundred pounds of seed. A single Benlate application will be made on 100,000 pounds of seed produced for commercial planting in seed company facilities in Buffalo, Rochester, and Syracuse by personnel of seed companies or seed contractors.

EPA has determined that residue levels of benomyl from this use should not exceed 0.2 part per million (ppm) in cabbage and cauliflower and 0.4 ppm in broccoli and Brussels sprouts. These levels have been judged adequate to protect the public health. The Applicant stated that other pesticides and cultural practices have been unsuccessful in controlling the disease. EPA anticipates no adverse effects to man or the environment from this program.

It should be noted that a rebuttable presumption against registration of pesticide products (RPAR) containing benomyl was published in the **Federal Register** on December 6, 1977 (42 FR 61788). On Thursday, August 30, 1979 (44 FR 51166), EPA published in the **Federal Register** a preliminary notice of determination concluding the RPAR against benomyl. As developed in the position document, EPA has determined that benomyl poses risks of mutagenicity (as a spindle poison), teratogenicity and spermatogenic depression to humans, and acute toxicity to aquatic organisms. EPA determined that other areas of concern had been successfully rebutted. EPA will require modification of labeling of benomyl pesticide products packaged in five-pound or larger bags or with aerial application directions. EPA has reflected this preliminary determination in imposing appropriate precautions in the specific exemption to protect employees working with benomyl and the environment.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of the fungus *Phoma lingam* has occurred; (b) there is no pesticide presently registered and available for use to control the fungus in New York State; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the fungus is not controlled; and (e) the time available for action to mitigate the problems posed in insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 30, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Benlate 50 Percent Wettable Powder will be used. If an unregistered label is used it must contain the identical applicable precautions and restrictions which appear on the registered label;

2. Benomyl will be applied at a maximum rate of eight ounces of the product (four ounces active ingredient) in sufficient water to treat one hundred pounds of seeds;

3. Each seed lot may receive no more than a single application of benomyl;

4. Application of benomyl will be restricted to seeds on which infection has been confirmed or to seeds from areas where *Phoma lingam* is known to be present. Treatment will be made in the seed company facilities in the cities named above;

5. A maximum of 100,000 pounds of seeds may be treated;

6. Treated seeds will not be used for food, feed, or any other use except commercial planting, and all shipments of seed must be so labeled;

7. EPA has determined that residues of benomyl resulting from this seed treatement are not likely to exceed 0.20 part per million (ppm) in cabbage and cauliflower and 0.40 ppm in broccoli and Brussels sprouts. Cabbage, cauliflower, broccoli, and Brussels sprouts with residues not exceeding these levels may be shipped in interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

8. The Applicant is responsible for insuring that the restrictions of this specific exemption are met and must submit a report summarizing the results of this program by November 30, 1980;

9. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

10. The EPA shall be immediately informed of any adverse effects resulting from the use of benomyl in connection with this exemption;

11. All applications will be made by seed-treating personnel of the seed companies or seed contractors. Personnel of these companies must be certified and must wear cloth masks of fine weave and protective gloves when treating crucifer seeds with benomyl;

12. All clothing worn during the preparation of the slurry must be removed and cleaned after each day of use;

13. All individuals must wash immediately upon dermal contact with benomyl or the slurry; and

14. EPA has determined that benomyl causes birth defects and reduced sperm production in laboratory animals. Exposure to benomyl during pregnancy should be avoided. Exposure to benomyl might cause a depressed sperm count. In case of accidental spills or other unusual exposure, work must cease immediately and directions for contact with benomyl followed.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: February 4, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80–4285 Filed 2–8–80; 8:45 am]

BILLING CODE 6560–01–M

[OPP–180397A; FRL 1409–1]

Oregon Department of Agriculture; Amendment To Specific Exemption to Use Diclofop-methyl To Control Italian Ryegrass and Wild Oats in Winter Wheat

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of amendment to a specific exemption.

SUMMARY: EPA has issued an amendment to a specific exemption granted to the Oregon Department of Agriculture (hereafter referred to as the "Applicant") to use diclofop-methyl to control Italian ryegrass and wild oats in winter wheat. The amendment permits the application of an additional 27,000 pounds of diclofop-methyl.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: On Thursday, January 10, 1980 (45 FR 2097), EPA published a notice in the **Federal**

Register which announced the granting of a specific exemption to the Applicant to use a maximum of 100,000 pounds of the active ingredient (a.i.) diclofop-methyl on 133,000 acres of winter wheat at an application rate of 0.75 to 1.25 pounds a.i. per acre. This quantity would have been sufficient to treat the acreage if the 0.75 pound dosage rate was employed. Since then the Applicant has requested authorization for an additional 9,000 gallons of Hoelon 3EC (27,000 pounds a.i.) for the following reasons:

1. Ideal weather conditions have contributed to a high rate of germination and growth of weeds; and

2. A severe ryegrass problem in several wheat fields which were converted from ryegrass seed production to wheat production. As a result, growers were forced to use a 1.0 pound dosage rate to combat the dense weed population.

After reviewing the application and other available information, EPA has determined that the requested amendment would not result in significant environmental risks.

Accordingly, EPA has granted the amendment to increase the amount of active ingredient from 100,000 to 127,000 pounds. All other terms and conditions of the specific exemption granted on November 9, 1979, still apply.

(Sec. 18 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: February 4, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-4283 Filed 2-8-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180413; FRL 1409-4]

Washington Department of Agriculture, Issuance of Specific Exemption To Use Fenvalerate To Control Pear Psyalla in Pears

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the Washington State Department of Agricuture (hereafter referred to as the "Applicant") to use fenvalerate to control the pear psylla on a maximum of 26,000 acres of pears east of the crest of the Cascade Mountains in Washington. The specific exemption expires on May 15, 1980.

FOR FURTHER INFORMATION CONTRACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, pear psylla, requiring constant control, is present in all pear orchards in Washington. The adults winter in bark crevices or under leaves on the ground and start in early spring to lay pear-shaped yellow eggs around the buds. These hatch in two weeks into wingless nymphs which become adults in one month. There are normally three to five generations in a season. Summer eggs are laid on leaves or petioles. The nymphs cluster at axils and on undersides of leaves secreting their honeydew. The secretion covers foliage and fruits; sooty mold growing in this scars and blackens the fruit. The Applicant reports there can be partial defoliation, loss of vigor, and abnormal buds. The fruit is made unsightly and unfit for fresh market sale, the Applicant claims. According to the Applicant, processors will not buy russeted fruit because of the problems in peeling and/or contamination of the end product. Pear psylla is also the only known vector of the mycoplasma-induced disease called "Pear Decline" which results in reduced vigor of trees, diminished yields, and death of trees.

The Applicant indicates that use of fenvalerate (cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate) is necessary to reduce pear psylla densities to a level where in the summer they can be controlled with registered chemicals such as BAAM. The Applicant further states that use of fenvalerate should reduce the need for frequent applications of other materials next summer. The Applicant estimates that without adequate control of pear psylla a loss of over $10 million could be experienced by Washington pear growers.

The Applicant proposed to use Pydrin, manufactured by Shell Chemical Co., on up to 26,000 acres of pears, including those interplanted with apples. A maximum of 20,000 pounds of the active ingredient fenvalerate will be applied by either ground or air equipment during the dormant to pre-bloom stages.

EPA has determined that this use of fenvalerate should not result in residue levels exceeding 0.01 part per million (ppm) in or on pears or apples. Secondary residues in meat, fat, and meat byproducts should not exceed 0.02 ppm since the cover crops grown in treated orchards are not to be fed to livestock. EPA has judged these residue levels to be adequate to protect the public health. EPA has also determined that this program should not pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that (a) an outbreak of pear psylla has occurred; (2) there is no effective pesticide presently registered and available for use to control the pear psylla in Washington; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if the pear psylla is not controlled; and (e) the time available for action to mitigate the problems posed in insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until May 15, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Pydrin, EPA Reg. No. 201-401, may be applied at a rate of up to 0.4 pound active ingredient per acre per application. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label;

2. A maximum of two applications may be made during the dormant to the pre-bloom stages of pear tree development. Pear orchards that are interplanted with apple trees may be treated, provided applications are made prior to the bloom stage of development of both apple and pear trees;

3. Pydrin may be applied in combination with water or a superior type oil. Applications may be made with ground equipment or aircraft with spray mixture volumes of a minimum of 3 gallons per acre;

4. A maximum of 26,000 acres may be treated;

5. All applications will be limited to commercial orchards;

6. All applications will be made by State-certified private or commercial applicators or persons under their direct supervision;

7. Precautions will be taken to avoid spray drift to non-target areas;

8. Pydrin is extermely toxic to fish and aquatic invertebrates. It must be applied with care in areas adjacent to any body of water. It may not be applied when weather conditions favor runoff or drift. It must be kept out of lakes, streams, and ponds. Care must be taken to prevent contamination of water by the

cleaning of equipment or disposal of wastes;

9. Fenvalerate should not be applied any closer to fish-bearing waters than indicated in the chart below:

Application method and height	Aerial (10 ft.)			Ground (2 ft.)		
Application rate (lbs. A.I.)	0.05	0.1	0.2	0.05	0.1	0.2
Freshwater (distance in feet)	1,847	2,779	3,950	369	556	790
Saltwater (distance in feet)	111	206	371	22	41	74

The Applicant is warned that applications closer than those allowed in the above chart may result in fish and/or other aquatic organism kills;

10. Pydrin is highly toxic to bees exposed to direct treatment or residues on crops or weeds. The pesticide may not be applied or allowed to drift to weeds on which economically significant numbers of bees are actively foraging. Protective information may be obtained from the State Cooperative Extension Service;

11. Pears and apples with residue levels of fenvalerate that do not exceed 0.01 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

12. The feeding or grazing of orchard cover crops shall be prohibited;

13. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

14. The Applicant is responsible for assuring that all the provisions of this specific exemption are met and must submit a report summarizing the results of this program by November 15, 1980; and

15. The EPA shall be immediately informed of any adverse effects resulting from the use of fenvalerate in connection with this exemption.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: February 4, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-4286 Filed 2-8-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

FM and TV Translator Applications Ready and Available for Processing

Adopted: January 29, 1980.

Released: February 6, 1980.

By the Chief, Broadcast Facilities Divsion:

Notice is hereby given pursuant to §§ 73.3572(c) and 73.3573(d) of the Commission's Rules, that on March 14, 1980, the TV and FM translator applications listed in the attached Appendix will be considered ready and available for processing. Pursuant to §§ 1.227(b)(1) and 73.3591(b) of the Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on March 13, 1980 which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on March 13, 1980.

Any party in interest desiring to file pleadings concerning any pending TV or FM translator application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 73.3584(a) of the Rules, which specifies the time for filing and other requirements relating to such pleadings.

Federal Communications Commission.

William J. Tricarico,

Secretary.

UHF TV Translator Applications

BPTT-790215JA (new), St. George, Utah, Washington County Television Dept. Req: Channel 69, 800-806 MHz, 100 watts. Primary: KBYU-TV, Provo, Utah.

BPTT-790314IA (new), Donnelly & Herman, Minnesota, Hubbard Broadcasting, Inc. Req: Channel 63, 764-770 MHz, 100 watts. Primary: KSTP-TV, St. Paul, Minnesota.

BPTT-790524IN (new), Dickensonville, Virginia, Russell County Board Of Supervisors. Req: Channel 67, 788-794 MHz, 100 watts. Primary: WCYB-TV, Bristol, Virginia.

BPTT-790625IC (new), Boonville & Philo, California, Anderson Valley Television, Inc. Req: Channel 69, 800-806 MHz, 20 watts. Primary: KQED-TV, San Francisco, California.

BPTT-790719IE (new), Victoria, Texas, Donald L. Syefert & Inelda J. Strahan d/b/a Req: Channel 25, 536-542 MHz, 100 watts. Primary: KWEX-TV, San Antonio, Texas.

BPTT-790907IJ (new), Christiansted & Various Small & Rural, U.S. Virgin Islands, Virgin Islands Public Television System. Req: Channel 21, 512-518 MHz, 100 watts. Primary: WTJX-TV, Charlotte, Amalie, St. Thomas U.S. Virgin Islands.

BPTT-791029IA (new), Lexington & Paradise Valley, Montana, Paradise Valley Television District. Req: Channel 66, 782-788 MHz, 100 watts. Primary: KULR-TV, Billings, Montana.

BPTT-791116IA (new), Enterprise & Pinevalley, Utah, Washington County Television Dept. Req: Channel 55, 716-722 MHz, 100 watts. Primary: KBYU-TV, Provo, Utah.

BPTT-791120IA (new), Colorado Springs, Colorado, Sangre De Cristo Communications. Req: Channel 30, 566-572 MHz, 1000 watts. Primary: KOAA-TV, Pueblo, Colorado.

BPTT-791127IB (new), Santa Barbara, California, Blair Broadcasting of California, Inc. Req: Channel 59, 740-746 MHz, 100 watts, Primary: KSBY-TV, San Luis Obispo, California.

BPTT-791211IA (new), Midland, Merrill and Keno, Oregon, Oregon Broadcasting Company. Req: Channel 62, 758-764 MHz, 100 watts. Primary: KOTI-TV, Klamath Falls, Oregon.

BPTT-791227IA (new), Midland, Merrill and Keno, Oregon, Sierra Cascade Communications, Inc. Req: Channel 60, 746-752 MHz, 100 watts. Primary: KTVL-TV, Medford, Oregon.

BMPTT-790521IJ (K64AT) Victorville, California, International Panorama TV, Inc. Req: Specify primary TV Station as KTBN, Channel 40, Fontana, California.

BPTTV-791002IA (K04HT), Hardin & Crow Agency Montana, Garryowen Corporation. Req: Change frequency to Channel 6, 82-88 MHz, specify principal community as Hardin, Crow Agency & Rural North, Montana.

BPTTV-791009IE (new), Fallon, Nevada, Circle L. Inc. Req: Channel 13, 210-216 MHz, 10 watts. Primary: KCRL-TV, Reno, Nevada.

BPTTV-791009IF (new), Driggs, Victor & Tetonia, Idaho, Big Valley Corporation d.b.a. Grand Targhee. Req: Channel 5, 76-82 MHz, 10 watts, Primary: KIFI-TV, Idaho Falls, Idaho.

BPTTV-791009IG (new), Alta, Wyoming & Driggs & Tetonia, Idaho, Big Valley Corporation d.b.a. Grand Targhee. Req: Channel 7, 174-180 MHz, 10 watts. Primary: KID-TV, Idaho Falls, Idaho.

BPTTV-791009IH (new), Driggs & Rural Area, Idaho, Big Valley Corporation d.b.a. Grand Targhee. Req: Channel 2, 54-60 MHz, 10 watts. Primary: KPVI-TV, Pocatello, Idaho.

BPTTV-791108IC (new), Indian Springs, Nevada, Indian Springs Civic Association. Req: Channel 9, 186-192 MHz, 1 watt. Primary: KVVU-TV, Las Vegas, Nevada.

BPTTV-791108IA (new), Indian Springs, Nevada, Indian Springs Civic Association. Req: Channel 4, 66-72 MHz, 1 watt. Primary: KLAS-TV, Las Vegas, Nevada.

BPTTV-791108IB (new), Indian Springs, Nevada, Indian Springs Civic Association. Req: Channel 6, 82-88 MHz, 1 watt. Primary: KSHO-TV, Las Vegas, Nevada.

BPTTV-791108ID (new), Indian Springs, Nevada, Indian Springs Civic Association. Req: Channel 11, 198-204 MHz, 1 watt. Primary: KORK-TV, Las Vegas, Nevada.

BPTTV-791127IA (new), St. John Plantation, Maine, Town of St. John, Req: Channel 11, 198–204 MHz, 1 watt. Primary: WAGM-TV, Presque Island, Maine.
BPTTV-790904IE (new), Platte, New Holland & Corsica, South Dakota, Dordt College, Inc. Req: Channel 214, 90.7 MHz, 10 watts. Primary: KDCR-FM, Sioux Center, Iowa.
BPTTV-790904IF (new), Garner, Britt & Woden, Iowa, Dordt College, Inc. Req: Channel 214, 90.7 MHz, 10 watts. Primary: KDCR-FM, Sioux Center, Iowa.
BPTTV-790924II (new), American Falls, Idaho KSEI Broadcaster, Inc. Req: Channel 265, 100.9 MHz, 10 watts Primary: KRBU-FM, Pocatello, Idaho
BPTTV-790928ID (new), Snowflake, Show Low, Pinetop, Lakeside, Taylor, Claysprings, Pinedale & McNary, Arizona, Porter Mountain TV Association. Req: Channel 211, 90.1 MHz, 10 watts. Primary: KMCR-FM, Phoenix, Arizona.

[FR Doc. 80-4347 Filed 2-8-80; 8:45 am]
BILLING CODE 6712-01-M

[FCC 80-25; BC Docket No. 80-17, Files Nos. BR-4841 and BR-781003UB; BC Docket No. 80-18, File No. BAL-781027ED]

Radio WAVS, Inc.; Order Designating Applications for Consolidated Hearing on Stated Issues

In re Applications of: RADIO WAVS, INC., Ft. Lauderdale, Florida, BC Docket No. 80-17, File Nos. BR-4841 and BR-781003UB. For Renewal of License of WAVS, RADIO WAVS, INC. (Assignor) and GORE BROADCASTING OF SOUTH FLORIDA, INC., Ft. Lauderdale, Florida (Assignee), BC Docket No. 80-18, File No. BAL-781027ED. For Assignment of License of Station WAVS, Ft. Lauderdale, Florida. Order and Notice of Apparent Liability.

Adopted: January 16, 1980.

Released: February 8, 1980.

By the Commission: Commissioner Quello concurring in the result.

1. The Commission has before it for consideration (a) the captioned applications; (b) the results of its field inquiry into the operation of Radio Station WAVS, Ft. Lauderdale, Florida; (c) a timely filed petition to deny the captioned assignment application from Celebrities, Inc., licensee of Station WEXY, Oakland Park, Florida; and (d) various responsive and related pleadings. The captioned applications include the renewal application filed October 1, 1975, as amended by supplemental application (BR-781003UB), filed October 3, 1978.

2. Information before the Commission as the result of its field inquiry and matters set forth in the pleadings raises serious questions as to whether the captioned applicants possess the requisite qualifications to be, or to remain or, as to the proposed assignee, to become a licensee of the captioned station. In view of these questions, the Commission is unable to find that a grant of the renewal application or the application for assignment of license of the captioned station would serve the public interest, convenience and necessity, and must, therefore, designate the applications for hearing.

3. Accordingly, it is ordered, that the captioned applications for renewal and assignment, are designated for hearing in a consolidated proceeding pursuant to section 309(e) of the Communications Act of 1934, as amended, at a time and place specified in a subsequent Order, upon the following issues:

(a) Whether, in light of all the facts and circumstances pertaining thereto, the license for Station WAVS, or any rights thereunder, were transferred, assigned or disposed of, by transfer of control of the licensee corporation or otherwise, without a finding by the Commission that the public interest, convenience and necessity would be served thereby, in violation of Section 310(d) of the Communications Act of 1934, as amended.

(b) To determine whether Radio WAVS, Inc., and/or Gore Broadcasting of South Florida, Inc., and/or any of the management officials of either of the said corporations misrepresented facts or were lacking in candor with the Commission.

(c) To determine whether, in the light of evidence adduced under the foregoing issue, Radio WAVS, Inc., possesses the requisite qualifications to be, or to remain a licensee of the Commission, and whether a grant of its application for renewal of license would serve the public interest, convenience and necessity.

(d) If issue (c) is resolved favorably to Radio WAVS, Inc., to determine whether Gore Broadcasting of South Florida, Inc., possesses the requisite qualifications to become the licensee of Station WAVS and whether a grant of the captioned application for assignment of license would serve the public interest, convenience and necessity.

4. In view of the foregoing, it is further ordered, that the petition to deny the captioned assignment application, filed by Celebrities, Inc., is granted to the extent indicated above.

5. It is further ordered, that the Chief, Broadcast Bureau, is directed to serve upon the captioned applicants within thirty (30) days of the release of this Order, a Bill of Particulars with respect to issues (a) and (b).

5. It is further ordered, that if it is determined that the hearing record does not warrant an Order denying the captioned applications it shall also be determined whether the applicant has willfully or repeatedly violated Section 310(d) of the Communications Act of 1934, as amended. If so, it shall also be determined whether an Order for Forfeiture pursuant to Section 503(b) of the Communications Act of 1934, as amended, in the amount of $20,000 or some lesser amount, should be issued for violations which occurred within the statutory period preceding the issuance of the Bill of Particulars in this matter.

6. It is further ordered, that this document constitutes a Notice of Apparent Liability for forfeiture for violation of Section 310(d) of the Communications Act of 1934, as amended. The Commission has determined that, in every case designated for hearing involving revocation or denial of assignment, transfer or renewal of license for alleged violations which also come with the purview of Section 503(b) of the Communications Act, of 1934, as amended, it shall, as a matter of course, include this forfeiture notice so as to maintain the fullest possible flexibility of action. Since the procedure is thus a routine or standard one, we stress, that the inclusion of this notice is not to be taken as in any way indicating what the initial or final disposition of the case should be; that judgement is, of course, to be made on the facts of each case.

7. It is further ordered, that Celebrities, Inc., IS MADE A PARTY to this proceeding.

8. It is further ordered, that the Broadcast Bureau and Celebrities, Inc., proceed with the initial presentation of the evidence with respect to issues (a) and (b) and the applicants then proceed with their evidence and have the burden of establishing that they possess the requisite qualifications to be licensees of the Commission and that a grant of the applications would serve the public interest, convenience and necessity.

9. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein, pursuant to Section 1.221 of the Commission's Rules, in person or by attorney, shall file with the Commission, within twenty (20) days of the mailing of this Order, a written appearance in triplicate, stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

10. It is further ordered, that the applicants herein, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 1.594 of the Commission Rules, shall give notice of the hearing within the time and in the manner prescribed in such rule and shall

advise the Commission thereof as required by Section 1.594(g) of the Rules.

11. It is further ordered, that the Secretary of the Commission send a copy of this Order by Certified Mail, Return Receipt Requested, to Radio WAVS, Inc., licensee of Radio Station WAVS, Ft. Lauderdale, Florida; to Gore Broadcasting of South Florida, Inc., Ft. Lauderdale, Florida; and to Celebrities, Inc., Oakland Park, Florida.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-4346 Filed 2-8-80; 8:45 am]

BILLING CODE 6712-01-M

[Report A-5]

TV Broadcast Applications Accepted for Filing and Notification of Cut-off Date

Released: February 5, 1980.

Cut-Off date: March 24, 1980.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. They will be considered to be ready and available for processing after March 24, 1980. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on march 24, 1980 which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., no later than March 24, 1980. No application for a new station will be accepted for filing if it conflicts with any application on this list which is not designated by an asterisk (*). Petitions to deny any application on this list must be on file with the Commission not later than the close of business on March 24, 1980.

Federal Communications Commission,

William J. Tricarico,

Secretary.

Report A-5

BMLET-781107KG* (WPTD-TV), Dayton, Ohio, University Regional Broadcasting, Channel 16, Change city of license from Kettering, Ohio, to Dayton, Ohio.

BPET-790605KF (WPTD-TV), Kettering Ohio University Regional Broadcasting Channel 16 ERP: Vis. 3118 kW; HAAT: 1135 feet

BPET-790720KF (WEAO-TV), Akron, Ohio, Northeastern ETV of Ohio, Inc., Channel 49, ERP: Vis. 1355 kW; HAAT: 903 feet.

BPCT-790917KO (WHKY-TV), Hickory, North Carolina, Catawba Valley Broadcasting Co., Channel 14, ERP: 273 kW; HAAT: 601 feet.

[FR Doc. 80-4345 Filed 2-8-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL LABOR RELATIONS AUTHORITY

Decision on Request for General Statement of Policy or Guidance

AGENCY: Federal Labor Relations Authority.

ACTION: Decision on Request for General Statement of Policy or Guidance.

SUMMARY: This decision concerns a request from the National Treasury Employees Union that the Federal Labor Relations Authority issue a major policy determination.

EFFECTIVE DATE: February 4, 1980.

FOR FURTHER INFORMATION CONTACT: Samuel A. Chaitovitz, Executive Director, 1900 E Street NW., Washington, D.C. 20424, 202-254-9595.

SUPPLEMENTARY INFORMATION: The Federal Labor Relations Authority was established by Reorganization Plan No. 2 of 1978, effective January 1, 1979 (43 FR 36037). Since January 11, 1979, the Authority has conducted its operations under the Federal Service Labor-Management Relations Statute (92 Stat. 1191).

As previously announced (44 FR 45997, Aug. 6, 1979), the Authority received a request from the National Treasury Employees Union that the Authority issue a major policy determination concerning the effect of certain provisions of the Civil Service Reform Act of 1978 (92 Stat. 1111) on allegedly inconsistent provisions of collective bargaining agreements. Interested persons were invited to express their views in writing with respect to the question of whether the Authority should issue a policy statement on the matters involved. After careful consideration of the submissions by diverse labor organizations, agencies and an individual, the Authority determined that the request could not be granted for the reasons set forth in its decision below:

[Case No. O-PS-8]

Decision on Request for General Statement of Policy or Guidance

As previously announced,[1] the Authority received a reqest from the National Treasury Employees Union (NTEU) that the Authority issue a major policy determination concerning the effect of certain provisions of the Civil Service Reform Act of 1978 (92 Stat. 1111) on allegedly inconsistent provision of collective bargaining agreements.

The specific matters at issue, substantially as stated by NTEU, are as follows:

1. Do the provisions of section 7114(a) of the Federal Service Labor-Management Relations Statute (92 Stat. 1202), concerning the rights accorded exclusive representatives of the employees supersede, by operation of law, inconsistent provisions of collective bargaining agreements negotiated prior to January 11, 1979, or do the inconsistent provisions of the agreements take priority over provisions of the Statute, pursuant to section 7135(a)(1) (92 Stat. 1215)?

2. Do the provisions of section 7121(b)(3)(C) of the Statute (92 Stat. 1211), providing binding arbitration for any grievance not satisfactorily settled under the negotiated grievance procedure, supersede, by operation of law, inconsistent provisions of collective bargaining agreements negotiated prior to January 11, 1979, or do the inconsistent provisions of the agreements take priority over the provisions of the Statute, pursuant to section 7135(a)(1)?

3. Do the provisions of section 4302 of the Civil Rights Service Reform Act of 1978 (92 Stat. 1132, 1133), particularly those dealing with the rights of employees to participate in the establishment of performance standards, supersede, by the operation of law, inconsistent provisions of the collective bargaining agreements negotiated prior to January 11, 1979, or do the inconsistent provisions of the agreements take priority over the provisions of the Act, pursuant to section 7135(a)(1)?

4. Do the provisions of section 7116(a)(7) of the Statute (92 Stat. 1204), providing that it shall be an unfair labor practice for an agency to enforce any rule or regulation which is in conflict with any collective bargaining agreement if the agreement was in effect before the date the Rule or Regulation was prescribed, supersede, by operation of law, inconsistent provisions of collective bargaining agreements negotiated prior to January 11, 1979, or do the inconsistent provisions of the agreements take priority over the provisions of the Statute, pursuant to section 7135(a)(1)?

Before deciding whether issuance of a policy statement was warranted, the Authority invited interested persons to express their views in writing with respect to the question of whether the

[1] Federal Labor Relations Authority, *Notice Relating to the Issuance of a Policy Statement*, 44 FR 45997 (Aug. 6, 1979).

Authority should issue a policy statement on these matters. The views submitted to the Authority were most thorough and helpful.

The Authority has carefully considered this request and has determined that it does not satisfy the standards governing the issuance of general statements of policy and guidance set forth in § 2427.5 of the rules of the Federal Labor Relations Authority, which provides in pertinent part:

§ 2427.5 Standards governing issuance of general statements of policy and guidance.

In deciding whether to issue a general statement of policy or guidance, the authority shall consider:

(a) Whether the question presented can more appropriately be resolved by other means;

(b) Where other means are available, whether an Authority statement would prevent proliferation of cases involving the same or similar question;

(c) Whether the resolution of the question presented would have general applicability to the overall program[.]

The questions presented in this request for a major policy determination can be more appropriately resolved by other means. For example, procedures set forth in the Statute and appropriate regulations for the resolution of unfair labor practices provide a mechanism for the adjudication of issue of fact with respect to the varied circumstances presented by the questions.[2]

Moreover, Authority action on this request is not warranted since it would not prevent the proliferation of cases involving the same or similar questions. In the request it is indicated that the questions presented are merely illustrative of a great many similar questions involving the effect of the Act on allegedly inconsistent provisions of existing collective bargaining agreements entered into by NTEU and certain agencies. It is apparent that similar questions could arise with respect to virtually all existing collective bargaining agreements and many other provisions of the Act. In such a situation, given the variety of agreement provisions and the provisions of the Act which could be involved, issuance of an Authority statement might serve to engender more questions than it would answer and in so doing create more cases than it would prevent.

Finally resolution of the questions presented would not have general applicability to the overall program. As previously noted, given the variety of agreement provisions and the provisions of the Act which could conceivably be brought into play, resolution of the questions presented apparently would only have applicability to the specific contractual relationships in existence between NTEU and certain agencies.

Accordingly, the request for a major policy determination cannot be granted.

Issued: Washington, D.C., February 4, 1980.

Ronld W. Haughton,

Chairman,

Henry B. Frazier III,

Member,

Leon B. Applewhaite,

Member, Federal Labor Relations Authority.

[FR Doc. 80-4249 Filed 2-8-80; 8:45 am]

BILLING CODE 6325-19-M

[2] In this connection, it is noted that NTEU has filed several unfair labor practice charges with the Authority in which it raises the same questions presented in the request.

Oral Argument on Negotiability of Performance Appraisal Systems; Hearing

The Federal Labor Relations Authority has issued a notice of hearing of oral argument relating to the negotiability of performance appraisal systems as follows:

Please take notice that, pursuant to the powers vested in the Federal Labor Relations Authority under the Federal Service Labor-Management Relations Statute (chapter 71 of title 5 of the United States Code), a hearing in the cases listed on the attachment hereto, which are consolidated for the limited purpose of this hearing, will be held before the Federal Labor Relations Authority commencing at 10:00 a.m. on Tuesday, March 4, 1980, in Court Room 10, United States Court House, Constitution Avenue and John Marshall Place, NW., Washington, D.C.

This hearing is for the limited purpose of permitting oral argument on the sole issue: Whether and to what extent performance appraisal systems required by section 4302 of the Civil Service Reform Act of 1978 (92 Stat. 1132), including performance standards for employees or positions and the critical elements of positions under such systems, are negotiable under section 7117 of the Federal Service Labor-Management Relations Statute (92 Stat. 1205.

Dated: Washington, D.C., Februry 4, 1980.

By the Authority.

Samuel A. Chaitovitz,

Executive Director.

Attachment; Negotiability Cases

Name and Docket Number

National Treasury Employees Union and NTEU Chapter 72 and Internal Revenue Service, Austin Service Center—O-NG-54

National Treasury Employees Union and Department of the Treasury, Bureau of the Public Debt—O-NG-56

American Federation of Government Employees, AFL-CIO, National Council of EEOC Locals and the Equal Employment Opportunity Commission—O-NG-59

American Federation of Government Employees, AFL-CIO, Local 3656 and Federal Trade Commission, Boston Regional Office—O-NG-78

American Federation of Government Employees, AFL-CIO, National Council of CSA Locals and Community Services Administration—O-NG-90

American Federation of Government Employees, AFL-CIO, Local 4 and Office of Personnel Management, St. Louis Region, St. Louis, Missouri—O-NG-97

American Federation of Government Employees, AFL-CIO, Local 3385 and Federal Home Loan Bank Board, District 7, Chicago, Illinois—O-NG-108

National Treasury Employees Union and NTEU, Chapter 71 and Department of the Treasury, Internal Revenue Service, Philadelphia Service Center, Philadelphia, Pennsylvania—O-NG-113

American Federation of Government Employees, AFL-CIO, Council of Social Security District Office Locals and Department of Health, Education and Welfare, Social Security Administration, San Francisco Region, Bureau of District Office Operations, San Francisco, California—O-NG-138

National Federation of Federal Employees, Local 1497 and Headquarters, Lowry Technical Training Center (ATC), Lowry Air Force Base, Colorado—O-NG-159

National Treasury Employees Union and NTEU Chapter 66 and Department of the Treasury, Internal Revenue Service, Kansas City Service Center, Missoui—O-NG-162

American Federation of Government Employees, AFL-CIO, Local 32 and Office of Personnel Management, Washington, D.C.—O-NG-177

American Federation of Government Employees, AFL-CIO, Local 1968 and Department of Transportation, Saint Lawrence Seaway Development Corporation, Massena, New York—O-NG-194

American Federation of Government Employees, AFL-CIO, Local 3571 and Department of Health, Education and Welfare, Social Security Administration, South Bend District, Indiana—O-NG-199

National Treasury Employees Union and Department of the Treasury, Internal Revenue Service—O-NG-210

American Federation of Government Employees, AFL-CIO, Local 2250 and Veterans Administration Medical Center, Muskogee, Oklahoma—O-NG-224

[FR Doc. 80-4250 Filed 2-8-80; 8:45 am]

BILLING CODE 6325-19-M

FEDERAL MARITIME COMMISSION

Specific Commodity Rates of Far Eastern Shipping Co. in the Philippines/U.S. Pacific Coast Trade; Rejection of New Rates Filed by Far Eastern Shipping Co.

On December 28, 1979, the Federal Maritime Commission served an Order (Docket No. 79–104) suspending certain Far Eastern Shipping Company (FESCO) commodity rates pursuant to authority granted under section 18(c) of the Shipping Act, 1916, because the Commission was of the opinion that those rates may be unjust and unreasonable. The rates in that suspension order are outlined in Appendix A hereto.

In pertinent part, the order provides that FESCO may file new rates during the suspension period, effective immediately, provided that the Commission may reject such new rates if it is of the opinion that the new rates are unjust and unreasonable. The Commission also said that it "* * * is of the opinion that FESCO's replacement rates falling below those of the lowest U.S. or Philippine flag carriers actively operating in the trade will be unjust and unreasonable particularly as FESCO's *bunker surcharge* is $10.00 per ton below that of most other carriers." (Emphasis added)

In accordance with section 18(c)(4), FESCO has filed new rates on four of the suspended rate items to take effect immediately during the suspension period in lieu of the suspended rates. The Glass Manufacturers, N.O.S. item has been deleted. In filing new replacement rates, FESCO has chosen to compare its new rates with the rates of Seatrain Pacific Services, S.A. (Seatrain), an independent competitor in the same trade. It has furnished a comparison of these rates (Appendix B) which shows, generally, that FESCO's new rates are the same as or slightly higher than those of Seatrain. FESCO avers that its replacement rates are just and reasonable in that they are the same as or similar to those filed or assessed by other carriers in the same trade and "* * * are required for FESCO to meet competition in this trade for these commodities."

The comparison has been verified by the Commission. However, we believe that the new rates filed by FESCO are unjust and unreasonable due to a disparity in total transportation charges. This is so because FESCO's bunker fuel surcharge published in its Philippines-U.S. Pacific Coast tariff FMC–23 is $4.00 per revenue ton versus Seatrain's bunker fuel surcharge published in its Philippines/U.S. Pacific Coast Tariff FMC–5 of $9.50 per revenue ton. The consequences of this is that FESCO's new replacement rates are still effectively lower than the competition cited.

In the circumstances then, the Commission is of the opinion that FESCO's new replacement rates on the four suspended rate items are unjust and unreasonable and must be rejected.

Now, therefore, *it is ordered,* That pursuant to section 18(c)(4) of the Shipping Act, 1916, 46 U.S.C. 817, the new rates filed by FESCO to replace the suspended matter in FESCO's ocean freight tariff FMC–23, as shown in Appendix B, are rejected.

It is further Ordered, That any further new replacement rates of the suspended matter filed by FESCO take into account the difference between total transportation charges set forth in FESCO's tariff and the tariff of any competitor used by FESCO for comparison purposes and that FESCO's total charges be no lower than that competition.

It is further Ordered, That notice of this order be published in the **Federal Register** and that a copy thereof be served upon the Far Eastern Shipping Company.

Francis C. Hurney,
Secretary.

Appendix A.—*Freight Tariff—PMC–23*

Far Eastern Shipping Company.
From: Ports in the Philippines.
To: U.S. Pacific ports and Overland Common points.

Description	Tariff item	Rate suspended	Effective date	Page revision identification
Glass Manufactures N.O.S	510	Local $1,200.00 P/C 20	Dec. 30, 1979	14th Rev. 53, reissued on 15th Rev. 53 and 16th Rev. 53.
Furniture made of: Buri Furniture Only	480	Local $40.50M O.C.P. $36.00M	Jan. 5, 1980	15th Rev. 53, reissued on 16th Rev. 53.
Woven Articles, Viz.: Rags-Marketing/Shopping of Woven Fiber; Brooms; Cloth, Abaca/Burlap/Raffia/Saguran; Mats-Mattings, Bamboo/Bankman/Buri/Grass/Hemp/Door/Woven Fiber; Nipa Strips; Petutes Rakes; Bamboo; Rugs, Balangot/Hemp; Sawali and Screen; Woven Fiber, N.O.S	1070	Local $54.00M O.C.P. $54.50M	Jan. 6, 1980	4th Rev. 61–A
Reefer Cargo: Other	890	Local $52.00W or $46.50M	Jan. 15, 1980	7th Rev. 60.
Fruit Juice Concentrates	890	Local $113.40M	Jan. 15, 1980	7th Rev. 60.

Appendix B.—*Comparison of Fesco Replacement Rates to Those Filed or Assessed by Other Carriers in Same Trade*[1] [Fesco Tariff No. FMC–23]

Commodity	Fesco tariff item No.	Fesco suspended rate	Fesco replacement rate	Competing carrier	Competing carrier tariff item No.	Competing carrier rate
Buri Furniture Only	480	$40.50M LOC	$41.00M LOC	Seatrain	480	$41.00M LOC
		$36.00M OCP	$36.25M OCP			$35.00M OCP
Woven Articles	1070	$54.00M LOC	$54.25M LOC	Seatrain	1141	$54.00M LOC
		$54.50M OCP	$54.75M OCP			$53.00M OCP
			$2,500 P/C 40 LOC			$2,500 P/C
			$2,400 P/C 40 OCP			$2,400P/C
Reefer Cargo: Other	890	$52.00W	$52.25W	Seatrain	900	$52.00W
		$46.50M	$47.00M			$47.00W
Fruit Juice Concentrate		$113.40M	$128.00W			$128.00W

[1] The following rate comparison is submitted in support of the rates filed herewith to replace those rates suspended by the Federal Maritime Commission in its Order of Suspension and to Show Cause, F.M.C. Doc. No. 79–104 (December 28, 1979). The comparison shows that Fesco's replacement rates are just and reasonable in that they are "the same as or similar to those filed or assessed by other carriers in the same trade," 46 U.S.C. § 817(c)(2)(ii), and are required for Fesco to meet competition in this trade for these commodities.

[FR Doc. 80–4327 Filed 2–8–80; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

G & R, Inc., (d.b.a. Needham Insurance Agency)

Correction

This notice corrects a previous Federal Register document (FR Doc. 80–3521) appearing at page 7625 of the issue for Monday, February 4, 1980. The first paragraph should read as follows:

G and R, Inc., (d/b/a Needham Insurance Agency), Troy, Kansas, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in the sale of decreasing term credit life, credit accident and health and level term credit life insurance sold only in connection with demand notes; all such insurance sold exclusively in connection with extensions of credit by Troy State Bank, Applicant's subsidiary bank. These activities would be performed from offices of Applicant's subsidiary in Troy, Kansas, and the geographic area to be served is Doniphan County. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposed in accordance with the procedures of § 225.4(b).

Board of Governors of the Federal Reserve System, February 5, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-4244 Filed 2-8-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: AMAX, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of Rosario Resources Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to requests for early termination submitted by AMAX, Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: January 31, 1980.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-4305 Filed 2-8-80; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: The McCulloch Oil Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of Watson Oil Corporation from City Investing Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by McCulloch. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: January 31, 1980.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-4304 Filed 2-8-80; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: McCullock Oil Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Geothermal Kinetics Inc. from United Siscoe Mines Limited. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by McCulloch. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: January 31, 1980.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait

designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-4303 Filed 2-8-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

Metric Education Program; Extension of Closing Date for Submission of Applications

AGENCY: Office of Education, HEW.

ACTION: Extension of Closing Date for Submission of Applications.

SUMMARY: The closing date for the submission of applications to the Metric Education Program is extended from February 14, 1980 to approximately *45 days after publication of the final regulations.* Proposed regulations for the Metric Education Program were published in the **Federal Register** on May 25, 1979. The proposed regulations have been revised in light of public comment. The deadline is being extended to give applicants sufficient time to submit or amend their applications to take into account any changes in the regulations when they are published in final form.

The new notice of closing date will be published together with the final regulations in the same issue of the **Federal Register.** That notice will include instructions for submitting applications and program information.

FOR INFORMATION CONTACT:

Dr. Floyd A. Davis, Director, Metric Education Program, U.S. Office of Education, 400 Maryland Avenue, S.W., (Room 835, Riviere Building), Washington, D.C. 20202, (202) 653-5920.

Dated: February 5, 1980.

(Catalog of Federal Domestic Assistance Number 13.561, Metric Education Program)

William L. Smith,

Commissioner of Education.

[FR Doc. 80-4296 Filed 2-8-80; 8:45 am]

BILLING CODE 4110-02-M

National Advisory Council on Bilingual Education; Meeting

AGENCY: National Advisory Council on Bilingual Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meetings of the National Advisory Council on Bilingual Education. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: February 28 and 29, 1980, 9:00 a.m. to 5:00 p.m.

ADDRESS: February 28 and 29, 1980, Full Council meetings will be held at the Shoreham Americana Hotel, 2500 Calvert Street, N.W., Washington, DC. For further information contact: Gloria Becerra, Office of Bilingual Education, Reporters Building, Room 421, Office of Education, 400 Maryland Avenue, S.W., Washington, DC 20202, (202-447-9227).

The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 880b-11) to advise the Secretary of Health, Education, and Welfare and the Commissioner of Education concerning matters arising in the administration of the Bilingual Education Act.

The meetings on February 28 and 29, 1980 will be open to the public beginning at 9:00 a.m.

February 28, 1980

A meeting of the Full Council on the following subjects is scheduled from 9:00 a.m. until 5:00 p.m. The proposed agenda includes the following:

Business Meeting
- a. Call to Order
- b. Swearing-In of New Members
- c. Approval of Minutes
- d. Chairperson's Report
- e. Committee Reports
- f. Ad Hoc Reports

11:00-12:30—OBEMLA Task Force Briefing, Paquita Biascoechea, Louis Serpa
1:30-2:30—Lau Remedies, Tony Califa, Mike Smith, Mike O'Keefe
2:30-3:00—Report on LEP Count, Les Silverman, NCES, Reynaldo Macias, NIE
3:00-Title I, Richard Fairley, John Staehle

February 29, 1980

The proposed agenda includes the following:

9:00—g. Director's Report
- Regulations
- Funding Priorities
- Program Timelines
- Materials Development Transition of Grants to Contracts
- Terms of NACBE Members
- Entry/Exit Study
- NFIE Study
- Research

1:30—h. Old Business
- Action Items

i. New Business
- Action Items
- Agenda

j. Public Participation
k. Adjournment

Records will be kept of all Council proceedings and shall be available for public inspection after approval, by the Full Council, of said records has been obtained. These records will be available in Room 421, Reporters Building, 300 7th Street, S.W., Washington, DC. Written requests for such records should be sent to 400 Maryland Avenue, S.W., Reporters Building, Room 421, Washington, DC 20202.

In the event that the proposed agenda is completed prior to the projected date or time, the Council will adjourn the meeting.

Signed at Washington, DC on February 6, 1980.

Josué M. González,

Director, Office of Bilingual Education.

[FR Doc. 80-a4272 Filed 2-11-80; 8:45 am]

BILLING CODE 4110-02-M

Health Services Administration

Project Grants for Genetic Diseases Testing and Counseling Services, and Sickle Cell Screening and Education Clinics; Announcement of Availability of Grants

The Health Services Administration (HSA) announces that applications are being accepted for (1) voluntary comprehensive genetic diseases testing and counseling services project grants, and (2) sickle cell screening and education services project grants which were funded in the previous fiscal year. Awards will be made under the authority of section 1101(a) of the Public Health Service (PHS) Act (42 U.S.C. 300b et seq.).

Section 1101(a) authorizes the Secretary to make grants to public and nonprofit private entities for projects to plan, establish, and operate comprehensive, broad-based genetic diseases testing and counseling services programs and to provide special consideration for previously funded sickle cell screening and education clinics. The regulations implementing this authority are set forth at 42 CFR Part 51f. (44 FR 23837-43).

A continuing resolution for fiscal year 1980, Public Law 96-123, makes $11.5 million available for operation of this program. Of this amount, it is anticipated that approximately $6 million will be used for noncompeting, continuation awards for comprehensive

broad-based genetic diseases services projects. Approximately $2 million will be used for noncompeting, continuation awards for previously funded sickle cell screening and education projects. Approximately $2.5 million will be available to support 10–15 new comprehensive, broad-based genetic diseases projects, to be selected from competing applications. The average amount of an award will be approximaely $190.000.

The Secretary will make grants to eligible applicants for projects which will, in the Secretary's judgment, best promote the purposes of section 1101(a) of the Act. Factors which will be considered by he Secretary for comprehensive, broad-based genetic diseases services projects include:

1. The extent to which the project would meet the requirements set forth in 42 CFR 51f.106(a);

2. The number of persons proposed to be served and the extent to which rapid and effective use of funds would be made;

3. The comprehensiveness of the proposed project, with particular attention to the number of genetic diseases with respect to which the applicant intends to provide, either directly or indirectly, screening and testing services;

4. The feasibility of the plan in the application for providing services;

5. The degree to which the project will be operated in conjunction with programs supported under Title V of the Social Security Act, relating to Maternal and Child Health and Crippled Children's Services;

6. The extent to which the project proposes to coordinate its activities with the activities of other health services and genetic disease-related programs, including federally assisted sickle cell projects, in the service area;

7. Whether the project is or proposes to be a part of a network of services covering the entire service area;

8. The capability of the applicant to provide sound financial management; and

9. The applicant's plans for evaluation in such areas as management efficiency, effectiveness of services, and the degree to which project goals will be met.

To be approved, an applicant must propose to serve an area no smaller than a State unless the Secretary waives this requirement because the applicant demonstrates good cause to serve a smaller area. *See,* 42 CFR 51f.106(a)(2).

The Secretary will give priority to applicants for projects in areas which the Secretary determines have the greatest number of persons who may benefit from and are in need of genetic diseases testing and counseling services. This determination will be based on the size of the general population of the proposed service area and the extent to which available resources are insufficient to meet the needs of that population for thse services.

Factors which will be considered by the Secretary for the approval of continuation awards for previously funded sickle cell screening and education projects will include:

1. The extent of unmet need for sickle cell-related services in the service area;

2. The effectiveness of the project's previous performance with respect to use of funds and provision of services;

3. The effectiveness of the applicant's plan and the soundness of its management;

4. Whether an areawide plan to cover a broad range of genetic diseases has been developed and will be implemented in a service area which includes the service area of the applicant, during the project year for which the applicant requests funding;

5. The effectiveness of the applicant's plan to become a service component in an areawide network of services within the project year, if an areawide network exists;

6. Whether the provision of sickle cell services would be terminated or rendered ineffective if funding were not approved; and

7. The extent to which the project would meet the requirements set forth in § 51f.107 of the regulations.

Applications must be submitted to the appropriate A–95 Clearinghouse Agency (see Office of Management and Budget Circular A–95, Revised) and to the appropriate Health Systems Agency(s) at least 67 days before the due date for completed applications to the Bureau of Community Health Services. The deadline for receipt of completed applications is 5:00 p.m., May 2, 1980. (*See,* "Application Information" below.)

Application Information

Application kits, including all necessary forms, instructions, and a copy of the program regulations, may be obtained upon written request from the Grants Management Branch, Bureau of Community Health Services, Room 6–49, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone 301–443–1440. Completed applications must be returned to the Grants Management Branch at the above address.

Consultation and technical assistance regarding the development of an application are available from Audrey F. Manley, M.D., Office for Maternal and Child Health, Bureau of Community Health Services, Room 7–49, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone 301–443–1080

Dated: January 31, 1980.

George I. Lythcott,

Administrator, Health Services Administration.

[FR Doc. 80–4297 Filed 2–8–80; 8:45 am]

BILLING CODE 4110–84–M

Office of Human Development Services

[Program Announcement No. 13648–801]

Child Welfare Services Training Grants Program; Availability of Funds

AGENCY: Administration for Children, Youth and Families, Office of Human Development Services, DHEW.

SUBJECT: Announcement of Availability of Grant Funds for the Child Welfare Services Training Grants Program.

SUMMARY: The Administration for Children, Youth and Families (ACYF) announces that applications are being accepted for *TEACHING GRANTS* authorized under Section 426 of the Social Security Act (part B of title IV, 42 U.S.C. 626).

DATES: Closing date for receipt of applications is May 2, 1980.

Scope of This Announcement

This Program Announcement is one of two for the Child Welfare Services Training grants program and covers Teaching Grants to be awarded for Fiscal Year 1980. All Teaching Grants are awarded and administered by the regional Administration for Children, Youth and Families Program Offices.

Program Purpose

The purpose of this program is to develop, expand, and improve educational programs and resources for preparing students for work in the field of child welfare.

Program Goal and Objectives

The goal of this program is to provide education and training opportunities for persons who are committed to entering the field of child welfare services, or who are already working in the field of child welfare services, to enable them to more effectively achieve the following outcomes for children and families.

- To provide support to families in their own homes in order to prevent separation of children from their families.
- Where separation is necessary, to develop permanent plans and provide support services to enable children to be returned to their families.

• Where these options are inappropriate, to provide quality services which enable the children to become adopted or where it is the plan of choice to be placed in a permanent foster home.

Application for projects should specify that the proposed project will achieve or is capable of achieving one of the following specific program objectives:

• To develop degree oriented curricula organized into specific course sequences for use by the applicant school of social work, which (1) address the range of issues and problems in the practice of child welfare in an organized and comprehensive focus and (2) integrate a child welfare field placement program which supports a comprehensive learning experience for students entering a child welfare specialization; or

• To develop curricula which address the range of child welfare issues in an organized, comprehensive and practice relevant focus for a school of continuing education which is part of or affiliated with the applicant school of social work.

Teaching grants are awarded to public or nonprofit private colleges and universities offering baccalaureate or graduate degree programs in social work which are accredited or granted candidacy status by the Council on Social Work Education. Applications submitted by applicants not accredited or not granted candidacy status by the Council on Social Work Education, will not be accepted for review.

Condition for Award

In order to be considered for a grant award each applicant must provide a statement that it will complete the surveys being administered by the National and Regional Training Centers on (1) the extent and characteristics of its child welfare teaching programs and (2) the five year tracking report on the employment of students who have received traineeships. For further information about these surveys the applicant should contact its Regional Child Welfare Training Center.

Available Funds

Of the total appropriation of $7,575,000 available in Fiscal Year 1980, the Administration for Children, Youth and Families expects to award approximately $2,165,000 for new teaching grants. A new grant is the initial award made in support of a project. The project period is of one year duration. An indirect cost of 8% of the direct costs (or the institution's actual indirect cost if less than 8%) is allowable for this grant program. In Fiscal Year 1979, 117 teaching grant applications were received for competitive review and 65 awards were made, averaging approximately $32,000 each.

Grantee Share of the Project

There is no cost sharing or matching requirement for grants under this program.

The Application Process

Availability of Forms. Application for a grant under the Child Welfare Training Grants Program must be submitted on standard forms provided for this purpose. Application kits which include the forms, instructions and program information, including the complete Program Guidance for Fiscal Year 1980 may be obtained by writing to the "Project Officer, Child Welfare Services Training Grants" in the appropriate regional office listed in the Appendix.

Application Submission. One signed original and six copies of the grant application, including all attachments, must be submitted to the Regional Office address indicated in the application instructions. Applications must be submitted to the Regional Office in the region in which the applicant institution is located. *The applicant must clearly identify the program announcement for which the application is to compete.* The application must be signed by an individual authorized to act for the applicant institution and to assume for the institution the obligations imposed by the terms and conditions of the grant award.

A–95 Notification Process. This program does not require the A–95 notification process.

Application Consideration. The Regional Program Director, Administration for Children, Youth and Families, determines the final action to be taken with respect to each grant application for this program. Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth and Families.

The results of the review assist the Regional Program Director, Administration for Children, Youth and Families, in considering competing applications. If the Regional Program Director has reached a decision to disapprove a competing grant application, the unsuccessful applicant is notified in writing. Successful applicants are notified through the issuance of a Notice of Financial Assistance Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, and the total period for which project support is contemplated.

Criteria for Review and Evaluation of Teaching Grant Applications

Completed grant applications will be reviewed and evaluated against the following criteria:

• That the project objectives are identical with or are capable of achieving one of the specific program objectives listed in this announcement under "Program Goals and Objectives."

• That proposed procedures or the work program, if well executed, will be capable of achieving the desired results, including (1) the plan for accomplishing the purpose and objectives, (2) timetables for their accomplishment, and (3) information about the number and type of students to be directly affected by the teaching grant.

• That the project personnel are or will be qualified to develop child welfare curricula and the applicant organization has or will have adequate facilities and resources to conduct the project.

• That the applicant (1) describes what child welfare issues will be covered in an organized and comprehensive manner; and (2) where applicable, describes how its child welfare field placement program will support a total comprehensive learning experience for students entering a child welfare specialization.

• That the applicant has a clear plan for establishing an advisory group made up of persons providing child welfare services, including both the public and voluntary sector, and that this advisory group will meet regularly to provide practice relevant technical assistance in the course design and will review various draft materials, including the final product.

• That the applicant describes specific plans to implement the curricula into the ongoing program of the school of social work or school of continuing education, including projected information about the qualifications of the person(s) who will teach the course(s), how often they will be offered, and what students will be eligible to take the course(s).

• That the estimated cost to the government and the project is reasonable considering the anticipated result.

Closing Date for Receipt of Applications

The closing date for receipt of applications under this Program Announcement is May 2, 1980. An

application will be considered received on time if:

• The application was sent by registered or certified mail not later than May 2, 1980 as evidenced by the U.S. Postal Service postmark, or the original receipt from the U.S. Postal Service; or

• The application is received on or before close of business (COB) May 2, 1980 in the Department of Health, Education, and Welfare Regional Office mailroom. In establishing the date of receipt, consideration will be given to the time date stamps of such mailrooms or the documentary evidence of receipt maintained by the Department of Health, Education, and Welfare.

Applications received after the deadline or sent to any address other than the regional office in the region in which the applicant institution is located will not be accepted and will be returned to the applicant.

(Catalog of Federal Domestic Assistance Project Number 13.648, Training Grants in the Field of Child Welfare.)

Dated: January 11, 1980.

Herschel Saucier,

Acting Commissioner for Children, Youth and Families.

Approved: January 31, 1980.

Manuel Carballo,

Acting Assistant Secretary for Human Development Services.

Appendix I.—Regional Project Officers, Child Welfare Services Training Grant Program, Administration for Children, Youth and Families, Office of Human Development Services, Department of Health, Education, and Welfare, Regions I–X

Region I

Regional Project Officer, Administration for Children, Youth and Families, Room 2011, JFK Federal Building, Government Center, Boston, Massachusetts 02203, (617) 223–6450.

Region II

Regional Project Officer, Administration for Children, Youth and Families, Federal Building, 26 Federal Plaza, Room 4149, New York, New York 10007, (212) 264–4118.

Region III

Regional Project Officer, Administration for Children, Youth and Families, P.O. Box 13716, 3535 Market Street, Philadelphia, Pennsylvania 19101, (215) 596–6763.

Region IV

Regional Project Officer, Administration for Children, Youth and Families, 101 Marietta Tower, Suite 903, Atlanta, Georgia 30323, (404) 242–2128.

Region V

Regional Project Officer, Administration for Children, Youth and Families, 300 South Wacker Drive, 13th Floor, Chicago, Illinois 60606, (312) 353–8065.

Region VI

Regional Project Officer, Administration for Children, Youth and Families, 1200 Mail Tower Building, Room 2025, Dallas, Texas 75202, (214) 729–6596.

Region VII

Regional Project Officer, Administration for Children, Youth and Families, Federal Building, 601 E. 12th Street, 3rd Floor, Kansas City, Missouri 64106, (816) 758–5401.

Region VIII

Regional Project Officer, Administration for Children, Youth and Families, 1961 Stout Street, Denver, Colorado 80294, (303) 327–3106.

Region IX

Regional Project Officer, Administration for Children, Youth and Families, Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–6153.

Region X

Regional Project Officer, Administration for Children, Youth and Families, Mail Stop 622, Arcade Plaza Building, 1321 2nd Avenue, Seattle, Washington 98101, (206) 399–0838.

[FR Doc. 80-3769 Filed 2-8-80; 8:45 am]

BILLING CODE 4110-92-M

[Program Announcement No. 13648-802]

Child Welfare Services Training Grants Program; Availability of Funds

AGENCY: Administration for Children, Youth and Families Office of Human Development Services, DHEW.

SUBJECT: Announcement of Availability of Grant Funds for the Child Welfare Services Training Grants Program

SUMMARY: The Administration for Children, Youth and Families (ACYF) announces that applications are being accepted for *Traineeship Grants* authorized under Section 426 of the Social Security Act (part B of title IV, 42 U.S.C. 626).

DATES: Closing date for receipt of applications is May 2, 1980.

Scope of This Announcement

This Program Announcement is one of two for the Child Welfare Services Training Grants program and covers Traineeship Grants to be awarded for Fiscal Year 1980. All Traineeship Grants are awarded and administered by the regional Administration for Children, Youth and Families Program Offices.

Program Purpose

The purpose of this program is to develop the skills and qualifications of full-time students who have as their career objectives the provision of services to children and their families by providing financial support through Institutions of Higher Education. Financial support is provided to Baccalaureate degree students in their senior year only, for the first or second year at the Masters of Social Work Level, and for Doctoral candidates.

Program Goal and Objective

The goal of this program is to provide education and training opportunities for persons who are committed to entering the field of child welfare services or who are already working in the field of child welfare services, to enable them to more effectively achieve the following outcomes for children and families:

• To provide support to families in their own homes in order to prevent separation of children from their families.

• Where separation is necessary, to develop permanent plans and provide support services to enable children to be returned to their families.

• Where these options are inappropriate, to provide quality services which enable the children to become adopted or where it is the plan of choice, to be placed in a permanent foster home.

Applications should specify that the proposed project will achieve or is capable of achieving the following program objective:

• To enable students who have child welfare as a career objective to gain special knowledge and experience in providing services to children and their families. Financial support is provided only to: full-time Baccalaureate degree students in their senior year; full-time first or second year graduate students working toward a Masters in social work or its equivalent; and full-time Doctoral candidates. Undergraduates at the junior level, students who are enrolled part-time or for any other purpose are not eligible to receive assistance under the program.

Eligible Applicants

Traineeship Grants are awarded to public or nonprofit private colleges and universities offering baccalaureate or graduate degree programs in social work which are accredited by the Council on Social Work Education or have been granted candidacy status. Applications submitted by applicants not accredited nor granted candidacy status by the Council on Social Work Education will not be accepted for review.

Condition for Award

In order to be considered for a grant award each applicant must provide a statement that it will complete the surveys being administered by the

National and Regional Training Centers on (1) the extent and characteristics of its child welfare teaching programs and (2) the five year tracking report on the employment of students who have received traineeships. For further information about these surveys the applicant should contact its Regional Child Welfare Training Center.

Available Funds

Of the total appropriation of $7,575,000 available in Fiscal Year 1980, the Administration for Children, Youth and Families expects to award approximately $3,410,000 for new traineeship grants. A new grant is the initial award made in support of a project. The project period is of one year duration. Awards are made for student costs only. At the undergraduate level, the per student cost shall not exceed $1,000 which may be used for tuition, fees, stipend and travel expenses. At the graduate level, costs which may be covered include tuition, fees, stipend, dependency allowances and travel expenses. A table for calculating stipends and dependency allowances at the graduate level is included in the program guidance. No other direct or indirect costs are allowable except for the following:

If a separate unit is established in a state or local public welfare agency, which has an identifiable child welfare service unit, for the sole purpose of supervising trainee field placement, those costs directly attributed to the field supervision of the students will be allowable as a direct cost to the institution. An indirect cost rate not to exceed 8 percent of the direct costs (excluding traineeship costs) may be charged to the program (or the institution's actual indirect cost if less than 8 percent). The unit must consist of at least five students but not more than eight, to qualify for payment of costs for one full-time supervisor.

In Fiscal Year 1979, 121 traineeship grant applications were received for competitive review and 102 awards were made, averaging approximately $30,500.

Grantee Share of the Project

There is no cost sharing or matching requirement for grants under this program.

The Application Process

Availability of Forms

Application for grant under the Child Welfare Services Training Grants Program must be submitted on standard forms provided for this purpose. Application kits which include the forms, instructions and program information, including the complete Program Guidance for Fiscal Year 1980 may be obtained by writing to the "Project Office, Child Welfare Services Training Grants" in the appropriate regional office listed in the Appendix.

Application Submission

One signed original and six copies of the grant application, including all attachments, must be submitted to the Regional Office address indicated in the application instructions. (Applications must be submitted to the appropriate Regional office in the region in which the applicant institution is located.) *The applicant must clearly identify the program announcement number for which the application is to compete.* The application must be signed by an individual authorized to act for the applicant institution and to assume for the institution the obligations imposed by the terms and conditions of the grant award.

A-95 Notification Process

This program does not require the A-95 notification and review process.

Application Consideration

The Regional Program Director, Administration for Children, Youth and Families, determines the final action to be taken with respect to each grant application for this program. Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth and Families. The results of the review assist the Regional Program Director for Children, Youth and Families in considering competing applications. If the Regional Program Director has reached a decision to disapprove a competing grant application, the unsuccessful applicant is notified in writing. Successful applicants are notified through the issuance of a Notice of Financial Assistance Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, and the total period for which project support is contemplated.

Criteria for Review and Evaluation of Traineeship Grant Applications

Completed grant applications will be reviewed and evaluated against the following criteria:

- That the project objectives are identical with or are capable of achieving the specific program objectives listed in this announcement under "Program Goal and Objective."
- That proposed procedures or the work program, if well executed, will be capable of achieving the results required by the program and further defined and elaborated by the applicant, including at least the following sub-criteria:

a. That the applicant provides assurance of completing the survey being administered by the National and Regional Training Centers and describes a specific plan to track recipients of traineeship for a period of at least five years to determine to what extent graduates enter and remain in the field of child welfare services; and

b. That the applicant provides assurance that all student eligibility requirements specified in the Program Guidance are met.

- That the applicant describes what the institution is doing to reinforce and support the students' commitment to child welfare services, including a description of courses which students will be required to take or select from which place special emphasis on child welfare services.
- That the application includes a viable plan designed to recruit program eligible minority candidates into the traineeship program, especially those who have limited financial resources. This plan must specify activities and timetables by which the school will seek out, identify, and, when implemented, *focus* traineeship selection on minority candidates.
- That the applicant documents that it will provide a field placement program (except for Doctoral candidates) for students in which they will have an opportunity to integrate academic and field placement experiences into a more comprehensive understanding of the field of child welfare, including the following:

a. The type of schedule the field placement follows and the number of hours a week, month, semester, etc., it entails;

b. For each traineeship requested, specific description of and commitment in writing from an agency for a full academic year of field placement as defined by the institution, in a child welfare setting which will enable the undergraduate or Master level trainee to (1) carry a caseload or participate in the management of a caseload primarily involving child welfare services and (2) work under the direction of a trained social work supervisor;

c. A description of the policies and procedures the applicant will follow in the supervision of the students' field placements including (1) whether there is a supervisor or director of field

placement and that person's role and responsibility; (2) who provides direct supervision (the school or the field placement agency); (3) the criteria for the selection of field placements in child welfare; (4) the nature and quality of the supervisory contact required; and (5) the relationship between the field placement and the classroom instruction.

• That the application include one of the following two types of specific documentation that the recipients of traineeships will work in a child welfare setting upon completion of their Baccalaureate, Masters degree or Doctoral program:

1. A letter of commitment either from an institution or a public or voluntary social services agency to release employees for the pursuit of a graduate or undergraduate degree in social work. The letter of commitment must specify the number of employees to be released and enrolled, describes efforts made by the agencies to select minorities and employees with limited financial resources, and indicate that the person(s) released will be providing services, teaching, conducting research or administering programs in child welfare when they return to work.

2. A letter of commitment from an institution or public or voluntary agency that upon completion of a degree program it will hire a trainee to provide services, to teach, conduct research or administer programs in child welfare.

In addition, for Doctoral candidates the applicant must provide criteria for selection of trainees which assure that (a) they will have well established interest and experience in child welfare and will work in a child welfare setting upon completion of the degree program; and (b) they have selected or will select dissertation subjects clearly related to the field or child welfare.

• That project personnel are or will be well-qualified to provide direction and supervision to students specializing in child welfare, and the applicant organization has or will have adequate facilities and resources to conduct the project.

• That the estimated cost to the government of the project is reasonable considering the anticipated results.

Closing Date for Receipt of Applicants

The closing date for receipt of applications under this Program Announcement is May 2, 1980. An application will be considered received on time if:

• The application was sent by registered or certified mail no later than May 2, 1980 as evidenced by the U.S. Postal Service postmark, or the original receipt from the U.S. Postal Service; or

• The application is received on or before close of business (COB) May 2, 1980 in the Department of Health, Education, and Welfare Regional Office mailroom. In establishing the date of receipt, consideration will be given to the time date stamps of such mailrooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare. Applications received after the deadline or sent to any address other than the regional office in the region in which the applicant institution is located will not be accepted and will be returned to the applicant.

(Catalog of Federal Domestic Assistance Project Number 13.648, Training Grants in the Field of Child Welfare)

Dated: January 11, 1980.

Herchel Saucier,

Acting Commissioner for Children, Youth and Families.

Approved: January 31, 1980.

Manuel Carballo,

Acting Assistant Secretary for Human Development Services.

Appendix I—Regional Project Offices, Child Welfare Services Training Grant Program, Administration for Children, Youth, and Families, Office of Human Development Services, Department of Health, Education, and Welfare, Regions I–X

Region I

Regional Project Officer, Administration for Children, Youth, and Families, Room 2011, JFK Federal Building, Government Center, Boston Massachusetts 02203 (617) 223–6450

Region II

Regional Project Officer, Administration for Children, Youth, and Families, Federal Building, 26 Federal Plaza, Room 4149, New York, New York 10007 (212) 264–4118

Region III

Regional Project Officer, Administration for Children, Youth, and Families, P.O. Box 13716, 3535 Market Street, Philadelphia, Pennsylvania 19101 (215) 596–6763

Region IV

Regional Project Officer, Administration for Children, Youth, and Families, 101 Marietta Tower, Suite 903, Atlanta, Georgia 30323 (404) 242–2128

Region V

Regional Project Officer, Administration for Children, Youth, and Families, 300 South Wacker Drive, 13th Floor, Chicago, Illinois 60606 (312) 353–8065

Region VI

Regional Project Officer, Administration for Children, Youth, and Families, 1200 Mail Tower Building, Room 2025, Dallas, Texas 75202 (214) 729–6596

Region VII

Regional Project Officer, Administration for Children, Youth, and Families, Federal Building, 601 E. 12th Street, 3rd Floor, Kansas City, Missouri 64106 (816) 758–5401

Region VIII

Regional Project Officer, Administration for Children, Youth, and Families, 1961 Stout Street, Denver, Colorado 80294 (303) 327–3106

Region IX

Regional Project Officer, Administration for Children, Youth, and Families, Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102 (415) 556–6153

Region X

Regional Project Officer, Administration for Children, Youth, and Families, Mail Stop 622, Arcade Plaza Building, 1321 2nd Avenue, Seattle, Washington 98101 (206) 399–0838

[FR Doc. 80–3770 Filed 2–8–80; 8:45 am]

BILLING CODE 4110–92–M

National Institutes of Health

Board of Scientific Counselors, Division of Cancer Treatment; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, March 24–25, 1980, Building 31, 6th floor, "C" wing, Conference Room 10, National Institutes of Health. This meeting will be open to the public on March 24 and 25, 1980, from 8:30 a.m. until recess, to review program plans, followup on status of budget and a progress review of DCT programs at the Frederick Cancer Reserach Center. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S.C. and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 24, 1980, from 7:30 p.m. to 10:00 p.m., for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Saul A. Schepartz, Acting Director, Division of Cancer Treatment, National Cancer Institute, Building 31, Room 3A–51, National Institutes of Health, Bethesda, Maryland 20205 (301–496–6404) will furnish summaries of meetings, rosters of committee members, and substantive program information.

Dated: February 5, 1980.

Suzanne L. Fremeau,

Committtee Management Officer, National Institutes of Health.

[FR Doc. 80-4261 Filed 2-8-80; 8:45 am]

BILLING CODE 4110-08-M

Meetings for the Review of Contract Proposals and Grant Applications

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and Section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual contract proposals and grant applications, as indicated. These proposals and applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals and applications, the disclosure of which would would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will furnish summaries of the meetings and rosters of committee members upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, unless otherwise stated.

Name of committee: Cancer Control Grant Review Committee
Dates: March 2-4, 1980
Place: Building 31C, Conference Room 8, National Institutes of Health

Times

Open: March 2, 3:00 p.m.—3:30 p.m.
Closed: March 2, 3:30 p.m.—adjournment, March 3, 8:30 a.m.—adjournment, March 4, 8:30 a.m.—adjournment
Closure reason: To review grant applications
Executive secretary: Robert F. Browning, Ph.D.
Address: Westwood Building, Room 806, National Institutes of Health
Phone: 301/496-7413

(Catalog of Federal Domestic Assistance Number 13.399, National Institutes of Health)

Name of committee: Clinical Cancer Program Project & Cancer Center Support Rev. Cmt. (Cancer Center Support Subcommittee)
Dates: March 20-21, 1980
Place: Building 31C, Conference Room 6, National Institutes of Health

Times

Open: March 20, 8:30 a.m.—10:00 a.m.
Closed: March 20, 10:00 a.m.—6:00 p.m., March 21, 8:30 a.m.—adjournment
Closure reason: To review grant applications
Executive secretary: Dr. Robert L. Manning
Address: Westwood Building, Room 803, National Institutes of Health
Phone: 301/496-7721

(Catalog of Federal Domestic Assistance Number 13.397, National Institutes of Health)

Name of committee: Clinical Trials Committee
Dates: March 26-27, 1980
Place: Building 31C, Conference Room 7, National Institutes of Health

Times

Open: March 26, 9:00 a.m.—9:30 a.m.
Closed: March 26, 9:30 a.m.—5:00 p.m., March 27, 9:00 a.m.—5:00 p.m.
Closure reason: To review contract proposals
Executive secretary: Gerald U. Liddel, Ph.D.
Address: Westwood Building, Room 826, National Institutes of Health
Phone: 301/496-7575

(Catalog of Federal Domestic Assistance Number 13.395, National Institutes of Health)

Name of committee: Tumor Immunology Committee
Date: March 28, 1980
Place: Landow Building, Conference Room A, 7910 Woodmont Avenue, Bethesda, Maryland 20014.

Times

Open: March 28, 9:00 a.m.—9:30 a.m.
Closed: March 28, 9:30 a.m.—adjournment
Closure reason: To review contract proposals
Executive secretary: Clarice E. Gaylord, Ph.D.
Address: Westwood Building, Room 810, National Institutes of Health
Phone: 301/496-7628

(Catalog of Federal Domestic Assistance Number 13.395, National Institutes of Health)

Dated: February 5, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-4262 Filed 2-8-80; 8:45 am]

BILLING CODE 4110-08-M

Meeting of Heart, Lung, and Blood Research Review Committee B

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, March 21-22, 1980, Conference Room 9, Building 31, C Wing, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on March 21, 1980, from 8:30 AM to approximately 9:30 AM to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S.C. and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 21, 1980, from 9:30 AM until the adjournment on March 21, 1980, or possibly March 22, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Room 4A21, Building 31, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members.

Dr. Arthur W. Merrick, NHLBI, NIH, Room 552, Westwood Building, Bethesda, Maryland 20205, phone (301) 496-7917, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, 13.838, 13.839, National Institutes of Health)

Dated: February 5, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-4263 Filed 2-8-80; 8:45 am]

BILLING CODE 4110-08-M

Meeting of Heart, Lung, and Blood Research Review Committee A

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, March 21-22, 1980, Conference Room 7, Building 31, C Wing, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on March 21, 1980 from 8:30 AM to approximately 9:30 AM to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S.C. and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 21, 1980 from 9:30 AM until the adjournment on March 22, for the review, discussion and evaluation of individual grant applications. These

applications and the discussions could reveal personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Room 4A–21, Building 31, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the committee members. Dr. Arthur Merrick, Executive Secretary, NHLBI, NIH, Room 552, Westwood Building, Bethesda, Maryland 20205, phone (301) 496–7917, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, 13.838, 13.839, National Institutes of Health)

Dated: February 5, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–4264 Filed 2–8–80; 8:45 am]

BILLING CODE 4110–08–M

Meeting of Aging Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Aging Review Committee, National Institute on Aging, on March 20–21, 1980, in Building 31C, Conference Room 8, National Institutes of Health, Bethesda, Md.

The meeting will be open to the public from 9 a.m. to 10 a.m. on March 20, for introductory remarks. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 20, from 10 a.m. to adjournment on March 21, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, NIA, Building 31, Room 5C–05 National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–5345 will provide summaries of meetings and rosters of Committee members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, National Institutes of Health.)

Dated: February 5, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–4265 Filed 2–8–80; 8:45 am]

BILLING CODE 4110–08–M

Meeting of Microbiology and Infectious Diseases Advisory Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Advisory Committee, National Institute of Allergy and Infectious Diseases on March 27 & 28, 1980, at the National Institutes of Health, Building 31C, Conference Room 10, Bethesda, Maryland.

This meeting will be open to the public from 8:30 a.m. until 11:30 a.m. on March 27 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and Section 10(d) of Pub. L. 92–463, the meeting of the Committee will be closed to the public from 12:30 p.m. on March 27 until adjournment on March 28 for the review, discussion, and evaluation of individual grant applications and contract proposals. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, National Institutes of Health, Building 31, Room 7A32, Bethesda, Maryland 20205, (301) 496–5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Thelma N. Fisher, Executive Secretary, Microbiology and Infectious Diseases Advisory Committee, NIAID, National Institutes of Health 20205, (301) 496–7465, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health)

Dated: February 5, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–4266 Filed 2–8–80; 8:45 am]

BILLING CODE 4110–08–M

Meeting of the Population Research Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Population Research Committee, National Institute of Child Health and Human Development, on March 13–14, 1980 in the Landow Building, Conference Room "A," 7910 Woodmont Avenue, Bethesda, Maryland.

This meeting will be open to the public on March 13 from 9 a.m. to 10:30 a.m. to discuss the program status, new developments and projections for population research centers, program projects and institutional fellowships. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, U.S.C. 552b(c)(4) and 552b(c)(6) and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 13 from 10:30 a.m. to adjournment on March 14 for the review, discussion and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 7C–09, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of committee members. Dr. William A. Sadler, Executive Secretary of the Population Research Committee, NICHD, Landow Building, Room 7C–33, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–6515, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.864, National Institutes of Health)

Dated: February 5, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–4267 Filed 2–8–80; 8:45 am]

BILLING CODE 4110–08–M

Meeting of the Genetic Basis of Disease Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Genetic Basis of Disease Review Committee, National Institute of General Medical Sciences on March 18, 1980, 9 a.m., Conference Room 7, Building 31C,

National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on March 18 from 9 a.m. to 11 a.m. for opening remarks and discussion of procedural matters and issues relevant to the Genetics Program. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Title 5, U.S.C. 552b (c)(6), the meeting will be closed to the public on March 18 from 11 a.m. to adjournment for the review, discussion, and evaluation of institutional training grant applications in genetics. These applications and the discussion could disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Mr. Paul Deming, Research Reports Officer, NIGMS, Westwood Building, Room 9A05, Bethesda, Maryland 20205, Telephone (301) 496–7301, will furnish summary minutes of the meeting and a roster of committee members.

Mrs. Mary L. Wolff, Executive Secretary, Genetic Basis of Disease Review Committee, National Institute of General Medical Sciences, Room 953, Westwood Building, telephone (301) 496–7585, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13–862, General Medical Sciences Genetics Program)

Dated: February 5, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–4268 Filed 2–8–80; 8:45 am]

BILLING CODE 4110–08–M

Meeting of the Pharmacology-Toxicology Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Pharmacology-Toxicology Review Committee, National Institute of General Medical Sciences, March 13–14, 1980, National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Maryland.

This meeting will be open to the public on March 13 from 8:30 a.m. to 9:30 a.m. for opening remarks and general administrative business. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Title 5, U.S.C. 552b(c)(6), the meeting will be closed to the public on March 13 from 9:30 a.m. to 5:00 p.m. and on March 14 from 8:30 a.m. to 5:00 p.m. or adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Paul Deming, Research Reports Officer, NIGMS, Westwood Building, Room 9A12, Bethesda, Maryland 20205, Telephone: 301, 496–7301, will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. Martha Panitch, Executive Secretary, Pharmacology-Toxicology Review Committee, Westwood Building, Room 953, Bethesda, Maryland, Telephone: 301, 496–7585.

(Catalog of Federal Domestic Assistance Program 13–859, Pharmacology-Toxicology Program, National Institute of General Medical Sciences, National Institutes of Health)

Dated: February 5, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–4269 Filed 2–11–80; 8:45 am]

BILLING CODE 4110–08–M

Meeting of the Board of Scientific Counselors, NINCDS

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Neurological and Communicative Disorders and Stroke, NIH, March 27 and 28, 1980, in Conference Room 4, First Floor, Building 31A, Bethesda, MD 20205. This meeting will be open to the public from 9:30 a.m. to 5:00 p.m., on March 27th to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S.C. and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 9:00 a.m., until the conclusion of the meeting on March 28th for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performances, the competence of individual investigators and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Chief, Office of Scientific and Health Reports, Ms. Sylvia Shaffer, Building 31, Room 8A03, NIH, NINCDS, Bethesda, MD 20205, telephone 301/496–5751, will furnish summaries of the meeting and rosters of committee members.

The Executive Secretary from whom substantive program information may be obtained is Dr. Thomas N. Chase, Director, Intramural Research Program, NINCDS, Building 36, Room 5A05, NIH, Bethesda, MD 20205, telephone 301/496–4297.

(Catalog of Federal Domestic Assistance Program No. 13,356, National Institutes of Health)

Dated: February 5, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–4270 Filed 2–8–80; 8:45 am]

BILLING CODE 4110–08–M

Meeting of the Biomedical Library Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Library Review Committee, National Library of Medicine, on March 26–27, 1980, from 8:30 a.m. to 5:00 p.m. on March 26, and from 8:30 a.m. to adjournment on March 27, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland.

The meeting will be open to the public from 8:30 to 9:30 a.m. on March 26 for the discussion of program directions in regard to computer science research. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on March 26 from 9:30 a.m. to 5:00 p.m., and from 8:30 a.m. to adjournment on March 27 for the review, discussion and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Division of Biomedical Information Support, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, Telephone Number: 301–496–4191, will provide summaries of the meeting, rosters of committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—National Institutes of Health.)

Dated: February 5, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-4271 Filed 2-8-80; 8:45 am]

BILLING CODE 4110-08-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Nev-025474]

Nevada; Airport Lease Amendment

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211–214), Elko County has applied to amend airport lease Nev–025474 to include the following land:

Mount Diablo Meridian

T. 47 N., R. 64 E.,
Sec. 12, N½NW¼NW¼NE¼, N½NE¼NW¼NE¼, N½SW¼NW¼NW¼NE¼, N½SE¼NW¼NW¼NE¼, N½SW¼NE¼NW¼NE¼, SE¼NE¼NW¼NE¼, E½NE¼SE¼NW¼NE¼, E½SE¼SE¼NW¼NE¼.

The area described comprises 18.75 acres in Elko County, Nevada. The application was filed on January 25, 1980, and on that date the land was segregated from all other forms of appropriation under the public land laws.

Interested persons may submit comments to the District Manager, Bureau of Land Management, 2002 Idaho Street, Elko, NV 89801.

Charles E. Hancock,

Acting Chief, Division of Technical Services.

[FR Doc. 80-4091 Filed 2-8-80; 8:45 am]

BILLING CODE 4310-84-M

Scientific Committee of the Outer Continental Shelf (OCS) Advisory Board; Agenda of Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, 5 U.S.C. App. I and the Office of Management and Budget's Circular A–63, Revised.

The Scientific Committee of the Outer Continental Shelf Advisory Board will meet on March 5, 1980 from 1:00 p.m.–5:30 p.m., on March 6, 1980 from 8:30 a.m.–5:00 p.m., and on March 7, 1980 from 8:30 a.m.–1:00 p.m. The meeting will be held in the St. Charles Hotel, 2203 St. Charles Avenue, New Orleans, Louisiana.

The agenda for the meeting will include the following subjects:

- Roles and Responsibilities of the Scientific Committee
- Review of the Gulf of Mexico OCS Environmental Studies Program
- Review of FY 1981 National Studies Plan
- Review of Projected Studies to Support the June 1979 Proposed Lease Schedule

The meeting of this committee is open to the public. Approximately 50 visitors can be accommodated on a first-come/first-served basis. All inquiries concerning this meeting should be addressed to: Piet deWitt, Chief, Branch of Offshore Studies (543), Bureau of Land Management, Washington, D.C. 20240, Telephone: (202) 343–7744.

Frank Gregg,

Director, Bureau of Land Management.

Approved: February 6, 1980.

Guy R. Martin,

Assistant Secretary of the Interior.

[FR Doc. 80-4245 Filed 2-8-80; 8:45 am]

BILLING CODE 4310-84-M

Geological Survey

Disposal of Onshore and OCS Federal Royalty Oil

By separate notices published in the **Federal Register** (45 FR 2830, January 14, 1980), the Geological Survey (GS) advised of the availability of royalty oil produced from onshore and OCS Federal leases and invited refiners who consider themselves eligible to submit applications to purchase said royalty oil for use in their existing, operable refineries. The closing date for the receipt of applications is February 25, 1980.

The notices also specified that the GS would require a certification of existing, operable refining capacity by the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) prior to the time at which allocations will be made to those who are determined to be qualified applicants. The critical dates for GS's receipt of these ERA certifications of new or expanded capacity is March 3, 1980, for onshore royalty oil, and April 1, 1980, for OCS royalty oil. These certifications will be used by the GS to (1) establish that each refinery for which royalty oil is sought actually is in operable condition as of the applicable critical date, (2) quantify the total operable refining capacity of those who apply for OCS royalty oil, and (3) determine the actual excess operable refining capacity of all applicants.

It has since come to the GS's attention that many refiners who might otherwise be eligible for an allocation of this Federal royalty oil currently do not have and will not be able to obtain a formal ERA certification of new and/or expanded operable refinery capacity by the critical dates of March 3, 1980 (onshore), and April 1, 1980 (OCS). In order not to penalize unduly those applicants who find themselves in this position, GS has decided, for these two royalty oil offerings, that it will accept an interim determination by ERA as to new and/or expanded operable refinery capacity should it not be possible to obtain a formal ERA certification by the critical dates.

Refiners who have not had their new and/or expanded operable refining capacity officially certified by ERA pursuant to 10 CFR 211.67(A)(2) but who request such a certification by ERA on or prior to February 18, 1980, may also file a request with ERA for an interim determination of such new and/or expanded operable refinery capacity. All such requests must be accompanied by the required documentation set out below and must be received by ERA's Office of Refinery Operations by not later than February 18, 1980, as to those new and/or expanded but operable refineries for which onshore royalty oil has or will be sought and by no later than March 10, 1980, for those new and/or expanded but operable refineries for which OCS royalty oil has been requested. All requests for such interim determinations should be addressed to: Department of Energy, Economic Regulatory Administration, Refinery Operations Branch, Room 6128, 2000 M Street NW., Washington, D.C. 20461.

All ERA interim determinations of new and/or expanded operable refinery capacity will be submitted to GS by the critical dates for its use in determining those applicants who are qualified to receive an allocation. However, all such ERA interim determinations of new and/or expanded operable refinery capacity shall be solely for purpose of these particular royalty oil offerings and shall have no standing under DOE's regulations and shall create no presumption as to future formal certification by ERA.

The documentation which is to accompany all requests submitted to ERA for an interim determination of new and/or expanded operable refining capacity is as follows:

1. Average daily volume of crude oil runs to stills for the period July 1, 1979 through January 31, 1980 (if such refining capacity has not been in operation for the entire period, the average daily volume of crude oil runs to stills for such time as the refining capacity has been in operations during this period).

2. Affidavit of a qualified professional engineer stating the design crude oil processing capacity of the refining capacity and the basis for such statement. Capacity should be stated in barrels-per-stream day. A 93% service factor shall be used to convert to calendar-day capacity.

3. Process flow diagram indicating engineering operating conditions and flow rate for each crude oil distillation unit.

4. Assay for the design crude oil type.

5. With respect to each crude oil distillation unit, the following data:

A. Number of side streams from each distillation column;

B. Number of trays in each distillation column;

C. Diameter of each distillation column above feed tray;

D. Atmospheric bottom yield from crude charge;

E. Crude furnace inlet temperature and pressure;

F. Crude furnace outlet temperature and pressure;

G. Crude furnace design duty (heat absorbed); and

H. Crude oil distillation unit operating pressure.

6. Refiner's report summarizing results of most recent supervised test run (if available).

7. Affidavit by a responsible corporate official as to the date of start up of the new and/or expanded refinery capacity.

In addition to the foregoing, it has come to the attention of the GS that it failed to include Hawaii in the onshore portion of the **Federal Register** notice of January 14, 1980, as a preference State in the Western Region for the acquisition of onshore royalty oil, and that omission is hereby corrected. Thus, those who apply to purchase onshore royalty oil produced in the Western Region for use in existing operable refineries located in Hawaii, and who are determined to be qualified, will be accorded the same preference as those qualified applicants who also apply for onshore royalty oil in the Western Region and whose existing operable refineries are located in Arizona, California, Idaho, Nevada, Oregon, and Washington.

Don E. Kash,

Chief, Conservation Division, Geological Survey.

[FR Doc. 80-4246 Filed 2-8-80; 8:45 am]

BILLING CODE 4310-31-M

Second Seminar of the Research and Development Program for Outer Continental Shelf Oil and Gas Operations

The subject seminar is to be held on April 8 and 9, 1980, at the National Center, Reston, Virginia. Fourteen investigators from universities, government laboratories, and private companies will present their research and development projects which are in the fields of monitoring and inspection of offshore structures, blowout prevention, and environmental concerns. Following the presentations, an open discussion of the research program will be held.

Attendance is limited, and invitations will be sent to those who apply first. Interested parties should write to Mr. John B. Gregory, Research Program Manager, Branch of Marine Oil and Gas Operations, Conservation Division, 640 National Center, Reston, Virginia 22092.

Dwayne E. Hull,

Acting Chief, Conservation Division.

[FR Doc. 80-4326 Filed 2-8-80; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Andersonville National Historic Site, Ga., Availability Environmental Review

In August 1979 the National Service completed and placed on public review an Assessment of Alternatives on the General Management Plan/ Development Concept Plan for Andersonville National Histroic Site.

After making an Environmental Review of the alternatives and their impacts presented in the assessment and after public comment thereon, the National Park Service has made a "Finding of No Significant Impact." Therefore, an Environmental Impact Statement will not be prepared.

Anyone needing additional information or desiring a copy of the Environmental Review should contact the Regional Director, Southeast Region, National Park Service, 75 Spring Street, SW., Atlanta, Georgia 30303, or the Superintendent, Andersonville, Georgia 31711.

No project indicated in the selected alternative will be begun until the 30-day review period has expired.

Dated: January 7, 1980.

James L. Bainbridge,

Regional Director Southeast Region.

[FR Doc. 80-4366 Filed 2-6-80; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Receipt of Permanent Program Submission from the State of Missouri

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Notice of receipt of program submission from the State of Missouri and procedures for public participation in review for determination of completeness of submission.

SUMMARY: On February 1, 1980, the State of Missouri submitted to OSM its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comments on the completeness of the State Program.

DATES: A public review meeting to discuss completeness of the submission will be held on March 13, 1980, from 1:30–4:30 p.m. and 7:00–8:00 p.m. or until all discussion has been completed. Written comments must be received on or before 8:00 p.m., March 13, 1980.

ADDRESSES: The public review meeting will be held at the Ramada Inn, 1510 Jefferson Highway, Jefferson City, Missouri. Copies of the full text of the proposed Missouri program are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand, Kansas City, Missouri 64106.

Land Reclamation Commission, 1026–D Northeast Drive, Jefferson City, Missouri 65191.

Written comments should be sent to: Raymond L. Lowrie, Regional Director, Office of Surface Mining, Scarritt Building, 818 Grand, Kansas City, Missouri 64106.

Written comments will be available for public review at the OSM Region IV Office above, on Monday through Friday, 8 a.m.–4 p.m., excluding holidays.

FOR FURTHER INFORMATION CONTACT: Richard Rieke, Assistant Regional Director, Office of Surface Mining, Scarritt Building, 818 Grand, Kansas City, Missouri 64106, Telephone (816) 374–3920.

SUPPLEMENTARY INFORMATION: On February 1, 1980, OSM received a proposed permanent regulatory program from the State of Missouri. The purpose of this submission is to demonstrate both the State's intent and its capability to assume responsibility for administering and enforcing the provisions of SMCRA and the

permanent regulatory program (30 CFR Chapter VII), as published in the **Federal Register** on March 13, 1979 (44 FR 15311–15463).

This notice describes the nature of Missouri's proposed program and sets forth information concerning public participation in the Regional Director's determination of whether or not the submission is complete. The public participation requirements for the consideration of a permanent State program are found in 30 CFR 732.11 and 732.12 (44 FR 15326–15327). Additional information may be found under corresponding sections of the preamble to OSM's permanent program regulations (44 FR 14959–14960).

The receipt of the Missouri submission is the first step in a process which will result in the establishment of a comprehensive program for the regulation of surface coal mining and reclamation operations and coal exploration in Missouri.

By submitting a proposed program, Missouri has indicated that it wishes to be primarily responsible for this permanent program. If the submission, as hereafter modified, is approved by the Secretary of the Interior, the State of Missouri will have primary jurisdiction for the regulation of coal mining and reclamation and coal exploration on non-Federal lands in Missouri. If the program is disapproved, a Federal program will be implemented and OSM will have primary jurisdiction for the regulation of those activities.

Before OSM and the Secretary formally begin consideration of the substance of the program, the Regional Director must determine that the submission is complete. If the Regional Director determines the submission to be complete, consideration of the adequacy of the program will begin and the public will be informed of the decision and granted the opportunity to submit comments on the adequacy of the submission. If the submission is determined to be incomplete, the State will be given the opportunity to submit additional material. If the State fails to provide the missing elements, or the submission is otherwise determined to be inadequate, the program will be initially disapproved. After initial disapproval the State may revise the program. If the resubmitted program is also found to be incomplete after opportunity for supplementing it has passed or is otherwise deficient, the State program will be given a final disapproval, and a Federal program will be implemented.

At this time, OSM is primarily concerned with whether the proposed program constitutes a complete submission. The decision on completeness will be made by Raymond L. Lowrie, Regional Director, OSM Region IV. To assist in obtaining information on the completeness of the Missouri submission, the Regional Director is requesting written comments from the public and will hold a public review meeting on the issue of completeness.

The public review meeting on completeness will be conducted by the Regional Director and will be informal. This will provide members of the public, State and OSM opportunity to openly exchange thoughts concerning program completeness outside the more rigid structure of formal public hearing proceedings. Specific format procedures will be at the discretion of the Regional Director.

Written comments may supplement or be submitted in lieu of oral presentation at the public review meeting. All written comments must be mailed or handcarried to the Regional Director's Office above or may be handcarried to the public review meeting at the address above and submitted as exhibits to the proceeding. The comment period will close at 8:00 p.m. on March 13, 1980.

Comments received after that time will not be considered in the Regional Director's completeness determination. Representatives of the OSM Region IV will be available to meet between February 11, 1980, and March 13, 1980, at the request of the public to receive their advice and recommendations concerning the completeness of the proposed program.

Persons wishing to meet with representatives of OSM, Region IV during this period may place such a request with Kerry Cartier, Public Information Officer, Telephone (816) 374–3490, at the Regional Director's Office above.

Meetings may be scheduled between 9 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding holidays at the Regional Director's Office.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Missouri program. Under section 702(d) of SMCRA (30 U.S.C. 1292(d), approval of State programs does not constitute a major action within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

The following constitutes a summary of the contents of the Missouri submission:

The Land Reclamation Commission has been designated by the Governor of Missouri to implement and enforce the Missouri Strip Mine Law in accordance with the Surface Mining and Reclamation Act of 1977 (Pub. L. 95–87). The Land Reclamation Commission has developed State regulations to carry out the State mandate.

Contents of the State Program Submission include:

(a) State Laws and Regulations.

(b) Other Related State Laws and Regulations.

(c) Letter of Legal Authority: State/Federal Law and Regulation Comparison.

(d) Regulatory Authority Designation.

(e) Structural Organization—Staffing Functions.

(f) Supporting Agreements Between Agencies.

(g) Narrative Description for:

(1) Issuing Exploration and Mining Permits.

(2) Assessing Permit Fees.

(3) Bonding—Insurance.

(4) Inspecting and Monitoring.

(5) Enforcing the Administrative, Civil and Criminal Sanctions.

(6) Administering and Enforcing Permanent Program Standards.

(7) Assessing and Collecting Civil Penalties.

(8) Issuing Public Notices and Holding Public Hearings.

(9) Coordinating with Other Agencies.

(10) Consulting with Other Agencies.

(11) Designating Lands Unsuitable for Surface Mining.

(12) Restricting Financial Interests.

(13) Training, Examining and Certifying Blasters.

(14) Providing for Public Participation.

(15) Providing Administrative and Judicial Review.

(16) Providing a Small Operator Assistance Program (S.O.A.P).

(h) Statistical Information.

(i) Summary of Staff with Titles, Functions, Job Experience and Training.

(j) Description of Staffing Adequacy.

(k) Projected Use of Other Professional and Technical Personnel.

(l) Budget Information.

(m) Physical Resources Information.

(n) Other Programs administered by the Regulatory Authority.

Dated: February 5, 1980.

Raymond L. Lowrie,

Regional Director.

FR Doc. 80–4425 Filed 2–8–80; 8:45 am]

BILLING CODE 4310–05–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-77 (Sub-3F)]

Bangor & Aroostook Railroad Co. Abandonment Between Houlton and Monticello, Maine; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided January 18, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), and further that applicant shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from the effective date of the certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment by the Bangor and Aroostook Railroad Company of a line of railroad known as the Houlton to Monticello branch line, extending from railroad milepost 168.57 near Houlton to rail milepost 178.71 near Monticello, a distance of 10.14 miles, in Aroostook County, ME. A certificate of public convenience and necessity permitting abandonment was issued to the Bangor and Aroostook Railroad Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later that February 26, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective March 27, 1980.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-4274 Filed 2-8-80; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-60F)]

Illinois Central Gulf Railroad Co. Abandonment Between LeRoy and Lotus, Ill.; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided January 18, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen*, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Company of a line of railroad known as the Rantoul District, extending from railroad milepost 0.04 at LeRoy, IL, to milepost 17.5 near Lotus, IL, in McLean and Champaign Counties, IL, a distance of 17.46 miles. A certificate of public convenience and necessity permitting abandonment was issued to the Illinois Central Gulf Railroad Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than February 26, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective March 27, 1980.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-4275 Filed 2-8-80; 8:45 am]
BILLING CODE 7035-01-M

[Directed Service Order No. 1398; Authorization Order No. 20]

Kansas City Terminal Railway Co. Directed To Operate Over Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

Decided: January 25, 1980.

On September 26, 1979, the Commission directed Kansas City Terminal Railway Company (KCT) to provide service as a directed rail carrier (DRC) under 49 U.S.C. 11125 over the lines of the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI"). *See* Directed Service Order No. 1398, *Kansas City Term. Ry. Co.—Operate—Chicago, R.I. & P.*, 360 I.C.C. 289 (1979), 44 FR 56343 (October 1, 1979). In DSO No. 1398 (Sub-No. 1), this authority was extended through March 2, 1980, subject to certain modifications. *See* DSO No. 1398 (Sub-No. 1), 360 I.C.C. 478 (decided November 30, 1979; served December 3, 1979) and 44 FR 70733 (December 10, 1979).

RI owns and uses an axle lathe, shop No. AR-270 that is used at Kansas City by the mechanical department. The lathe is used to recondition and size all freight car axles and journals for the entire system. The repair costs are estimated at $3,423.30 to replace six bearings and two bearings Torrington thrust.

Supplemental Order No. 4 to DSO No. 1398 required the DRC to obtain prior Commission approval for all rehabilitation for freight cars and other non-locomotive equipment which exceeds $1,200 per unit. *See* Supplemental Order No. 4 (served October 15, 1979). [44 FR 61127, Oct. 23, 1979]. Accordingly, the DRC submitted an urgent request for authority to repair the above machine. *See* wire to Joel E. Burns, dated January 23, 1980.

The DRC seeks Commission authorization to repair axle lathe, shop number AR-270 on the grounds that repairs are necessary for the efficient conduct of wheel shop work at Kanasas City.

We find:

1. This action will not significantly affect either the quality of the human environment or the conservation of energy resources. *See* 49 CFR Parts 1106, 1108 (1978).

It is ordered:

1. The DRC is authorized to make repairs to axle lathe, shop number AR-270, at a cost of $3,423.30, as requested in a telegram from the DRC to Joel E. Burns dated January 23, 1980.

2. The repairs authorized above shall be completed within the directed service period.

3. This decision shall be effective on its service date.

By the Commission, Railroad Service Board, Members Joel E. Burns, Robert S. Turkington, and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-4277 Filed 2-8-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applictions

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 26639 (Sub-4TA), filed December 12, 1979. Applicant: DEL TRANSPORT, INC., 4 Crow Point Road, Lincoln, RI 02865. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. *Machined parts*, between Warwick, RI, on the one hand, and, on the other, points in CT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sealol, Inc., Warwick Industrial Park, Warwick, RI 02888. Send protests to: Gerald H. Curry, DS, ICC, 24 Weybosset Street, Room 102, Providence, RI 02903.

MC 50069 (Sub-556TA), filed December 17, 1979. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Ave., Oregon, OH 43616. Representative: William P. Fromm (same as applicant), *Ferric chloride, in bulk, in tank vehicles*, from Cleveland, OH to points in OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): E. I. Du Pont de Nemours & Co., Inc., 1007 Market St., Wilmington, DE 19898. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 52579 (Sub-201TA), filed December 17, 1979. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Julius Saltzman, One Gilbert Drive, Secaucus, NJ 07094. Wearing apparel in cartons from Arlington, TX to Denver, CO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Petrie Stores Corp., 70 Enterprise Avenue, Secaucus, NJ 07094. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 52579 (Sub-202TA), filed December 17, 1979. Applicant: GILBERT CARRIER CORP., One Gilbert Drive, Secaucus, NJ 07094. Representative: Julius Saltzman, One Gilbert Drive, Secaucus, NJ 07094. Wearing apparel, on hangers, and return of defective, damaged, out of season, or unsaleable wearing apparel from Greenville and Unadilla, GA to Wilmington, DE and Columbus, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Oxford Industries, Inc., 222 Piedmont Avenue NE., Atlanta, GA 30308. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 55889 (Sub-57TA), filed December 12, 1979. Applicant: AAA COOPER TRANSPORTATION, Post Office Box 6827, Dothan, AL 36302. Representative: Johnny A. Randall, Post Office Box 6827, Dothan, AL 36302. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, 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) (1) Between Birmingham, AL and Memphis, TN over U.S. Hwy 78; (2) Between Birmingham, AL and Memphis, TN: From Birmingham over Interstate Hwy 65 to junction Alt. U.S. Hwy 72, then over Alt. U.S. Hwy 72 to junction U.S. Hwy 72, then over U.S. Hwy 72 to Memphis, and return over the same routes; (3) Between Montgomery, AL and Memphis, TN: From Montgomery over U.S. Hwy 82 to junction U.S. Hwy 45, then over U.S. Hwy 45 to Tupelo, then over U.S. Hwy 78 to Memphis, and return over the same routes; (4) Between Montgomery, AL and Memphis, TN: From Montgomery over U.S. Hwy 82 to junction Interstate Hwy 55, then over Interstate Hwy 55 to Memphis, and return over the same routes; (5) Between Mobile, AL and Memphis, TN: From Mobile over U.S. Hwy 45 to junction Alt. U.S. Hwy 45, then over Alt. U.S. Hwy 45 to Tupelo, then over U.S. Hwy 78 to Memphis, and return over the same routes; (6) Between Mobile, AL and Memphis, TN: From Mobile over U.S. Hwy 98 to junction U.S. Hwy 49, then over U.S. Hwy 49 to Jackson, MS, then over Interstate Hwy 55 to Memphis, and return over the same routes; serving all intermediate points on routes (1) through (3) above and those on routes (4), (5) and (6) above in DeSoto, Marshall, Benton, Lafayette, Pontotoc, Chickasaw, Clay, Oktibbeha, Winston, Noxubee, Lowndes, Monroe, Lee, Itawamba, Union, Tippah, Alcorn, Prentiss and Tishomingo Counties, MS, and serving as off-route points in connection with routes (1) through (6) above all points in Crittenden County, AR; Shelby County, TN; DeSoto, Marshall, Benton, Lafeyette, Pontotoc, Chickasaw, Clay, Oktibbeha, Winston, Noxubee, Lowndes, Monroe, Lee, Itawamba, Union, Tippah, Alcorn, Prentiss and Tishomingo Counties, MS; and Colbert, Lawrence, Limestone, Lauderdale and Morgan Counties, AL, for 180 days. An underlying ETA seeks 90-day authority. Service at intermediate and off-route points sought in Mississippi and in Colbert, Lawrence, Limestone, Lauderdale and Morgan Counties, AL is restricted against the transportation of shipments originating at, destined to, or interlined with other carriers at Memphis, TN and points in its commercial zone. Applicant intends to serve the commercial zones of all intermediate, off-route, and termini points sought in connection with routes (1) through (6) above, to interline with other carriers at Memphis, TN, Tupelo and Columbis, MS, and Birmingham, Montgomery, and Mobile, AL, and to tack the routes sought with each other

and with applicant's existing routes at common points. There are approximately 87 statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at field office named below. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 55889 (Sub-58TA), filed December 12, 1979. Applicant: AAA COOPER TRANSPORTATION, Post Office Box 6827, Dothan, AL 36302. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, 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) (1) Between Birmingham, AL and Memphis, TN over U.S. Hwy 78, serving no intermediate points; (2) Between Birmingham, AL and Memphis, TN, serving no intermediate points: From Birmingham over Interstate Hwy 65 to junction Alt. U.S. Hwy 72, then over Alt. U.S. Hwy 72 to junction U.S. Hwy 72, then over U.S. Hwy 72 to Memphis, and return over the same routes; (3) Between Montgomery, AL and Memphis, TN, serving no intermediate points: From Montgomery over U.S. Hwy 82 to junction U.S. Hwy 45, then over U.S. Hwy 45 to Tupelo, then over U.S. Hwy 78 to Memphis, and return over the same routes; (4) Between Montgomery, AL and Memphis, TN, serving no intermediate points: From Montgomery over U.S. Hwy 82 to junction Interstate Hwy 55, then over Interstate Hwy 55 to Memphis, and return over the same routes; (5) Between Mobile, AL and Memphis, TN, serving no intermediate points: From Mobile over U.S. Hwy 45 to junction Alt. U.S. Hwy 45, then over Alt. U.S. Hwy 45 to Tupelo, then over U.S. Hwy 78 to Memphis, and return over the same routes; (6) Between Mobile, AL and Memphis, TN, serving no intermediate points: From Mobile over U.S. Hwy 98 to junction U.S. Hwy 49, then over U.S. Hwy 49 to Jackson, MS, then over Interstate Hwy 55 to Memphis, and return over the same routes; serving, in connection with routes (1) through (6) above, all points in Shelby County, TN and Crittenden County, AR as off-route points, for 180 days. An underlying ETA seeks 90-day authority. Applicant intends to serve the commercial zones of Memphis, Birmingham, Montgomery, and Mobile, to interline with other carriers at these points, and to tack with applicant's existing regular and irregular routes at these points. There are approximately 67 statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at field office named below. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 55889 (Sub-59TA), filed December 12, 1979. Applicant: AAA COOPER TRANSPORTATION, Post Office Box 6827, Dothan, AL 36302. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, 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) (1) Between Dothan, AL and Panama City, FL: From Dothan over AL Hwy 52 to Geneva, AL, then over AL Hwy 27 to the Alabama-Florida state line, then over FL Hwy 183 to junction FL Hwy 2, then over FL Hwy 2 to junction FL Hwy 83, then over FL Hwy 83 to De Funiak Springs, FL, then over U.S. Hwy 331 to junction U.S. Hwy 98, then over U.S. Hwy 98 to Panama City, and return over the same routes; (2) Between Dothan, AL and junction FL Hwy 79 and U.S. Hwy 98: From Dothan over AL Hwy 52 to Hartford, AL, then over AL Hwy 123 to the Alabama-Florida state line, then over FL Hwy 79 to junction U.S. Hwy 98, and return over the same routes; (3) Between Dothan, AL and Panama City, FL: From Dothan over AL Hwy 203 to junction AL Hwy 109, then over AL Hwy 109 to Alabama-Florida state line, then over FL Hwy 77 to Panama City, and return over the same routes; (4) Between Dothan, AL and Panama City, FL over U.S. Hwy 231; (5) Between Cottondale and Port St. Joe, FL: From Cottondale over U.S. Hwy 90 to junction FL Hwy 71, then over FL Hwy 71 to Port St. Joe, and return over the same routes; (7) Between Pensacola and Chattahoochee, FL over U.S. Hwy 90; (8) Between Freeport and Ebro, FL over FL Hwy 20; (9) Between Vernon and Wausau, FL over FL Hwy 278; (10) Between Blountstown and junction FL Hwy 20 and U.S. Hwy 231 over FL Hwy 20; (11) Between Pensacola and Apalachicola, FL over U.S. Hwy 98; (12) Between Florala, AL and Ft. Walton Beach, FL over FL Hwy 85; and (13) Between Columbus, GA and Montgomery, AL over U.S. Hwy 80; serving all intermediate points on routes (1) through (13) above, and serving as off-route points in connection with routes (1) through (12) above all points in Florida on and west of the Apalachicola River and those on route (13) in Harris, Meriwether, Troup, Talbot and Upson Counties, GA, for 180 days. An underlying ETA seeks 90-day authority. Applicant intends to serve the commercial zones of all intermediate, off-route, and termini points sought, to tack the routes with each other and with applicant's existing routes sought with each other and with applicant's existing regular routes at common points, and to interline with other carriers at the termini. There are approximately 106 statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at field office named below. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 112989 (Sub-118TA), filed January 4, 1980. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, Oregon 97405. Representative: John W. White, Jr., 85647 Highway 99 South, Eugene, Oregon 97405, 503–747–1283. Common, irregular—aluminum and aluminum products from The Dalles, Oregon to Phoenix, Arizona, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Martin Marietta Aluminum, Inc., Traffic Manager, 3313 W. 2nd Street, The Dalles, Oregon 97058. Send protests to: A.E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, OR 97204.

MC 116519 (Sub-80TA), filed November 14, 1979. Applicant: FREDERICK TRANSPORT LIMITED, R.R. 6, Chatham, Ontario, Canada N7M 5J6. Representative: Jeremy Kahn, 1511 K. Street, Northwest, Washington, D.C. 20005. *Calcium Chloride, in packages*, from ports of entry on the United States-Canada International Boundary Lines to points in the United States (except AK, AR, CA, CO, HI, IA, MT, NV, NM, OR, UT, WA, and WY), restricted to traffic originating at the facilities of Allied Chemical Canada, Ltd., at or near Amherstburg, Ontario, Canada, and further restricted to traffic moving in foreign commerce for 180 days. Supporting shipper: Allied Chemical Canada, Ltd., 237 Hymus Blvd., Pointe Claire, Quebec, Canada H9R 1G3. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 117119 (Sub-798TA), filed December 17, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Desks, credenza, chairs, and file cabinets* from points in IA, IL, IN, and AL to the facilities of Southworth, Inc. at Boise, Twin Falls, and Pocatello, ID for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper: Southworth, Inc., 5200 Fairview Ave., Boise, Idaho 83704. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-799TA), filed December 17, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Pulpboard, fibreboard, and boxes (except commodities in bulk),* from the facilities utilized by Container Corp. of America located at Kent, Renton, and Tacoma, WA to Hermiston, OR, American Falls, Blackfoot, Idaho Falls, Lewiston, Lewisville, and Pocatello, ID, restricted to traffic originating at and destined to the named points for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper: Container Corp. of America, 2800 DeLa Cruz Blvd., Santa Clara, California 95050. Send protests to: William H. Land, DS, 3108 Federal Bldg. Little Rock, AR 72201.

MC 117119 (Sub-800TA), filed December 28, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, P.O. Box 156, Mt. Laurel, NJ 08054. Such commodities as are dealt in by retail, wholesale and discount department, drug and grocery stores (except in bulk) from the facilities of Warner-Lambert Company at Rockford, IL to Anaheim, CA for 180 days. Supporting shipper: Warner-Lambert Company, 201 Tabor Rd., Morris Plains, NJ 07950. Send protest to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-801TA), filed December 27, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, P.O. Box 156, Mt. Laurel, NJ 08054. *Plastic articles, plastic materials and equipment, materials and supplies* used in the manufacture, distribution and sale thereof (except commodities in bulk), between the facilities of Tupperware Company, Division of Dart Industries, Inc. at Jerome, ID on the one hand, and on the other, the facilities of Tupperware Company at Halls, TN; Hemingway, SC; N. Smithfield, RI and Birmingham, AL, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper: Tupperware Company, Division of Dart Industries, Inc., Drawer D, Woonsocket, RI 02895. Send protest to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 119349 (Sub-35TA), filed January 3, 1980. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, FL 33450. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, D.C. 20001. *Meat, meat products and meat by-products,* as described in Appendix I to Descriptions in Motor Carrier Certificate, 61 M.C.C. 209, 270 (1952) from the facilities of Roberts Food Products, Inc., at or near Pennsauken, NJ, to points in the U.S. (except New Orleans, LA; Houston, Fort Worth, and Dallas, TX; Denver, CO; and points in NJ, CA, AK, and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Robert's Food Products, 6710 Westfield Ave., Pennsauken, NJ 08110. Send protest to: Donna M. Jones, TA, ICC–BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 119399 (Sub-121TA), filed November 27, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Blvd., Joplin, MO 64801. Representative: Thomas P. O'Hara (same as applicant). *Mineral wool products, viz: Insulation* from the facilities of Rockwool Industries, Inc., at Alexandria, IN; Belton, TX; Cameron, MO; and Pueblo, CO; to points in AL, AR, FL, GA, KS, KY, IA, IL, IN, LA, MO, MN, MI, MS, NE, NC, ND, OH, OK, PA, SD, SC, TX, TN, WI, WV, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Rockwool Industries, Inc., P.O. Box 5170, Denver, CO 80217. Send protest to: Vernon V. Coble, DS, ICC, 911 Walnut St., Kansas City, MO 64106.

MC 119399 (Sub-122TA), filed December 17, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64801. Representative: Thomas P. O'Hara (same as applicant). Cleaning compounds, NOI: Rust preventive compounds; sodium nitrite; miscellaneous metal working materials from the facilities of AM Chem Products, Inc., at Warren, MI, to points in MO, OK, and TX, for 180 days. Supporting shipper: AmChem Products, Inc., 300 Brookside Avenue, Ambler, PA 19002. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 119399 (Sub-123TA), filed December 20, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Blvd., Joplin, MO 64801. Representative: Thomas P. O'Hara (same as applicant). *Barbeque grills and appliances; camping equipment, viz: stoves, lanterns, heaters and accessories thereto* from the facilities of Neosho Products Company at or near Neosho, MO to points in AZ, AR, CA, CO, ID, IL, IN, IA, LA, MI, MN, NM, ND, OH, OK, OR, SD, TX, WA, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Neosho Products Co., P.O. Box 622, Neosho, MO 64850. Send protests to: Vernon V. Coble, DS, ICC, 911 Walnut St., Kansas City, MO 64106.

MC 119619 (Sub-142TA), filed November 20, 1979. Applicant: DISTRIBUTORS SERVICE CO., 2000 W. 43rd Street, Chicago, IL 60609. Representative: Piken and Piken, Inc., Queens Office Tower, 95–25 Queens Blvd., Rego Park, NY 11374. *Household cleaning products (except in bulk),* from the facilities utilized by Purex Corporation at Hackensack, South Kearny, and Paterson, NJ, to Toledo and Columbus, OH; Chicago, IL; and St. Louis, MO; including points in the commercial zones thereof, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Purex Corporation, 1414 N. Radcliffe Street, Bristol, PA 19007. Send protests to: Transportation Assistant, I.C.C., 219 S. Dearborn St., RM 1386, Chicago, IL 60604.

MC 119619 (Sub-143TA), filed November 28, 1979. Applicant: DISTRIBUTORS SERVICE CO., 2000 W. 43rd Street, Chicago, IL 60609. Representative: Piken and Piken, Inc., Queens Office Tower, 95–25 Queens Blvd., Rego Pk, NY 11374. *Foodstuffs (except in bulk),* from the facilities utilized by Purity Cheese Co., a Div. of Anderson Clayton Co. at Mayville, WI, to points in CT, ME, NH, NJ, OH, PA and VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Purity Cheese Co., Division of Anderson Clayton Co., P.O. Box 226165, Dallas, TX 75266. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn St., Rm. 1386, Chicago, IL 60604.

MC 119619 (Sub-144TA), filed December 12, 1979. Applicant: DISTRIBUTORS SERVICE CO., 2000 W. 43rd St., Chicago, IL 60609. Representative: Piken & Piken, Queens Office Tower, 95–25 Queens Blvd., Rego Park, NY 11374. *Human Serum, Frozen (for reagents use only),* from Chicago, IL to Orangeburg, NY; from Harvey, IL to

Syracuse, NY; from Orangeburg and Syracuse, NY to Harvey, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Plasma Recovery Service, 15428 S. Center Ave., Harvey, IL 60426. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 120419 (Sub-11TA), filed December 14, 1979. Applicant: SERVICE TRANSFER, INC., 1501 West Main Street, Henryetta, OK 74437. Representative: Dan Moore (same address as applicant). *Insulation materials,* in bags or in bales, from the facilities of Spring Hope Rockwool, Inc., at Spring Hope, NC, to points in AR, KS, OK, MO, TN, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Spring Hope Rockwool, Inc., P.O. Box 880, Spring Hope, NC 27882. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 121499 (Sub-11TA), filed December 17, 1979. Applicant: WILLIAM HAYES LINES, INC., P.O. Box 610, Lebanon, TN 37087. Representative: John A. Crawford, P.O. Box 22567, Jackson, MS 39205. Authority to operate as a *common carrier,* by motor vehicle, over regular routes, 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: 1. Between Memphis, TN and Atlanta, GA: From Memphis, TN over Interstate Hwy 40 to Nashville, TN, then over Interstate Hwy 24 to Junction Interstate Hwy 75, then over Interstate Hwy 75 to Atlanta, GA and return over the same route, serving no intermediate points, but serving Nashville, TN as a point of joinder only; 2. Between Memphis, TN and Atlanta, GA: From Memphis over U.S. Hwy 72 to Junction U.S. Hwy Alternate 72, then over U.S. Hwy Alternate 72 to Junction Interstate Hwy 65, then over Interstate Hwy 65 to Birmingham, AL, then over U.S. Hwy 78 to Atlanta, GA and return over the same route, serving no intermediate points but serving Junction Interstate Hwy 65 and U.S. Hwy 278 for purposes of joinder only; 3. Between Junction Interstate Hwy 65 and U.S. Hwy 278 at or near Cullman, AL and Atlanta, GA: From Junction Interstate Hwy 65 and U.S. Hwy 278 at or near Cullman, AL over U.S. Hwy 278 to Atlanta, GA and return over the same route, serving no intermediate points but serving the junction of Interstate Hwy 65 and U.S. Hwy 278 at or near Cullman, AL for purposes of joinder only. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 30 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Glenda Kuss, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

Note.—Applicant intends to tack or join the above-referenced authority, to serve points in the commercial zones of Memphis and Atlanta and to interline with carriers at Memphis and Atlanta and points within their respective commercial zones.

MC 121799 (Sub-3TA), filed December 20, 1979. Applicant: CARPET DELIVERY SERVICE, INC., 2808 N. 29th Ave., Hollywood, FL 33020. Representative: John P. Bond, 2766 Douglas Rd., Miami, FL 33133. *Carpets, carpeting, carpet remnants, wrapped and unwrapped, in rolls* between points in AL, GA, KY, MS, NC, SC, and TN, on the one hand, and points in FL, on the other hand, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are eleven supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Donna M. Jones, T/A, ICC–BOp, Montery Bldg., Suite 101, 8410 NW. 53rd Ter., Miami, FL 33157.

MC 124489 (Sub-13TA), filed November 5, 1979. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 W. Homer St., Chicago, IL 60639. Representative: Edward G. Bazelon, 39 S. LaSalle St., Chicago, IL 60603. *Contract carrier:* irregular routes: *Such commodities as are dealt in by manufacturers and distributors of electronic equipment, electronic instruments, calculators, radios, television sets, electronic kits, and materials, equipment and supplies used in the manufacture and distribution of the aforementioned commodities (except commodities in bulk),* between Chicago, IL, and points in its commercial zone, on the one hand, the facilities on Heath Co. located in St. Joseph, MI, and points in its commercial zone, for the account of Zenith Radio Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zenith Radio Corp., 1800 Austin, Chicago, IL 60639. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Rm. 1386, Chicago, IL 60604.

MC 125729 (Sub-2TA), filed December 14, 1979. Applicant: ARMORED MOTOR SERVICE CORPORATION, 160 Ewingville Road, Trenton, NJ 08638. Representative: Herbert Alan Dubin, Sullivan & Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. *Currency,* from Washington, DC to Boston, MA; Buffalo, NY; Chicago, IL; Cincinnati, OH; Cleveland, OH; Dallas, TX; Denver, CO; Houston, TX; Kansas City, MO; Little Rock, AR; Louisville, KY; Memphis, TN; Miami, FL; Minneapolis, MN; Nashville, TN; New Orleans, LA; Philadelphia, PA and Pittsburgh, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Board of Governors of the Federal Reserve System, 21st and C Streets, NW, Washington, DC 20551. Send protests to: District Supervisor, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 126899 (Sub-130TA), filed December 20, 1979. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, P.O. Box 3156, Paducah, KY 42001. Representative: William A. Usher, 3925 Old Benton Road, Paducah, KY 42001. *JP4 Jet Fuel,* from the Blytheville River Rail Terminal, Barfield Landing, AR to Fort Campbell, KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Chief Regulatory Law Office, U.S. Army Legal Services Agency, Department of the Army, Falls Church, VA 22041. Send protests to: Floyd A. Johnson, Suite 2006—100 N. Main St., Memphis, TN 38103.

MC 128279 (Sub-39TA), filed December 17, 1979. Applicant: ARROW FREIGHTWAYS, INC., 150 Woodward Rd. SE, P.O. Box 25125, Albuquerque, NM 87110. Representative: Olif Q. Boyd (same address as applicant). *Gypsum wallboard and gypsum products,* from El Paso, TX to points in AZ, CO, and NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Specialty Forest Products, Inc., 4433 North 19th Avenue, Phoenix, AZ 85015; Associate Building Materials, 2020 West Deer Valley Road, Phoenix, AZ 85027. Send protests to: Joyce E. Abbott, TA, Interstate Commerce Commission, 1106 Federal Office Building, 517 Gold Avenue SW, Albuquerque, NM 87101.

MC 129189 (Sub-7TA), filed December 5, 1979. Applicant: WING CARTAGE COMPANY, 4141 George Place, Schiller Park, IL 60176. Representative: ARNOLD L. BURKE, 180 N. LaSalle St., Chicago, IL 60601. *Prestressed concrete building materials,* from Hodgkins, IL to points and places in IN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Composite Structures Inc., 6400 East Ave., Hodgkins, IL 60525. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 133689 (Sub-324TA), filed December 10, 1979. Applicant: OVERLAND EXPRESS, INC., 8651 Naples Street, N.E., Blaine, MN 55434. Representative: Anthony E. Young, 29 S. LaSalle Street, Suite 350, Chicago, IL 60603. *Yeast,* from Hutchinson, MN and its commercial zone to points in

Milwaukee, Wisconsin, Chicago, IL; Atlanta, GA; and their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Amoco Foods, 200 E. Randolph Drive, Chicago, IL 60601. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Chicago, IL 60604.

MC 133689 (Sub-325TA), filed December 18, 1979. Applicant: OVERLAND EXPRESS, INC., 8651 Naples Street, N.E., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Frozen potato products (except commodities in bulk),* from Clark and Sioux Falls, SD to points in FL, LA, and MS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Chef Reddy-Midwest, P.O. Box 100, Clark, SD 57225. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 134349 (Sub-33TA), filed December 19, 1979. Applicant: B. L. T. CORPORATION, 405 Third Avenue, Brooklyn, N.Y. 11215. Representatives: Eugene M. Malkin and Morton E. Kiel, Suite 1932, 2 World Trade Center, New York, N.Y. 10048. *Contract* carrier; irregular routes: *Such commodities as are dealt in or used by discount department stores, and equipment, materials, and supplies used in the conduct of such business (except commodities in bulk and foodstuffs),* between Fairfield and Burlington, NJ, on the one hand, and, on the other, Wilmington, DE, Miami, FL, Memphis and Knoxville, TN, and Bethlehem, PA, under a continuing contract(s) with Jefferson-Ward, Division of Montgomery Ward & Co., Inc.; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Jefferson-Ward, Division of Montgomery-Ward & Co., Inc., 15800 Northwest 13th Avenue, Miami, FL 33169. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 138469 (Sub-204TA), filed December 14, 1979. Applicant: DONCO CARRIERS, INC., 4720 S.W. 20th St., Oklahoma City, OK 73128. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. *Aluminum ingots, copper, zinc dust, zinc metal, zinc slabs, non-ferrous alloys and non-ferrous metals,* from the facilities of Gulf Metals Industries, Inc., at or near Houston, TX and Atlanta, GA, to points in AR, CO, IL, KY, MO, NJ, OH, OK, PA, and TN, restricted to the transportation of traffic originating at the named origins, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Gulf Metal Industries, Inc., Box 611, 6020 Esperson, Houston, TX 77001. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138469 (Sub-205TA), filed December 14, 1979. Applicant: DONCO CARRIERS, INC., 4720 S.W. 20th St., Oklahoma City, OK 73128. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. *Meat, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk, in tank vehicles), from the facilities of or utilized by Wilson Foods Corporation at Des Moines, IA, Logansport, IN, and Monmouth and Peoria, IL, to points in CA, restricted to the transportation of traffic originating at the above named origins and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Wilson Foods Corporation, 4545 North Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 139349 (Sub-24TA), filed December 21, 1979. Applicant: E Z FREIGHT LINES, 70–76 Gould Street, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Contract carrier, irregular routes for 180 days. Advertising display racks and materials and supplies used in the manufacturing and sale thereof, except in bulk, between Newark, NJ, on the one hand, and, on the other, points in the US except AK and HI. An underlying ETA seeks 90 days authority. Supporting shipper: Butler Industries, Inc., 637 Central Avenue, Newark, NJ 07107. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 141459 (Sub-15TA), filed December 10, 1979. Applicant: A.G.S. ENTERPRISES, INC., 809 Columbia Boulevard, Litchfield, IL 62056. Representative: Allan C. Zuckerman, 39 S. LaSalle St., Chicago, IL 60603. (1) *Wood burning stoves,* from Litchfield, IL, to points in the United States; and (2) *Firebrick and components for wood burning stoves,* from points in NY and OH to Litchfield, IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Wikomi Manufacturing Company, Inc., P.O. Box 100, South State Street Road, Litchfield, IL 62056. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 142059 (Sub-113TA), filed November 13, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley, (same as applicant). *Machinery and parts thereof:* from Rockford, IL to points in and east of ND, SD, WY, CO and NM for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Rockford Machine Tool Co., 2500 Kishwawkee St., Rockford, IL 61101. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn St., Rm 1386, Chicago, IL 60604.

MC 142059 (Sub-114TA), filed December 5, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Fred H. Daly, 2550 M St. NW., Washington, D.C. 20037. *Paper and paper articles, and plastic bags (except in bulk),* from the plantsite of Trinity Midwest Corp. located at Plainfield, IL to points in IN, IA, MN, PA, and MI (on and so. of US Hwy. 10), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Trinity Midwest Corp., 529 Fifth Avenue, New York, NY 10017. Send protests to: Transportation Assistant, ICC, 219 S. Darborn St., Rm. 1386, Chicago, IL 60604.

MC 142059 (Sub-115TA), filed November 20, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Rd., Joliet, IL 60436. Representative: Jack Riley, 1830 Mound Rd., Joliet, IL 60436. *Calcined magnesite in packages,* from the facilities of Glasrock Products, Inc. near Tuscumbia, AL to Ciocero, IL; Cookeville, TN; Hannibal, MO; Mansfield, OH; Union, NJ and Jacksonville, FL (for exzport), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Glasrock Products, Inc., P.O. Box 518, Tuscumbia, AL 35674. Send protests to: Transportation Assistant, ICC, 219 S. Darborn, Rm. 1386, Chicago, IL 60604.

MC 142279 (Sub-7TA), filed December 18, 1979. Applicant: RAY REICH d.b.a. RAY REICH TRUCKING, Rt. 1, Box 133F, Forest Hill, LA 71430. Representative: Paul D. Angenend, P.O. Box 2207, Austin, TX 78768. Applicant is seeking authority to operate as a *contract* carrier over irregular routes transporting *lumber* from the facilities of Roy O. Martin Industries at or near Trinity, TX to Alexandria, LA, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper: Roy O. Martin Industries, Inc., 2301 Mill St., Alexandria, LA 71301. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 142559 (Sub-145TA), filed December 17, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215. *(1) Plastic containers and plastic articles and (2) materials, equipment and supplies used in the manufacture, sale and distribution of the commodities in (1) above* (except commodities in bulk) betwseen Charlotte, NC, St. Louis, MO, Havre de Grace, MD, Milford, CT and Birmingham, AL, on the one hand, and on the other, Los Angeles, San Francisco and City of Industry, CA, restricted to traffic originating at or destined to facilities owned or utilized by Owens-Illinois, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Owens-Illinois, Inc., Plastic Products Division, P.O. Box 1035, Toledo, OH 43666. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 144829 (Sub-4TA), filed December 20, 1979. Applicant: H. B. MUCHMORE, d.b.a. MUCHMORE TRUCKING, 4659 Crater Lake Highway, Medford, OR 97201. Representative: Jerry R. Woods, Suite 1440, 200 S.W. Market Street, Portland, OR 97201, 503–224–5525. Compressed ground wood fireplace logs from the facilities of Agnew Environmental Products, Inc. at Grants Pass, OR, to Seattle, Spokane, Tacoma, and Yakima, WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Agnew Environmental Products, Inc., 50015 S.E. Coalman, Sandy, OR 97055. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill Street, Portland, OR 97204.

MC 144829 (Sub-5TA), filed December 27, 1979. Applicant: H. B. MUCHMORE, d.b.a. MUCHMORE TRUCKING, 4659 Crater Lake Highway, Medford, OR 97201. Representative: Jerry R. Woods, Suite 1440, 200 S.W. Market Street, Portland, OR 97201, 503–224–5525. *Common carrier,* canned goods, sugar and flour, from points in Alameda, Fresno, Madera, Sacramento, San Mateo, San Joaquin, Santa Clara, and Stanislaus Counties, CA to Medford and Grants Pass, OR for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: Broer Grocery Co., P.O. Box 150, 333 NE. F Street, Grants Pass, OR 97526; United Grocers, 2195 Sage Road, Medford, OR 97501; Bates Wholesale, Inc., 160 N. Fir Street, Medford, OR 97501. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill Street, Portland, OR 97204.

MC 144969 (Sub-18TA), filed December 21, 1979. Applicant: WHEATON CARTAGE CO., Wheaton Avenue, Millville, NJ 08332. Representative: Michael D. Bromley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, DC 20001. 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). From the facilities of East-West Shippers Association, at Chicago, IL to St. Louis, MO and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: East-West Shippers Association, 2000 S. 71st Street, Philadelphia, PA 19142. Send protests to: Robert J. Latarewicz, TR&TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 144969 (Sub-19TA), filed December 21, 1979. Applicant: WHEATON CARTAGE CO., Wheaton Avenue, Millville, NJ 08332. Representative: Michael D. Bromley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, DC 20001. 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), from the facilities of West Coast Shippers Association, at Philadelphia, PA to St. Louis, MO and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: West Coast Shippers Association, 2000 S. 71st Street, Philadelphia, PA 19142. Send protests to: Robert J. Latarewicz, TR&TS, ICC, 744 Broad Street, Rm. 522, Newark, NJ 07102.

MC 145219 (Sub-10TA), filed December 21, 1979. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 2726, Savannah, GA 31402. Representative: B. M. Shirley (address same as applicant). *Compounds and roof coatings,* from Beaumont and Houston, TX to points in AL, AR, DE, FL, GA, KY, LA, MD, MS, NC, OH, PA, SC, TN, TX, VA, WV, and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Gulf States Asphalt Co., Inc., 601 Jefferson, Suite 535, Houston, TX 77002. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 145829 (Sub-14TA), filed December 17, 1979. Applicant: ETI CORP., P.O. Box 1, Keasbey, NJ 08832. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Contract carrier, irregular routes for 180 days. Empty glass bottles (1) from Vienna, WV to points in the states of NY, NJ, PA, MD, DE, OH, CT, RI, NH, VT, ME (2) from Coventry, RI to points in the states of NY, NJ, PA, MD, DE, OH, WV. Under a continuing contract or contracts with National Bottle Company, Bala Cynwyd, PA. Supporting shipper: National Bottle Company, One Bala Cynwyd Plaza, Bala Cynwyd, PA 19004. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 146779 (Sub-2TA), filed November 21, 1979. Applicant: REGAL TRUCKING CO., 3741 South Pulaski, Chicago, IL 60623. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. *Sand* from the facilities of Manley Bros, at or near Bridgman, MI and Troy Grove, IL to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas, for 180 days. Supporting shipper: Manley Bros. of Indiana, Inc., P.O. Box 538, Chesterton, IN 46304. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Chicago, IL 60604.

MC 147589 (Sub-3TA), filed December 17, 1979. Applicant: BAER'S TRANSIT INC., 754 Airport Road, Menasha, WI 54952. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract carrier:* irregular routes: *(a) Wire products, fan guards, grills, & bolts, and (b) materials, equipment & supplies used in the manufacture and distribution of commodities mentioned in (a) above,* between Schofield, WI and St. Louis, MO. Restriction: restricted to transportation performed under a continuing contract(s) with Wiremaid Manufacturing, Inc., Schofield, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Wiremaid Manufacturing, Inc., Box 141, 2714 Ross Avenue, Schofield, WI 54476. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 147699 (Sub-2TA), filed November 21, 1979. Applicant: DOWNING EXPRESS, INC., R.R. #2, Lot 34, Tuscola, IL 61953. Representative: Paul J. Maton, 10 S LaSalle St., Chicago, IL 60603. *Mobile office trailers,* between the facilities of Williams Mobile Office, Inc., located at or near Elk Grove Village, IL and points in Wisconsin, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Williams Mobile Office, Inc., 2425 Hamilton Rd., Elk Grove Village, IL 60005. Send protests to: Transportation Assistance, ICC, 219 S. Dearborn, Chicago, IL 60604.

MC 148659 (Sub-1TA), filed December 12, 1979. Applicant: FOLSTER TRANSPORTATION, INC., 4317 W.

Irving Park Rd., Chicago, IL 60641. Representative: William J. Boyd, P.C., 2021 Midwest Road, Suite 205, Oak Brook IL 60521. *General commodities (except Class A and B explosives, commodities in bulk, commodities which, because of size or weight, require special equipment and household goods as defined by the Commission.),* from Chicago, IL and its Commercial Zone to points in IN, MO, Kansas City, KS and MI. (Restriction: The above authority is restricted to the transportation of traffic originating at the facilities of Dry Storage Corporation in Chicago, IL and its Commercial Zone) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dry Storage Corporation, 2005 W. 43rd St., Chicago, IL 60609. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148779 (Sub-1TA), filed November 19, 1979. Applicant: RON FOX TRUCKING, INC., 22N–675W, Valparaiso, IN 46383. Representative: Ronald L. Fox (same address as applicant). *Contract carrier:* irregular routes: *Plastic materials (except in bulk in tank vehicles) in vehicles equipped with mechanical refrigeration,* between the facilities utilized by Morton Chemical Company, Division of Morton-Norwich Products, Inc., Polyset Group at or near Milwaukee WI; Woodstock, Ringwood, IL: Pittsburgh, KS; Oakland, Wilmington, CA; and Seattle, WA, and from the facilities utilized by Morton Chemical Company, Division of Morton-Norwich Products, Inc., Polyset Group at or near Milwaukee, WI; Woodstock, Ringwood, IL to Lawrence, MA; New York, NY; Elizabeth, Secaucas, NJ; Baltimore, MD; Portsmouth, Norfolk, VA; and Miami, FL for 180 days. Supporting shipper(s): Morton Chemical Co., Division of Morton-Norwich Products, Inc., Polyset Group, 1275 Lake Ave., Woodstock, IL 60098. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148779 (Sub-2TA), filed December 13, 1979. Applicant: RON FOX TRUCKING, INC., 22N–675W, Valparaiso, IN 46383. Representative: Ronald L. Fox (22N[675 W, Valparaiso, IN 46383). *Contract carrier:* irregular routes: *Plastic materials (except in bulk in tank vehicles) in vehicles equipped with mechanical refrigeration,* (1) between the facilities utilized by Morton Chemical Company, Division of Morton-Norwich Products, Inc., Polyset Group at or near Milwaukee WI; Woodstock, Ringwood, IL: Pittsburgh, KS, on the one hand, and, on the other, Oakland, Wilmington, Long Beach, and San Pedro, CA, and Seattle, WA. (2) from the facilities utilized by Morton Chemical Co., Div. of Morton-Norwich Products, Inc., Polyset Group at or near Milwaukee, WI, Woodstock and Ringwood, IL, to Lawrence, MA, New York, NY, Elizabeth, Weehawken, and Secaucas, NJ, Baltimore, MD, Portsmouth and Norfolk, VA, and Miami, FL, for the account of Morton Chemical Co., Morton-Norwich Products, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Morton Chemical Co., Morton-Norwich Products, Inc., 1275 Lake Ave., Woodstock, IL 60098. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148779 (Sub-3TA), filed December 13, 1979. Applicant: RON FOX TRUCKING, INC., 22N–675W, Valparaiso, IN 46383. Representative: Ronald L. Fox (same address as applicant). *Contract carrier:* irregular routes: *Plastic materials (except in bulk, in tank vehicles) in vehicles equipped with mechanical refrigeration,* (1) between the facilities utilized by Morton Chemical Company, Division of Morton-Norwich Products, Inc., Polyset Group at or near Milwaukee, WI, Woodstock and Ringwood, IL, Pittsburg, KS, on the one hand, and, on the other, Oakland, Wilmington, Long Beach, and San Pedro, CA, and Seattle, WA. (2) From the facilities utilized by Morton Chemical Company, Division of Morton-Norwich Products, Inc., Polyset Group at or near Milwaukee, WI, Woodstock and Ringwood, IL, to Lawrence, MA, New York, NY, Elizabeth, Weehawken, and Secaucas, NJ, Baltimore, MD, Portsmouth and Norfolk, VA, and Miami, FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Morton Chemical Co., Division of Morton-Norwich Products, Inc., Polyset Group, 1275 Lake Ave., Woodstock, IL 60098. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148869 (Sub-1TA), filed December 17, 1979. Applicant: DOWNEAST DISPATCH, INC., 38 Rolfe's Lane, Newbury, MA 01950. Representative: Peter L. Murry, 30 Exchange Street, Portland, ME 04101. Contract, irregular, anything produced by or used in production by the Bailey Division of U.S.M. Corp, in the manufacture and distribution of machinery and automobile parts and supplies between the following points and described areas: 1. Between the facilities of the Bailey Division of U.S.M. Corp. at Seabrook, NH and Amesbury, MA; and 2. Between the facilities of the Bailey Division of U.S.M. Corp. at Seabrook, NH and Amesbury, MA, on the one hand, and on the other, the locations in Connecticut, Massachusetts, Maine, New Hampshire, New York City and Rhode island of suppliers and customers of the Bailey Division of U.S.M. Corporation and the airports and air freight terminals in Massachusetts and New Hampshire utilized for shipments to or from the facilities of the Bailey Division of the U.S.M. Corporation at Seabrook, NH and Amesbury, MA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): U.S.M. Corp., Bailey Division, U.S. Rt 1, Seabrook, NH 03874. Send protests to: John B. Thomas, D/S, I.C.C., 150 Causeway Street, Boston, MA 02114.

MC 148979 (Sub-2TA), filed December 13, 1979. Applicant: ROBERT JOHN ENTERPRISE, INC., d./b./a. PACIFIC TRANSPORT CO., 1940 W. Pacific Coast Highway, Long Beach, CA 90810. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Contract;* Irregular; *Iron or steel articles,* between points in Los Angeles and San Bernardino Counties, CA, on the one hand, and, on the other, points in AZ and NV, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Crest Steel Corporation, Marcrest Pacific Co., Inc., Plant and Transportation Superintendent, 24724 S. Wilmington Ave., Wilmington, CA 90744. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 148989 (Sub-1TA), filed December 14, 1979. Applicant: HIGHWAY EXPRESS, INC., 2770 Leonis Boulevard, Vernon, CA 90058. Representative: Fred H. Mackensen, c/o Murchison & Davis, 9454 Wilshire Blvd., Suite 400, Beverly Hills, CA 90212. *Contract;* Irregular; *truck or truck chassis, with or without specially installed concrete mixing or pumping equipment, in drive-away service; concrete mixing or pumping equipment, skid mounted or trailer mounted, and parts or components thereof,* between all points in the Continental U.S., for 180 days. And underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Challenge-Cook Bros., Inc., Sales Coordinator, P.O. Box 1272, Industry, CA 91749. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 148999 (Sub-1TA), filed December 14, 1979. Applicant: KAIBAB INDUSTRIES, INC., an Arizona Corporation, 2000 W. Oxford Avenue, Denver, CO 80236. Representative: Joe

Kerschen (same address). Contract; Irregular; *Crushed, flattened, automobile bodies,* from Rapid City, SD to Denver, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Century Enterprises, 234 Columbine, Denver, CO 80206. Send protests to: District Supervisor R. L. Buchanan, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 149009 (Sub-1TA), filed December 19, 1979. Applicant: STRATTON EQUITY CORPORATIVE CO., INC., 341 1st Street, Stratton, CO 80836. Representative: Bennie C. Davis, General Manager (same address). *Bar, strip, plate and sheet steel,* from Alton, IL and St. Louis, MO, to Simla, CO via Interstate 70 and Highway 24; and from Kansas City, MO to Simla, CO via Interstate 70 and Highway 24, for 180 days. There is an underlying 90 day ETA. Supporting shipper(s): Nichols Tillage Tools, Inc., P.O. Box 85, Simla, CO 80835. Send protests to: District Supervisor R. L. Buchanan, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 149049TA, filed November 26, 1979. Applicant: MOTORWAY FREIGHT SYSTEMS, INC., 10360 Stoudertown Rd., Pickerington, OH 43147. Representative: Frank L. Calvary, 3066 N. Star Rd., Columbus, OH 43221. *Metal reinforced insulating panels; materials and supplies used in the manufacture thereof,* between the facilities of Owens-Corning Fiberglas Corporation at Columbus, OH and points in the states of DE, IL, IA, IN, KS, MD, MI, MO, NC, PA, TN, VA and WV, for 180 days. Supporting shipper(s): Owens Corning Fiberglas Corp., Fiberglas Tower, Toledo, OH 43659. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Philadelphia, PA 19106.

W 1279 (Sub-2TA), filed December 7, 1979. Applicant: CALIFORNIA & HAWAIIAN SUGAR COMPANY, 1 California Street, San Francisco, CA 94106. Representative: Peter A. Greene, 900 17th St. NW., Washington, DC 20006. By decision entered December 10, 1979, the Motor Carrier Board granted applicant 60-day temporary authority to engage in the business of transportation by water vessel, in interstate commerce, of phosphate rock, from Jacksonville, FL, to Stockton, CA, via the Panama Canal. Any interested person may file a petition for reconsideration within 20 days of the date of this publication. Within 20 days after the filing of such petition, any interested person may file and serve a reply thereto. Send petitions and replies to: Interstate Commerce Commission, Washington, DC 20423.

MC 106398 (Sub-985TA), filed October 1, 1979, and published in the **Federal Register** issue of December 10, 1979, and republished as corrected this issue. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Composition board,* from the facilities of United States Gypsum Company, located at Greenville, MS, to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, and VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): United States Gypsum Company, 101 South Wacker Drive, Chicago, IL 60606. Send protests to: Connie Stanley, ICC, Room 240, 215 N.W. 3rd, Oklahoma City, OK 73102. The purpose of this republication is to show Pennsylvania (PA) as a destination state as previously omitted.

MC 200 (Sub-431TA), filed December 21, 1979. Applicant: RISS INTERNATIONAL CORP., 903 Grand Avenue, Kansas City, MO 64106. Representative: H. Lynn Davis, (same as applicant). *Containers, container ends, container closures, and materials and supplies* used in the manufacture and/or distribution thereof, from Golden, CO to Milwaukee, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Can Co., 10050 Regency Circle, Omaha, NE 68114. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 200 (Sub-432TA), filed December 21, 1979. Applicant: RISS INTERNATIONAL CORP., 903 Grand Avenue, Kansas City, MO 64106. Representative: H. Lynn Davis (same as applicant). *Candy* serving Bryan, OH as an off-route point in connection with carrier's regular route authority, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Spangler Candy Co., 400 North Portland St., Bryan, OH 43506. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 200 (Sub-433TA), filed December 21, 1979. Applicant: RISS INTERNATIONAL CORP., 903 Grand Avenue, Kansas City, MO 64106. Representative: H. Lynn Davis (same as applicant). *Mineral wool, insulation and insulation materials and supplies* serving Alexandria, IN as an off-route point in connection with applicants regular route authority, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rockwool Industries, Inc., P.O. Box 5170, Denver, CO 80217. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 2900 (Sub-413TA), filed December 31, 1979. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408–R, Jacksonville, FL 32209. Representative: S. E. Somerc, Jr., (address same as applicant). *Sheet Steel Containers,* from Arden, NC, to Fremont, MI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gerber Container Div. of Gerber Products, Rt. #3, Box 94A, Arden, NC 28704. Send protest to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 2900 (Sub-414TA), filed January 3, 1980. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32209. Representative: R. E. Allish, (address same as applicant). *General Commodities (except those of unusual value, Classes A and B explosives, commodities in bulk, those requiring special equipment and household goods as defined by the Commission),* (1) between Birmingham, AL and Marianna, FL serving all intermediate points: from Birmingham, AL over U.S. Hwy 31 to Montgomery, AL, then over U.S. Hwy 231 to junction U.S. Hwy 90, then over U.S. Hwy 90 to Marianna, FL, and return over the same route. (2) Between Tuscaloosa, AL and Columbus, GA, serving all intermediate points; from Tuscaloosa, AL over U.S. Hwy 82 to Montgomery, AL, then over U.S. Hwy 80 to Columbus, GA, and return over the same route, for 180 days. Applicant seeks to tack this autority with that issued in MC–2900 and to interline serving all intermediate points on both routes. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 17 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protest to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 11220 (Sub-193TA), filed December 20, 1979. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore, Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. *Roofing, roofing materials, roofing products, roofing insulation, composition board, and materials, equipment and supplies used in the installation or manufacturing of the foregoing commodities,* between Atlanta, GA; North Kansas City, MO; Irving and Houston, TX; Memphis, TN; and Meridian, MS; on the one hand, and, on the other, points in AL, AR, GA, IL, IN, KY, LA, MI, MN, MS, MO, OH, OK, PA, TN, TX and WI, restricted to the transportation of shipments originating at or destined to the facilities of Owens Corning Fiberglass Corp., for 180 days.

Supporting shipper(s): Owens Corning Fiberglass, Fiberglass Tower, Toledo, OH 43659. Send protest to: Diana J. Porter, Suite 2006—100 N. Main, Memphis, TN 38103.

MC 19311 (Sub-67TA), filed December 5, 1979. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. *General commodities, except those of unusual value, Classes A and B Explosives, Household Goods as defined by the commission, Commodities in bulk and commodities requiring special equipment,* between Janesville and Milwaukee, WI, serving no intermediate points. From Milwaukee, WI, over WI Hwy 15 to junction U.S. Hwy 14, then over U.S. Hwy 14 to Janesville, WI and return over the same route. Between South Beloit, IL and Janesville, WI, serving no intermediate points. From South Beloit, IL over Interstate Hwy 90 to Janesville, WI and return over the same route for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 23 supporting shippers. Their application can be reviewed at the address below or headquarters. Send protest to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 29510 (Sub-8TA), filed December 11, 1979. Applicant: EVANS TRANSPORTATION CO., 7800 Route 13, Levittown, PA 19057. Representative: Edwin L. Scherlis, Suite 420, 1315 Walnut St., Phila., PA 19107. *Iron and steel articles, and wire rods in coils,* from the facilities of Raritan River Steel Co. in Perth Amboy, NJ, on the one hand, and on the other, points in PA, DE, MD, VA, WV, NC, SC, GA, FL, AL, OH, IN, NY, CT, MA, AR, IL, KY, MI, MS, MO, NH, RI, and TN, for 180 days. Supporting shipper(s): Raritan River Steel Co., P.O. Box 309, Perth Amboy, NJ 08862. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 29910 (Sub-246TA), filed December 13, 1979. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 S. 11 St., Ft. Smith, AR 72901. Representative: Joseph K. Reber, (same address as applicant). *Lumber and building materials and equipment, materials and supplies* used in the manufacture, distribution and handling of lumber and building materials, from Dallas and Ft. Worth, TX to all points in and west of MT, WY, CO and NM, for 180 days. Underlying ETA seeks 90–days authority. Supporting shipper(s): 9 Shippers. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 47171 (Sub-157TA), filed January 7, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same as above). *Such commodities as are dealt in and used by producers and distributors of alcoholic beverages, liquors and wines (except in bulk),* between the facilities of Heublein, Inc. at East Hartford, CT, on the one hand, and, on the other, points in NC, SC and GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s) Heublein, Inc., 330 New Park Avenue, Hartford, CT 06101. Send protests to: E. E. Strotheid, D/S, ICC, 866 Strom Thurmond Fed. Bldg., 1835 Assembly St., Columbia, SC 29201.

MC 47171 (Sub-158TA), filed December 11, 1979. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same as above). *Iron and steel articles, including wire rods,* from the facilities of Raritan River Steel Company, Perth Amboy, NJ to points in GA (except Clayton, Cobb, Coweta, DeKalb, Fayette, Fulton, Gwinnett, Henry and Rockdale counties) KY, NC (east of US Hwy 77) and TN. An underlying ETA seeks 90 days authority. Supporting shipper(s): Raritan River Steel Co., P.O. Box 309, Perth Amboy, NJ 08862. Send protests to: E. E. Strotheid, D/S, ICC, 866 Strom Thurmond Fed. Bldg., 1835 Assembly St., Columbia, SC 29201.

MC 66101 (Sub-7TA), filed January 8, 1980. Applicant: AFT SERVICES, INC., 303 South Street, Newark, NJ 07114. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Chemicals, acids, drugs and toilet preparations* from the terminal facilities of AFT Services, Inc. located at Newark, NJ to points in the states of CT, DE, ME, MD, NH, NJ, NY, PA, RI, VT and DC for 180 days. Supporting shipper(s): Mallinckrodt, Inc., 675 Brown Road, P.O. Box 5840, St. Louis, MO 63134. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 75320 (Sub-233TA), filed January 7, 1980. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: John Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MI 39205. *General Commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving the facilities of Arvin Industries, Inc. at or near Okolona, MS, as an off-route point in connection with carrier's authorized regular-route operations. Note: Applicant intends to tack this authority with existing authority; to serve points in commercial zones and to interline with other carriers, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Arvin Industries, Inc., 1607 Central Avenue, Columbus, IN 47201. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 105280 (Sub-6TA), filed December 27, 1979. Applicant: CHANDLER TRANSPORT SERVICE, INC., 18975 Highway 6 South, Sterling, CO 80751. Representative: Wm. Fred Cantonwine, 6785 E. 50th Ave., Suite 201, Commerce City, CO 80022. *Petroleum and Petroleum Products, in tank vehicles,* from the facilities of Cheyenne Pipeline Corp. at Sidney, NE, and the facilities of Wyco Pipeline at Cheyenne, WY to points in Logan and Phillips Counties and New Raymer, CO, for 180 days. An underlying ETA asking for 90 days authority. Supporting shipper(s): Plains Oil & Gas Co., Sterling, CO, Star Texaco Service, New Ramer, CO, Miles Service, Fleming, CO. Send portests to: District Supervisor, R.L. Buchanan, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 105501 (Sub-41TA), filed December 18, 1979. Applicant: TERMINAL WAREHOUSE CO., 1851 Raddison Road Northeast, Blaine, MN 55434. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. *Prestressed and precast concrete* from the facilities of Fabcon, Inc. at or near Savage, MN to points in IL, IN, IA, MI, NE, OH and WI; and 2) *Shoring, miscellaneous tools and supplies and accessories* used in the erection of 1), from points in IL, IN, IA, MI, NE, OH and WI, to the facilities of Fabcon, Inc., located at or near Savage, MN, for 180 days. Supporting shipper(s): FABCON, Inc., 6111 West Highway 13, Savage, MN 55378. Send protests to: Transportation Assistant, I.C.C., Rm 1386, 219 S. Dearborn, Chicago, IL 60604.

MC 106400 (Sub-120TA), filed December 26, 1979. Applicant: KAW TRANSPORT COMPANY, P.O. Box 8510, Sugar Creek, MO 64054. Representative: Harold D. Holwick, P.O. Box 8510, Sugar Creek, MO 64054. *Crude Oil, in bulk, in tank vehicle* from Richardson County, NB to ARCO Pipeline Terminal at or near Humboldt, KS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): LeJet, Inc., Bank of

Commerce Bldg., Suite 200, Abilene, TX 79605. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, Mo 64106.

MC 107460 (Sub-76TA), filed August 3, 1979. Applicant: WILLIAM Z. GETZ, INC., 3055 Yellow Goose Rd., P.O. Box 566, Lancaster, PA 17604. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. *Contract; Irregular; Metal roofing and siding and fabricated metal products,* from the facilities of Fabral located at or near Idabel, OK to the distribution warehouses of Sears, Roebuck, and Co. located at or near Los Angeles, CA and Seattle, WA, under a continuing contract or contracts with Fabral-Alcan Bldg. Products, Division of Alcan Aluminum Corp., of Lancaster, PA for 180 days. Supporting shipper(s): Fabral-Alcan Bldg. Products, Div. of Alcan Aluminum Corp., 3449 Hempland Rd., Lancaster, PA 17601. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 109891 (Sub-47TA), filed January 7, 1980. Applicant: INFINGER TRANSPORTATION COMPANY, INC., P.O. Box 70698, Charleston Heights, SC 29405. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. *RESIDUAL FUEL OIL,* from Augusta, GA to points in NC, SC, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Koch Fuels, Inc., P.O. Box 276, Augusta, GA 30903. Send protests to: E. E. Strotheid, D/S, ICC, 866 Strom Thurmond Fed. Bldg., 1835 Assembly St., Columbia, SC 29201.

MC 111401 (Sub-597TA), filed January 2, 1980. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Gasoline and diesel,* in bulk, in tank vehicles, from Artesia, Hobbs, Lovington and Monument, NM, to Pasadena, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): ZIA Fuels, 417 N. Leech, Hobbs, NM 88240; Morris Oil Co., P.O. Box 2443, Hobbs, NM 88240. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 111401 (Sub-598TA), filed January 2, 1980. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Liquid chemicals,* in bulk, in tank vehicles, from St. Gabriel, LA, to Brownsville, TX, in foreign commerce only, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): CIBA-GEIGY Corporation, Ardsley, NY 10502. Send protests to: Connie Stanley, ICC, Rm 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 112520 (Sub-382TA), filed December 20, 1979. Applicant: McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, FL 32302. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Sulfate Black Liquor Skimmings,* from Natchez, MS to Spring Hill, LA for 180 days. Supporting shipper(s): Arizona Chemical Company, 859 Berdan Avenue, Wayne, NJ 07470. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 112750 (Sub-354TA), filed December 27, 1979. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11042. Representative: Elizabeth L. Henoch, Staff Vice President (same address as applicant). Contract carrier—irregular routes, *Commercial papers, documents and written instruments (except currency and negotiable securities),* as are used in the business of banks and banking institutions. Between Evansville, IN, and Paducah, KY, on the one hand, and, on the other, points in Alexander, Clay, Clinton, Effingham, Franklin, Hardin, Jackson, Jefferson, Johnson, Lawrence, Massac, Perry, Pope, Pulaski, Union, and Williamson Counties, IL. Between Paducah, KY on the one hand, and, on the other points in Crawford, Edwards, Gallatin, Hamilton, Jasper, Marion, Richland, Saline, Wabash, Wayne, and White Counties, IL. Between Evansville, IN, on the one hand, and, on the other, points in Christian, Hancock, Muhlenberg, and Ohio Counties, KY. *Restriction:* Transportation service to be performed under a continuing contract or contracts with banks and banking institutions. Supporting shipper(s): There are 87 (eighty-seven) banks and banking institutions. Their statements may be examined at the office listed below and headquarters. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 113651 (Sub-327TA), filed December 6, 1979. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Henry Riggs, P.O. Box 552, Riggin Road, Muncie, IN 47305. *Prepared Foodstuffs,* from Hillsdale and Jonesville, MI to points in AL, FL, GA, IA, KS, LA, MN, MO, MS and NE, for 180 days. An underlying ETS seeks 90 days authority. Supporting shipper(s): DCA Food Industries, Inc., 919 Third Avenue, New York, NY 10022. Send protests to: Transportation Assistant, I.C.C.—Rm 1386, 219 S. Dearborn, Chicago, IL 60604.

MC 112851 (Sub-8TA), filed October 19, 1979. Applicant GEORGE B. REYNOLDS, dba. REYNOLDS TRUCKING CO., RR #1, Crawfordsville, IN 47933. Representative: George B. Reynolds (same Address as Applicant). *Clay Porducts* from Brazil, IN to all points in the States of IL, MI, and KY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Logan Clay Products Co., 201 Bowen St., Logan, OH 43138. Send protests to: ICC, 219 South Dearborn St., Chicago, IL 60604.

MC115651 (Sub-77TA), filed December 12, 1979. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, P.O. Box 39, Rockford, IL 61105. Representative: E. STEPHEN HEISLEY, 666 11th Street, NW., Washington, D.C. 20001. *Asphalt and asphalt products, in bulk, in tank vehicles,* from Janesville, WI to points in IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): Energy Cooperative, Inc., 6300 River Road, Rosemont, IL 60018. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 115840 (Sub-116TA), filed Dec. 28, 1979. Applicant: COLONIAL FAST FREIGHT LINES, INC., 9041 Executive Park Dr., Suite 110, Bldg. 100, Knoxville, TN 37919. D. R. Beeler (same address as applicant). *Iron and steel articles,* from Perth Amboy, NJ to points in NC, SC, AR, TX, AL, OH, PA, LA, MS, GA, FL, TN, DE, MD, VA, and CT, for 180 days. Supporting shippers(s): Raritan River Steel Co., 225 Elm St., Perth Amboy, NJ 08862. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 115841 (Sub-751TA), filed Jan. 8, 1980. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Foodstuffs (except comodities in bulk)* from Springfield, MO and its commercial zone to points in TX, OK, AR, LA, KS, NE, MO, TN, IL, IA, OH and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tennessee Doughnut, P.O. Box 41004, Nashville, TN 37204. Send protests to: Glenda Kuss, TA, ICC, A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 115931 (Sub-106TA), filed December 31, 1979. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box

3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Buildings, building sections, and building panels* from the facilities of American Buildings Co. located at or near Carson City, NV to points in ID, MT, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Buildings Company, 2401 Conestoga Dr., Carson City, NV 89701. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 116300 (Sub-70TA), filed January 2, 1980. Applicant: NANCE & COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39365. Representative: Harold D. Miller, Jr., P.O. Box 22567, Jackson, MS 39205. *Malt beverages, and materials and supplies dealt in by malt beverage distributors* from the facilities of Jos. Schlitz Brewing Co., at or near Longview, TX, to points in Avoyelles, Bossier, Caddo, Concordia, De Soto, East Baton Rouge, Jefferson, Lafayette, Lafourche, Natchitoches, Rapidies, Sabine, St. Bernard, Vernon, and Webster Parishes, LA, and Lafayette, Lee, Pike, Warren and Washington Counties, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Joseph Schlitz Brewing Co., Inc., P.O. Box 641, Milwaukee, WI 53201. Send protests to: Alan Tarrant, D/S, ICC, Fed. Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 116300 (Sub-71TA), filed January 2, 1980. Applicant: NANCE & COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39365. Representative: Harold D. Miller, Jr., P.O. Box 22567, Jackson, MS 39205. *Granulated slag*, in bulk, from the facility of Mineral Aggregate Co., Inc., at or near Satsuma, AL, to Jacksonville and Tampa, FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mineral Aggregates Co., Inc., 8149 Kennedy Ave., Highland, IN 46322. Send protests to: Alan Tarrant, D/S, ICC, Fed. Bldg., Suite 1441, 100 W. Capitol St. Jackson, MS 39201.

MC 116300 (Sub-72TA), filed January 2, 1980. Applicant: NANCE & COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39365. Representative: Harold D. Miller, Jr., P.O. Box 22567, Jackson, MS 39205. *Herbicides and pesticides,* in packages, from Weeks Island, LA to Liberty, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Morton Chemical Co., Div. Morton-Norwich Products, 2 No. Riverside Plaza, Chicago, IL 60606. Send protests to: Alan Tarrant, D/S, ICC, Fed. Bldg., Suite 1441, 100 W. Capitol St. Jackson, MS 39201.

MC 119110 (Sub-6TA), filed December 12, 1979. Applicant: KELLY TRUCK LINES, INC., 924 South Gladstone, Columbus, IN 47201. Representative: Thomas F. Quinn, 1301 First Federal Building, Indianapolis, IN 46204. *Contract Carrier:* irregular routes: *Coil Steel* from Madison, IN to Columbus, IN (Prior movement by barge from Wierton, WV & Allenport, PA to Madison River Terminal), for 180 days, for the account of Cosco Home Products. Supporting shipper(s): Cosco Home Products Div., Cosco, Inc., Columbus, IN 47201. Send protests to: Transportation Assistant, I.C.C., Rm. 1386, 219 S. Dearborn, Chicago, IL 60604.

MC 119641 (Sub-182TA), filed November 27, 1979. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Fowler, IN 47944. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Plywood and lumber* from the facilities of Woodkraft, Wood Products Division of Georgia Kraft Company at or near MADISON, GA to all points in and east of ND, SD, NE, KS, OK and TX for 180 days. Supporting shipper(s): Woodkraft, Wood Products Division of Georgia Kraft Company, P.O. Box 2489, Peachtree City, GA 30269. Send protests to: ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 119700 (Sub-65TA), filed January 1, 1980. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Suite 600, Kansas City, MO 64105. *Iron and Steel articles* between Farmington, MO, on the one hand, and, on the other, points in AR, IL, IN, IA, KS, KY, LA, MI, OK, TX, OH, MS, WI, MN, TN, CO, NE, ND and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ozark Steel Fabricators, Inc., Rt. 1 Box 116E, Farmington, MO 63640. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 120910 (Sub-46TA), filed December 5, 1979. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, AL 35403. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. (1) Metals, Metal articles, Fabrications, pipe, gaskets, casings, fitting breeching, valves, hydrants, boxes, tanks, and vessels; (2) plastic and plastic articles; (3) bath and shower enclosures, modules, doors and windows, parts and accesories; (4) materials, equipment, parts and supplies used in connection with the manufacture, fabrication, distribution, or installation of commodities in parts (1), (2), and (3). Between Tuscaloosa, AL, on the one hand, and, on the other, points in the United States. (Except Alaska and Hawaii.) Restriction: Restricted against commodities in bulk, in tank vehicles. Supporting shipper(s): Dixie Steel and Supply Company, Inc., P.O. Drawer A, Tuscaloosa, AL 35401; Dexol, Inc., P.O. Box 3222, Tuscaloosa, AL 35401. Send protests to: Mabel E. Holston, TA, I.C.C., Room 1616, 2121 Bldg., Birmingham, AL 35203.

MC 121470 (Sub-50TA), filed January 2, 1980. Applicant: TANKSLEY TRANSFER COMPANY, 801 Cowan St., Nashville, TN 37207. Representative: Roy L. Tanksley (same address as applicant). *Iron and Steel Articles,* between the plantsite of Tennessee Forging Steel Corp. & Newport Steel Corp., a Division of Tennessee Forging Steel, located at or near Harriman, TN and Newport, AR, on the one hand, and, on the other, points in AL, MS, GA, NC, SC, VA, PA, IN, IL, KY, FL, OH, WV, TN, MO, AR, & LA, for 180 days. Supporting shipper(s): Tennessee Forging Steel Corp., Harriman, TN 37748. Send protests to: Glenda Kuss, TA, ICC, A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 124071 (Sub-20TA), filed December 13, 1979. Applicant: LAKE STATE TRANSPORT, INC., P.O. Box 944, St. Cloud, MN 56301. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Contract Carrier:* irregular routes: *Meat,* fresh and frozen, from Plainwell, MI to the facilities of Robel Beef Packers, Inc. at St. Cloud, MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Robel Beef Packers, Inc., St. Cloud, MN 56301. Send protests to: Transportation Assistant, I.C.C., Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 129480 (Sub-49TA), filed January 4, 1980. Applicant: TRI-LINE EXPRESSWAYS, LTD., P.O. Bag 1212, Stn. T, Calgary, AB, CD T2H 2J1. Representative: Richard S. Mandelson, Jones, Meiklejohn, Kehl & Lyons, Suite 1600, 1660 Lincoln St., Denver, CO 80264. *Glass* from Kingsburg, CA to the International Boundary line between the U.S. and Canada located in WA, ID and MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Guardian Industries Corp., 11535 E. Mountain View, Kingsburg, CA 93631. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 129600 (Sub-33TA), filed December 17, 1979. Applicant: POLAR

TRANSPORT, INC., 176 King Street, Hanover, MA 02339. Representative: Alton C. Gardner, 176 King Street, Hanover, MA 02339. *Contract Carrier;* irregular routes transporting: *Confectionery (except in bulk) and Materials, Equipment and Supplies used in the manufacture and distribution of Confectionery,* between the facilities of Nabisco Confections, Inc., subsidiary of Nabisco, Inc. at Danville, IL and Los Angeles, CA on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR and TX and Los Angeles, CA. Supporting shipper(s): Nabisco Confections, Inc., (subsidiary of Nabisco, Inc.). Send protests to: John B. Thomas, D/S, ICC, 150 Causeway Street, Boston, MA 02114.

MC 133591 (Sub-89TA), filed December 19, 1979. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, MO 65712. Representative: A. J. Swanson, P.O. Box 1103–300 S. Thompson Avenue, Sioux Falls, SD 57101. *Fabrics, towels, cloths, aprons and textile products* from North Little Rock, AR to points in CA (representative destination points: Los Angeles, Berkeley, San Francisco, Sunnyvale, and Menlo Park) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chicopee, a corporation, P.O. Box 1151, New Brunswick, NJ 08903. Send protests to: Vernon V. Coble, DS, ICC, Room 600, 911 Walnut St., Kansas City, MO 64106.

MC 135410 (Sub-98TA), filed December 5, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, North 6th Street Road, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200, Park Ridge, IL 60068. *Foodstuffs (except commodities in bulk),* from the facilities of General Mills, Inc. at Cedar Rapids, IA and Toledo, OH and points in their commercial zones to Galesburg, IL and points in its commercial zone and from the facilities of General Mills, Inc. at Galesburg, IL and points in its commercial zone to points in IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Mills, Inc., P.O. Box 1113, Minneapolis, MN 55440. Send protests to: Tranportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 139041 (Sub-3TA), filed December 7, 1979. Applicant: FRED P. MASSAT, 3955 West 135th Street, Crestwood, IL 60445. Representative: Paul J. Maton, 10 S. LaSalle St., Rm. 1260, Chicago, IL 60603. *Steel pipe, building materials, steel products and steel tubing,* from Chicago, IL to points in IN, OH and MI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tubular Sales, 1901 Linden St., Indianapolis, IN; Independence Tube Corp., 6226 W. 74th St., Chicago, IL; Regal Tube Co., 7401 Linder, Bedford Park, IL. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 143300 (Sub-5TA), filed December 10, 1979. Applicant: J. C. WOOLDRIDGE, INC., Rte. 7, Box 43, Martinsville, VA 24112. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *New Furniture,* from Henry County, VA to points in the Norfolk, Virginia Commercial zone, for 180 days. An underlying ETA seeks 30 days authority. Supporting shipper(s): Bassett Mirror Company, Inc., P.O. Box 627, Bassett, VA 24055. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Philadelphia, PA 19106.

MC 143471 (Sub-21TA), filed December 18, 1979. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 308 West Boulevard, Rapid City, SD 47701. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 47701. *Contract carrier:* irregular routes: *Minerals,* from the facilities of Pacer Corp. in/near Custer, SD to points in and west of MS, AR, MO, IL and WI (Except AK and HI), for 180 days, for the account of Pacer Corp. Supporting Shipper(s): Pacer Corporation, P.O. Box 912, Custer, SD 57730. Send protests to: Transportation Assistant, I.C.C.—Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 143891 (Sub-8TA), filed January 3, 1980. Applicant: FLYING L TRUCKING CO., P.O. Box 4942, Thousand Oaks, CA 91359. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Such merchandise as is dealt in by wholesale or retail grocery businesses,* from the facilities of Couzens Warehouse and Distributors, Inc., in Hodgkins, La Grange, and Bridgeview, IL to Cedar Rapids, Davenport, and Iowa City, IA and Albert Lea, Hopkins, Minneapolis, Northfield, Perham, St. Cloud, St. Paul, and Wadena, MN, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting Shipper(s): Couzens Warehouse and Distributors, Inc., 6600 S. River Road, Hodgkins, IL 60525. Send protests to: Irene Carlos, T/A, I.C.C., 300 N. Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 144030 (Sub-10TA), filed November 30, 1979. Applicant: DRUE CHRISMAN, P.O. Box 264, Lawrenceburg, IN 47025. Representative: P. J. Snodgrass (same address as applicant). *Beer, and empty containers* from North Carolina to the Cincinnati Commercial Zone, from Cincinnati Commercial Zone to Eden, NC for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): H. Dennert Dist. Co., 1388 Brashears, Cincinnati, OH 45225. Send protests to: ICC, 219 South Dearborn Street, Chicago, IL 60604.

MC 144621 (Sub-16TA), filed January 3, 1980. Applicant: CENTURY MOTOR LINES, INC., P.O. Box 15246, Santa Ana, CA 92705. Representative: James P. Beck, 717 17th St., Suite 2600, Denver, CO 80202. *Such commodities as are dealt in or used by manufacturers and distributors of surgical supplies, medical supplies, and health care supplies (except in bulk),* from the facilities of Parke, Davis Company, Inc. at or near Greenwood, SC to points in IL, IN, MA, NJ, NY, and OH, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting Shipper(s): Parke, Davis and Company, P.O. Box 368, Greenwood, SC 29646. Send protests to: Irene Carlos, T/A, I.C.C., 300 N. Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 145220 (Sub-14TA), filed December 7, 1979. Applicant: IREDELL MILK TRANSPORTATION, INC., Rt. 3, Box 368, Mooresville, NC 28115. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *Apple juice, in bulk, in tank vehicles,* from Bear Lake, MI and Batesville, VA to Fleetwood, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Red Cheek Inc. P.O. Box 136, Fleetwood, PA 19522. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC 516, Charlotte, NC 28205.

MC 145391 (Sub-2TA), filed December 10, 1979. Applicant: CUOMO & SON CARTAGE COMPANY, 429 Talcott Ave., Lemont, IL 60439. Representative: Philip A. Lee, 120 W. Madison St., Suite 618, Chicago, IL 60602. *Contract carrier:* irregular routes: *Canned goods,* from Chicago, IL to points and places throughout the state of WI for 180 days. Supporting Shipper(s): Campbell Soup Company, 2550 W. 35th St., Chicago, IL 60632. Send protests to: Transportation Assistant, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 145441 (Sub-87TA), filed December 26, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). *Foodstuffs* (except comodities in bulk) from Egypt, Rushville, Red Creek, Phelps, Shortsvile, Alton, LeRoy, Leicester, and Oakfield,

NY to points in TX, for 180 days. Supporting Shipper(s): Curtice-Burns, Inc., One Lent Ave. Le Roy, New York 14482. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145491 (Sub-6TA), filed November 2, 1979. Applicant: PIGGYBACK TRANSPORTATION SERVICE, INC., P.O. Box 662, Greenwood, IN 46142. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. *General Commodities (except articles of unusual value, Classes A & B explosives, household goods as defined by the Comission, and commodities in bulk and those requireing special equipment,* between the rail ramp located at Lafayette, IN on the one hand, and on the other, points in IN, for 180 days. Restricted to traffic having an immediately prior or subsequent movement by rail. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Norfolk and Western Railway Company, 8 North Jefferson Street, Roanoke, VA 24042. Send protests to: ICC, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 145941 (Sub-3TA), filed January 4, 1980. Applicant: FREDRICKS & REESE, INC., 71–36 Myrtle Avenue, Glendale, NY 11227. Representative: Michael R. Werner, 167 Fairfield Road, POB 1409, Fairfield, NJ 07006. *Stock market printed materials,* from New York, NY, to Hartford, CT, Philadelphia, PA, Chicago, IL, Washington, DC, Baltimore, MD, and Boston, MA; for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): 1. Rotan Mosle Inc., 1370 Ave. of the Americas, New York, NY 10020 2. Shearson Hayden Stone, Inc., 80 Pine St., New York, NY 10005 3. Paine, Webber, Mitchell, Hutchins, Inc., 1 Battery Pl., NYC 10004 4. Cyrus J. Lawrence Inc., 115 Broadway, New York, NY 10006. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 145981 (Sub-20TA), filed January 3, 1980. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, South Kearnv, NJ 07032. Representative. George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Nonedible animal, vegetable, fish and mineral oils, and materials, equipment, and supplies used in the manufacture and sale of nonedible animal, vegetable, fish and mineral oils* (except commodities in bulk) between points in the New York, NY commercial zone on the one hand, and, on the other, points in the states of CA, GA, IL, MA, MN, PA, TX and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Atlas Refinery, Inc., 142 Lockwood Street, Newark, NJ 07105. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 145981 (Sub-21TA), filed November 30, 1979. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, South Kearnv, NJ 07032. Representative. George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Paper and paper products, and materials, equipment, and supplies used in the manufacture and sale of paper and paper products* (except commodities in bulk) between points in NJ on the one hand, and, on the other, points in CA, CT, ME, MD, MA, NH, NY, PA, RI, VA and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Sabin Robbins Paper Company, 31 Executive Drive, Edison, NJ 08817. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 146360 (Sub-19TA), filed December 31, 1979. Applicant: FLOYD SMITH, JR. TRUCKING, INC., 521 E. First St. So., Meridian, ID 83642. Representative: Floyd Smith, Jr., 5303 Valle Grande, Meridian, ID 83642. *Alcoholic beverages, including hard liquors, wine and beer,* from points in NY, NJ, MI, IL, OH, MA, KY, IN & CA to Boise, ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Idaho Liquor Dispensary, 7185 Bethel, Boise, ID 83704. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 146451 (Sub-17TA), January 4, 1980. Applicant: WHATLEY-WHITE, INC., 230 Ross Clark Cir., N.E., Dothan, AL 36302. Representative: R. S. Richard, Attorney, P.O. Box 2069, Montgomery, AL 36103. (1) *Synthetic resins, naval stores, tall oil products,* from the facilities of Arizona Chemical Co. located at or near Panama City, FL, to points in the United States (except AK and HI); and (2) *Materials, equipment and supplies used in the production, sale or distribution of the commodities named above,* from points in the destination territory identified in (1) above to the facilities of Arizona Chemical Co., at or near Panama City, FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Arizona Chemical Co., 859 Berdan Ave., Wayne, NJ 07470. Send protests to: Mabel E. Hoston, TA, I.C.C., Room 1616–2121 Bldg., Birmingham, AL 35203.

MC 146580 (Sub-3TA), filed January 4, 1980. Applicant: FREIGHT SYSTEMS, INC., 4191 Meridian Street, Bellingham, WA 98225. Representative: Stephen B. Johnson, 30th Floor, Bank of California Center, Seattle, WA 98164. *Contract carrier;* irregular routes; *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), having a prior or subsequent movement in interestate commerce under contract(s) with Amway Corporation,* (1) between points in Hood River, Wasco, Sherman, Jefferson, Deschutes, Crook, Lane, Lincoln, Benton, Linn, Marion, Polk, Tillamook, Clatsop, Columbia, Washington, Yamhill, Clackamas, Multnomah, Coos and Curry counties, OR; (2) between applicant's facilities, in Portland, OR and Woodland, WA; and (3) between applicant's facilities in Portland, OR and points in Clark county, WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Amway Corporation, 7250 South 228th Street, Kent, WA 98031. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 147160 (Sub-1TA), filed November 30, 1979. Applicant: SCHILL TRUCKING SERVICE, INC., Route 3, St. Cloud, MN 56301. Representative: Stanley C. Olsen, Jr., 7400 Metro Blvd., Suite 411, Edina, MN 55435. *Corn gluten meal and corn gluten feed* from points in the Chicago, IL commercial zone to Sauk Rapids, NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Jack Frost, Inc., Rt. 3, Sauk Rapids, NM 56379. Send protests to: Judith L. Olson, TA, ICC, 414 Fed. Bldg., 110 S. 4th St., Minneapolis, MN 55401.

MC 147681 (Sub-9TA), filed December 19, 1979. Applicant: HOYA EXPRESS, INC., P.O. Box 543, R.D. #2, West Middlesex, PA 16159. Representative: Henry M. Wick, 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract carrier:* irregular routes: *Aluminum and zinc alloy ingots,* between Maple Heights, OH on the hand, and on the other, points in IL, IN, KY, MI, NY, PA and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Aluminum Smelting & Refining Co., Inc., Certified Alloys Company, 5463 Dunham Rd., Maple Heights, OH 44137. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 148281 (Sub-7TA), filed January 2, 1930. Applicant: SUSANA TRANSPORT SYSTEMS, INC., 2845 Workman Mill Rd., Whittier, CA 90601. Representative: Miles L. Kavaller, 315 S. Beverly Dr., Suite 315, Beverly Hills, CA 90212. *Ceramic tile and materials, equipment*

and supplies used to install ceramic tile (except in bulk), from Bell, Lodi, Long Beach and Torrance, CA to the facilities of Dallas Ceramic Company in Colorado Springs and Denver, CO, Milwaukee (Portland) and Eugene, OR and Seattle, WA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting Shipper(s): Dallas Ceramic Company, P.O. Box 17130, Dallas, TX 75217. Send protests to: Irene Carlos, T/A, I.C.C., 300 N. Los Angeles St., Rm. 1321, Los Angeles, CA 90012.

MC 148351 (Sub-4TA), filed December 31, 1979. Applicant: MANKE TRUCKLINE, INC., 2550 Boynton Lane, Reno, NV 89502. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. *Insulation materials* from points in Glenn and Riverside Counties, CA, to points in NV, ID, OR, WA, and UT for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Johns-Manville Sales Corporation, 2600 Campus Drive, San Mateo, CA 94403. Send protests to: DS W. J. Huetig, I.C.C., 705 North Plaza Street, Carson City, NV 89701.

MC 148530 (Sub-2TA), filed January 8, 1980. Applicant: MID MONTANA, INC., P.O. Box 1131, Bozeman, MT 59715. Representative: Gary Everson, Hendrickson & Bishop, 320 Hart-Albin Bldg., Billings, MT 59101. *Agricultural implements, farm machinery, tools, parts and accessories,* from points in AL, CA, CO, GA, IL, IN, IA, KS, KY, ME, MI, MN, MO, MT, NE, NJ, NY, NC, ND, OH, OR, PA, RI, SD, TN, TX, WA, WV, WI and the U.S.-Canada International Boundary line at or near ports of entry in MT, ND, MN, MI and NY to points in ND, SD, WY, ID and MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Parker Montana Company, 2100—6th Ave North, Billings, MT 59101. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 148751 (Sub-4TA), filed November 30, 1979. Applicant: LINCOLN FREIGHT LINES, INC., P.O. Box 427, Lapel, IN 46051. Representative: Robert A. Kriscunas, 1301 Merchants Plaza, Indianapolis, IN 46204. *Resin cartridges, used in mining and construction (except in bulk),* from the facilities of Bolt Lock, Inc. at or near Minneapolis, MN to points in AL, NY, PA and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bolt-Lock, Inc., 13305 Water Tower Circle, Minneapolis, MN. Send protests to: ICC, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 148770 (Sub-2TA), filed December 10, 1979. Applicant: ARCTIC TRANSIT CO., 3880 South Division Avenue, Grand Rapids, MI 49508. Representative: Martin C. Jones, 3880 South Division Avenue, Grand Rapids, MI 49508. (1) *Frozen foods* from the facilities of Chef Pierre, Inc. at or near Traverse City, MI to points in AZ, CA, CO, CT, DC, ID, MD, MT, MA, NE, NH, NJ, NM, NV, NY, OR, PA, RI, UT, VA, VT, and WA; (2) *Materials, equipment, and supplies used in the preparation of frozen foods* from points in AZ, CA, CO, CT, DC, ID, MD, MT, MA, NE, NH, NJ, NM, NV, NY, OR, PA, RI, UT, VA, VT and WA to the facilities of Chef Pierre, Inc. at or near Traverse City, MI, for 180 days. Supporting shipper(s): Chef Pierre, Inc., P.O. Box 1009, Traverse City, MI 49684. Send protests to: Transportation Assistant, I.C.C. Rm 1386, 219 S Dearborn, Chicago, IL 60604.

MC 148770 (Sub-3TA), filed December 10, 1979. Applicant: ARCTIC TRANSIT CO., 3880 South Division Avenue, Grand Rapids, MI 49508. Representative: Martin C. Jones, 3880 South Division Avenue, Grand Rapids, MI 49508. (1) *Drugs and toilet articles, materials and supplies* used in the sale and distribution of drugs and toilet articles from the facilities of L. Perrigo Co. at or near Allegan, MI to points in WA, OR, ID, NV, CA, UT, AZ, CO, NM, KS, OK, TX, MO, AR, LA, KY, TN, MS, AL, GA, FL, SC, NC, VA, WV, MD, DE, NJ, PA, CT, RI, NY, MA, NH, VT, and ME; (2) *Materials and equipment* used in the manufacture of drugs and toilet articles from points in WA, OR, ID, NV, CA, UT, AZ, CO, NM, KS, OK, TX, MO, AR, LA, KY, TN, MS, AL, GA, FL, SC, NC, VA, WV, MD, DE, NJ, PA, CT, RI, NY, MA, NH, VT and ME to facilities of L. Perrigo Co. at or near Allegan, MI, for 180 days. Supporting shipper(s): L. Perrigo Co., 117 Water St., Allegan, MI. Send protests to: Transportation Assistant, I.C.C.—Rm 1386, 219 S Dearborn St., Chicago, IL 60604.

MC 148880 (Sub-1TA), filed December 10, 1979. Applicant: JOHN HENRY GRAY d.b.a. JOHNNY GRAY TRUCKING, 4432 San Isidro NW, Albuquerque, NM 87107. Representative: Frank P. Dickson, Jr., Dickson & Dubois, P.A., Suite 900, 200 Lomas Blvd. NW, Albuquerque, NM 87102. *Cornstarch (except in bulk),* from Dimmitt, TX to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amstar Corporation, P.O. Box 169, Dimmitt, TX 79027. Send protests to: Joyce E. Abbott, TA, Interstate Commerce Commission, 1106 Federal Office Building, 517 Gold Avenue SW, Albuquerque, NM 87101.

MC 148881 (Sub-1TA), filed December 10, 1979. Applicant: MARVIN BOZANICH, 3035 East Ocean Blvd., Long Beach, CA 90803. Representative: Marvin Bozanich (same address as above). *Contract;* Irregular; *watches,* an irregular route to encompass 14 specific destinations as listed in attached schedule, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Seiko Time Corporation, Traffic Manager, 2265 E. El Segundo Blvd., El Segundo, CA 90245. Send protests to: Irene Carlos, TA, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MC 148890 (Sub-1TA), filed December 28, 1979. Applicant: SENTRY ARMORED COURIER CORP., 3548 Boston Road, Bronx, NY 10469. Representative: Ronald I. Shapss, Esq., 450 Seventh Avenue, New York, N.Y. 10001. *Contract* carrier, irregular routes: *Coin and currency,* between New York, NY and Culpeper, VA; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Federal Reserve Bank of New York, 33 Liberty St., New York, N.Y. 10038. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 148991 (Sub-1TA), filed December 14, 1979. Applicant: G & L TRUCKING, INC., 4625 Routt St., Wheat Ridge, CO 80033. Representative: Edward C. Hastings, 666 Sherman St., Denver, CO 80203. *Sea foods, bananas, fruits and vegetables* in controlled temperature vehicles from Houston and Galveston, TX, Gulfport, MS and New Orleans, LA to points in CO, for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Western Grocers, Inc., 4200 Wynkoop St., Denver, CO 80217. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 149011 (Sub-1TA), filed December 27, 1979. Applicant: RDR, INC., 3600 N.W. 82nd Ave., Miami, FL 33166. Representative: Dale A. Tibbets (same address as applicant). Contract carrier—Irregular route: *(1) Such merchandise as are dealt in by wholesale, retail chain grocery houses and drug stores* from the facilities of Peyton's-Southeastern, Inc. at or near Cleveland, TN to points in AL, AR, GA, IN, KY, MS, MO, NC, OH, SC, TX, VA and WV and *(2) Materials, equipment and supplies used by wholesale, retail chain grocery houses and drug stores* from the states listed in (1) above to the facilities of Peyton's-Southeastern, Inc. at or near Cleveland, TN under a continuing contract(s) with Peyton's-Southeastern, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s):

Peyton's-Southeastern, Inc., Refreshment Lane, Appalachian Ind. Park, Cleveland, TN 37311. Send protests to: Donna M. Jones, T/A, ICC—BOp, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 149040 (Sub-1TA), filed Dec. 26, 1979. Applicant: BANNER TRANSFER COMPANY, INC., P.O. Box 664, Louisville, KY 40201. Representative: Robert H. Kinker, Atty., P.O. Box 464, Frankfort, Ky. 40602. *Contract, Irregular, transporting household appliances, appliance parts, and materials, equipment, and supplies* used in the manufacture and distribution thereof, except in bulk under contract with General Electric Co., between Louisville, KY and Bloomington, IN, and the commerical zones thereof. (Underlying ETA was also filed). Supporting Shipper(s): General Electric Co., AP10—Room 235, Appliance Park, KY 40225. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-4278 Filed 2-8-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-34F)]

Seaboard Coast Line Railroad Co. Abandonment Near South Carolina State Line to Wadesboro, N.C.; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided January 18, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen*, 360 I.C.C. 91 (1979), and further that applicant shall keep intact all of the right-of-way underlying the track including all the bridges and culverts for a period of 120 days from the effective date of this certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Company of a portion of a line of railroad known as the Wadesboro Subdivision extending from railroad milepost AJ-342.16 near the South Carolina State Line to milepost AJ-354.04 at Wadesboro, NC, a distance of 11.88 miles, in Anson County, NC. A certificate of public convenience and necessity permitting abandonment was issued to the Seaboard Coast Line Railroad Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than February 26, 1980. The offer, as filed, shall contain information required pursuant to Section 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective March 27, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-4276 Filed 2-8-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 99.1.111]

Principal Aid Officer, Burundi; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12,836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Principal AID Officer, Burundi, the authority to sign:

1. U.S. Government contracts, grants, or amendments thereto provided that the aggregate amount of each individual contract or grant does not exceed $50,000 or local currrency equivalent; and

2. Contracts with individuals for the services of the individual alone provided that the aggregate amount of each individual contract does not exceed $100,000 or local currency equivalent.

The authority herein delegated may be redelegated in writing, in whole or in part, by the Principal AID Officer at his discretion to the person or persons designated by the Principal AID Officer as Contracting Officer. Such redelegation shall remain in effect until such designated person or persons cease to hold the office of Contracting Officer or until the redelegation is revoked by the Principal AID Officer whichever shall first occur. The authority so redelegated by the Principal AID Officer may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein redelegated may be exercised by duly authorized persons who are performing the functions of the Principal AID Officer in an acting capacity.

Actions within the scope of this delegation heretofore taken by officials designated in any previous delegation or redelegation are hereby ratified and confirmed.

This redelegation of authority is effective November 15, 1979.

Dated: January 29, 1980.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 80-4380 Filed 2-8-80; 8:45 am]

BILLING CODE 4710-02-M

[Redelegation of Authority No. 99.1.110]

Principal Aid Officer, Djibouti; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12,836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Principal AID Officer, Djibouti, the authority to sign:

1. U.S. Government contracts, grants, or amendments thereto provided that the aggregate amount of each individual contract or grant does not exceed $50,000 or local currency equivalent; and

2. Contracts with individuals for the services of the individual alone provided that the aggregate amount of each individual contract does not exceed $100,000 or local currency equivalent.

The authority herein delegated may be redelegated in writing, in whole or in part, by the Principal AID Officer at his discretion to the person or persons

designated by the Principal AID Officer as Contracting Officer. Such redelegation shall remain in effect until such designated person or persons cease to hold the office of Contracting Officer or until the redelegation is revoked by the Principal AID Officer whichever shall first occur. The authority so redelegated by the Principal AID Officer may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein redelegated may be exercised by duly authorized persons who are performing the functions of the Principal AID Officer in an acting capacity.

Actions within the scope of this delegation heretofore taken by officials designated in any previous delegation or redelegation are hereby ratified and confirmed.

This redelegation of authority is effective November 15, 1979.

Dated: January 29, 1980.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 80-4349 Filed 2-8-80; 8:45 am]

BILLING CODE 4710-02-M

[Redelegation of Authority No. 99.1.109]

Principal Aid Officer, Rwanda; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12,836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Principal AID Officer, Rwanda, the authority to sign:

1. U.S. Government contracts, grants, or amendments thereto provided that the aggregate amount of each individual contract or grant does not exceed $50,000 or local currency equivalent; and

2. Contracts with individuals for the services of the individual alone provided that the aggregate amount of each individual contract does not exceed $100,000 or local currency equivalent.

The authority herein delegated may be redelegated in writing, in whole or in part, by the Principal AID Officer at his discretion to the person or persons designated by the Principal AID Officer as Contracting Officer. Such redelegation shall remain in effect until such designated person or persons cease to hold the office of Contracting Officer or until the redelegation is revoked by the Principal AID Officer whichever shall first occur. The authority so redelegated by the Principal AID Officer may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures, and policies established or modified and promulgated within AID and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein redelegated may be exercised by duly authorized persons who are performing the functions of the Principal AID Officer in an acting capacity.

Actions within the scope of this delegation heretofore taken by officials designated in any previous delegation or redelegation are hereby ratified and confirmed.

This redelegation of authority is effective November 15, 1979.

Dated: January 29, 1980.

Hugh L. Dwelley,

Director, Office of Contract Management.

[FR Doc. 80-4348 Filed 2-8-80; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF JUSTICE

[DJ 171-08-2]

Collection of Race, Ethnic, Age, and Sex Information and Applicants for Benefits Under Federally Assisted Programs

On November 23, 1979 the Department of Justice sent the following Memorandum to the heads of all Executive Departments and Agencies:

"Department of Justice regulations, issued pursuant to Executive Order 11764 at 28 CFR Part 42 Subpart F, prescribe standards and procedures regarding implementation by federal departments and agencies of Title VI of the Civil Rights Act of 1964 and similar nondiscrimination provisions in federal grant statutes and civil rights laws.

Section 42.406(a) of those regulations requires that:

> [e]xcept as determined to be inappropriate in accordance with paragrpaph (f) of this Section or § 42.404(b), federal agencies * * * shall in regard to each assisted program provide for the collection of data and information from applicants for and recipients of federal assistance sufficient to permit effective enforcement of Title VI.

Collecting and reviewing data on the race, ethnic background, age, and sex of persons applying for benefits or services under a federally-assisted program is an essential element in determining the compliance status of that program. Additionally, this data may be required for enforcement purposes after a finding of probable non-compliance has been made.

Accordingly, pursuant to the authority delegated to me by the Attorney General under 28 CFR 42.412, I direct that your agency establish and implement procedures whereby the race and ethnic background can be determined of persons applying for a service or benefit under a program to which you provide funds. Sex and age discrimination are not covered by Title VI and are not included in this Department's coordination authority. However, discrimination on the basis of sex and age is prohibited by a number of other civil rights laws and grant statutes. Also, in our opinion, an agency's general authority to issue regulations implementing a grant statute may be used to require recipients to collect data on the sex and age of applicants for benefits. I advise your agency to adopt such requirements. All such procedures should comply with OMB policies on data collection.

Programs of general benefit to the pubic or some portion of the public, for which no individual application need be filed to receive that benefit, are excluded from this Directive. However, the collection of characteristics data on beneficiaries and eligible populations in federally assisted programs is equally important. Therefore, nothing is this Directive is intended to limit the collection of any additional data which may be required by § 42.406."

Anyone who wishes more information concerning this Directive should contact Mr. David Morman, Office of Coordination and Review, Room 421, 521 12th St., NW., Washington, D.C. 20530, or by telephone on 202/724-6766.,

Signed at Washington, D.C. on November 23, 1979.

Drew S. Days III,

Assistant Attorney General for Civil Rights.

[FR Doc. 80-4324 Filed 2-8-80; 8:45 am]

BILLING CODE 4410-01-M

National Institute of Justice

Competitive Research Solicitation

The National Institute of Justice announces a competitive research solicitation that will develop one or more documents describing the state-of-the-art highlights of each forensic science discipline and the critical issues

in forensic sciences that bear upon the criminal justice system today.

The solicitation asks for proposals to be submitted for peer review in accordance with the criteria set forth in the solicitation. In order to be considered, all proposals must be postmarked no later than April 4, 1980. A grant or cooperative agreement for a 12-month research project is planned, with funding support not to exceed $50,000. To maximize competition for this award, both profit-making and non-profit organizations are eligible to apply.

Copies of the solicitation may be obtained by sending a mailing label to: Solicitation Request, Research Findings for Forensic Information Users, National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.

For questions pertaining to this request for proposals, contact John O. Sullivan, Police Division, Office of Research Programs, NIJ, 633 Indiana Avenue, NW., Washington, D.C. 20531, (301) 492-9110.

Dated: January 30, 1980.

Harry Bratt,

Primary and Principal Assistant to the Acting Director, National Institute of Justice.

[FR Doc. 80-4323 Filed 2-8-80; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Memorandum of Understanding Concerning Occupational Safety and Health on Artificial Islands, Installations and Other Devices on the Outer Continental Shelf of the United States

I. Purpose

The purpose of this Memorandum of Understanding is to establish procedures to increase consultation and coordination between the United States Coast Guard (USCG) and Occupational Safety and Health Administration (OSHA) with respect to matters affecting the occupational safety and health of personnel working on the Outer Continental Shelf of the United States.

II. Definition

For purposes of the Memorandum, the following definition applies:

Working Conditions on the Outer Continental Shelf of the United States

Working conditions related to activities, including diving, taking place on or from, on the waters adjacent to, or otherwise associated with artificial islands, installations, or other devices permanently or temporarily attached to the seabed and exploring for, developing or producing resources from the Outer Continental Shelf of the United States, or any device (other than ship or vessel) used for the purpose of transporting such resources (43 U.S.C. 1333(a)(1)).

III. Agency Responsibilities

A. U.S. Coast Guard

The USCG has authority to promulgate and enforce Safety and Health Regulations for working conditions on the OCS of the United States. In carrying out this responsibility on the OCS the Coast Guard will cooperate with the Occupational Safety and Health Administration to maximize the safety and health protection of employees, avoid duplication of effort, and avoid undue burdens on the maritime industry. The USCG, consistent with its statutory authority:

1. Promulgates regulations and may modify any regulation, interim or final, applying to hazardous working conditions related to activities on the Outer Continental Shelf, and promulgates such other regulations as may be necesssary to promote the safety of life and property on the OCS;

2. Promulgates regulations to provide for scheduled onsite inspection, at least once a year, of each facility on the Outer Continental Shelf which is subject to any environmental, safety or health regulation promulgated by the Coast Guard pursuant to the OCS Act,[1] and also provides for periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental, health or safety regulations;

3. Reviews any allegation from any person of the existence of a violation of a safety or health regulation or other unsafe working condition.

4. Investigates and makes a public report on any death or serious injury occurring as a result of operations conducted pursuant to the OCS Act, and may investigate and report on other injuries, casualties or accidents.

5. Initiates appropriate civil and criminal procedures and other actions to enforce any provision of the OCS Act or any regulation issued under the Act.

[1] "OCS Act" refers to the Outer Continental Shelf Lands Act, as Amended (43 USC 1331 et seq).

B. Occupational Safety and Health Administration

The Occupational Safety and Health Act (OSH Act)[2] applies with respect to working conditions on Outer Continental Shelf Lands (29 USC 653(a)), but does not apply to working conditions with respect to which the Coast Guard or other Federal agencies exercise statutory authority to prescribe or enforce standards affecting occupational safety and health (29 USC 653(b)(1), Sec. 21(d) of the OCS Act). The Occupational Safety and Health Administration will cooperate with the Coast Guard to maximize the safety and health protection of employees, avoid duplication of effort, and avoid undue burdens on the maritime industry.

Consistent with its statutory authority under the Occupational Safety and Health Act, OSHA:

1. Prescribes occupational safety and health rules and regulations as necessary to carry out its responsibility under the OSH Act;

2. Inspects and investigates places of employment to insure compliance with any applicable OSHA requirements;

3. Responds to allegations of violations of applicable OSHA requirements and makes investigations where there are reasonable grounds to believe that a violation exists.

4. Issues citations and initiates appropriate civil and criminal procedures against employers for violations of applicable OSHA requirements.

IV. Procedures

The two agencies agree, consistent with their statutory obligations, to observe the following procedures in carrying out their responsibilities to promote safe working conditions on the OCS:

A. Development and Promulgation of Standards

The Coast Guard will develop and promulgate necessary regulations to assure safe and healthful working conditions on the OCS. OSHA will continue to promulgate general standards, which may apply to working conditions on the OCS not being regulated by the Coast Guard. In developing regulations and standards, the two agencies will cooperate to the maximum extent possible. Such cooperation will include, but will not be limited to the following:

1. *Information and data availability.* For the purposes of identifying work hazards, determining accident or illness

[2] "OSH Act" refers to Public Law 91-596, the Occupational Safety and Health Act of 1970"

causes, developing corrective measures, and assessing the impacts of new or revised regulations or standards, the two agencies will exchange data and study results to the extent permitted by law.

2. *Standards research and development projects.* The two agencies will jointly participate in standards research and development projects of mutual interest and benefit.

3. *Review of existing regulations and standards.* The two agencies will jointly review existing USCG and OSHA regulations and standards to help identify hazards that require priority attention in Coast Guard regulations development projects;

4. *Exchange of technical expertise.* Each agency will provide the other with technical support, where feasible, to assist in the review of particular hazards or the development of regulations.

5. *Early notice of rulemaking activities.* The Coast Guard will provide for OSHA's review and consultation copies of drafts of advance notices of proposed rulemaking, notices of proposed rulemaking, and final rules, which relate to working conditions on the OCS. Likewise, OSHA will provide for the Coast Guard's review and consultation copies of drafts of advance notices of proposed rulemaking, notices of proposed rulemaking, and final rules, which have application to any working condition on the OCS. Publication of any rule, however, is not contingent upon receipt of comments.

B. Enforcement of Regulations and Standards

While OSHA has statutory responsibilities with respect to workplaces on the OCS, the following provisions have been drafted to emphasize the Coast Guard's increasing role for safety and health on the OCS, as provided under the OCS Lands Act Amendments of 1978 (Pub. L. 95–372). Through this Act, Congress expressed the expectation that the Coast Guard would be the principal Federal agency in matters of occupational safety and health on the OCS.

1. *Routine enforcement activities:* a. The Coast Guard will continue to enforce existing regulations issued under its authority which affect working conditions on the OCS.

b. The Coast Guard will also enforce any new occupational safety and health regulations promulgated under its authority affecting working conditions on the OCS.

c. OSHA remains responsible for enforcing requirements adopted under the OSHA Act which apply to working conditions on the OCS for which the Coast Guard or other Federal agencies have not exercised their statutory authority to prescribe or enforce standards affecting occupational safety and health. To minimize any duplication which may result from exercising this responsibility, OSHA will consult with the Coast Guard and seek to minimize the need for OSHA's routine inspection activity.

2. *Investigation of accidents:* In accordance with regulations issued under its authority, the Coast Guard will investigate deaths, injuries and other casualties or accidents occurring as a result of operations conducted pursuant to the OCS Act. In the course of all such investigations, formal and informal, the Coast Guard will cooperate with OSHA with respect to identifying violations of applicable OSHA regulations related to the casualty or accident. Such cooperation will include: promptly making investigation information available to OSHA; inviting OSHA attendance at Coast Guard formal hearings; and developing lines of inquiry suggested by OSHA. Where a Coast Guard investigation identifies an apparent violation of an applicable OSHA regulation the Coast Guard will promptly notify OSHA and subsequently will cooperate with OSHA with respect to any enforcement action OSHA may undertake. This cooperation may include, but is not limited to, providing transportation, as available; provided, however, OSHA remains responsible for obtaining its own legal right of access to any facility.

3. *Investigation of allegations:* The Coast Guard will review any allegation from any person of the existence of a violation of an occupational safety or health regulation or other unsafe working condition on the OCS and take appropriate action under the circumstances. Copies of complaints of occupational safety or health violations on the OCS received by OSHA will be referred to the appropriate Coast Guard district commander for action. The Coast Guard will notify OSHA as promptly as possible of the disposition of allegations forwarded by OSHA.

V. Joint Training Program

The two agencies will review the training needs of agency personnel with responsibilities for matters pertaining to safety and health on the OCS, and will develop programs responsive to these needs.

VI. Implementation

The Coast Guard and OSHA shall each designate a representative who shall be responsible for coordinating implementation of the provisions of this Memorandum.

VII. Effective Date

This Memorandum is effective upon signature by the parties. It may be amended at any time by mutual written agreement of the agencies and may be terminated by either agency upon thirty days written notice.

VIII. Savings Provision

Nothing in this Memorandum shall be deemed to alter, amend, or affect in any way the statutory authority of the Coast Guard or OSHA.

Signed at Washington, DC this 19th day of December, 1979.

J. B. Hayes,

Commandant, U.S. Coast Guard, Department of Transportation.

Eula Bingham,

Assistant Secretary, Occupational Safety and Health, Department of Labor.

[FR Doc. 80-4365 Filed 2-8-80; 8:45 am]

BILLING CODE 4910-14-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-389A]

Florida Power & Light Co. (St. Lucie Plant, Unit No. 2); Prehearing Conference

February 5, 1980.

This proceeding involves the issue of whether the activities under the license of Unit No. 2 of the St. Lucie Nuclear Power Plant create or maintain a situation inconsistent with the antitrust laws. The parties to the proceeding are the licensee, Florida Power and Light Company, the Staff of the Nuclear Regulatory Commission, the Department of Justice, sixteen Florida municipal electric power systems and the Florida Municipal Utilities Association. The proceeding has been suspended since April 23, 1979 to permit the parties to negotiate agreements to resolve their differences. Recently the presiding Atomic Safety and Licensing Board has been advised that an agreement in principle on a settlement has been reached between the licensee and the Orlando Utilities Commission but that no agreement has been reached as to the remaining parties. The parties recommend that discovery be resumed and they have submitted a schedule for the board's consideration.

The board will conduct a prehearing conference beginning 9:00 a.m. on March 5, 1980 at Basement Auditorium, Orlando Utilities Office, 500 South Orange Avenue, Orlando, Florida 32802.

The purpose of the prehearing conference is to consider a schedule for further actions in the proceeding; to consider whether further efforts toward settlement would be productive and whether the board can be helpful to the parties in settlement negotiations; whether changed conditions require modification in the scope of the proceeding and the board's earlier discovery rulings; whether there is a need for the board to review the settlement agreement between the licensee and the Orlando Utilities Commission; and any other business ripe for consideration. Any person interested in the proceeding may attend the conference,which, as noted above, involves antitrust issues, not public health and safety matters. Persons who are not parties to the proceeding will not be permitted to participate in the conference except by special leave of the board. Any person, not a party, wishing to make a statement on the matters to be considered at the conference may request an opportunity in writing to do so. Such requests with reasons therefor should be mailed to Ivan W. Smith, Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or presented to the board at the conference.

The Atomic Safety and Licensing Board at Bethesda, Maryland, February 5, 1980.

Ivan W. Smith,

Chairman.

[FR Doc. 80-4356 Filed 2-8-80; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 7.9, Revision 1, "Standard Format and Content of Part 71 Applications for Approval of Packaging of Type B, Large Quantity, and Fissile Radioactive Material," identifies the information needed by the NRC staff for its review of an application for the approval of packaging of Type B, large quantity, or fissile radioactive material and recommends a format for its peresentation. This guide has been revised as a result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 4th day of February 1980.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 80-4355 Filed 2-8-80; 8:45 am]

BILLING CODE 7590-01-M

Regional State Liaison Officers' Meeting

On March 5 and 6, 1980, the Nuclear Regulatory Commission will sponsor a regional meeting with the Governor-appointed State Liaison Officers from California, Arizona, Alaska, Hawaii, Nevada, Oregon and Washington to discuss mutual regulatory interests. The meeting is open to the public for attendance and observation and will be held at the Federal Building, Room 15022, 450 Golden Gate Avenue, San Francisco, California.

Questions regarding this meeting should be directed to Sue Weissberg, Office of State Programs at (301) 492-7794.

Dated at Bethesda, Maryland this 6th day of February, 1980.

For the Nuclear Regulatory Commission

G. Wayne Kerr,

Acting Director, Office of State Programs.

[FR Doc. 80-4354 Filed 2-8-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

February 6, 1980.

Background

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 USC, 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 telephohe 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

New Forms

Economics, Statistics, and Cooperatives Service
Structure of Fishery Cooperatives, 1979-80
Single time
Fishery cooperatives; 103 responses, 52 hours
Office of Federal Statistical Policy and Standard, 673-7974

Revisions

Food and Nutrition Service
Status of Claims Against Households
FNS-209
Monthly
State Food Stamp Program; 648 responses, 1,296 hours
Charles A. Ellett, 395-5080

Extensions

Economics, Statistics, and Cooperatives Service
Dry Beans, Peas and Lentil Inquiries—Dealers
Other (See SF-83)
Dry Bean and pea and lentil dealers; 580 responses, 97 hours
Office of Federal Statistical Policy and Standard, 673-7974

Reinstatements

Agricultural Stabilization and Conservation Service
Record of Transfer of Allotment or Quota—Farms
ASCS—375
Annually
Cotton, tobacco and peanut farms w/ estab. allot/quota; 200,000 responses, 50,000 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

New Forms

Bureau of the Census
Post-enumeration survey, household interview
D-863A, B, and C
Single time
Households in the U.S.; 250,000 reponses, 125,000 hours
Office of Federal Statistical Policy and Standard, 673-7974

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Joseph J. Strnad—245-6511

New Forms

Social Security Administration
Application for supplemental security income
SSA-8000-Bk (Test)
Single time
Aged, blind, and disabled indiv. who apply for SSI; 500 responses, 400 hours
Barbara F. Young, 395-6132

Revisions

Center for Disease Control
NIOSH information dissemination strategy
CDC/NIOSH (C) 2.7
On occasion
Individuals on NIOSH mailing list; 3,000 responses, 360 hours
Richard Eisinger, 395-3214

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755-5184

New Forms

Policy Development and Research
Rental assistance administrative agency questionnaire
Single time
Managers of HUD assisted projects and/or PHA's; 500 responses, 500 hours
Richard Sheppard, 395-3211

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—523-6341

New Forms

Employment and Training Administration
Youth Initiatives in Apprenticeship Study
MT-304
Single time
Project participants/comparisons/ associated personnel; 2,694 responses, 913 hours
Arnold Strasser, 395-5080

Revisions

Employment and Training Administration
Baseline Enrollment Questionnaire for the Employment Opportunity Pilot Project
MT-300A
Single time
EOP Program participants and EOPP eligibles; 150,030 responses; 75,043 hours
Arnold Strasser, 395-5080

Employment Standards Administration
Impact of Age Discrimination in Employment Act: Case Study Questionnarie
ESA-99, 99A, 99B
Single time
Business firms/organization with 20 or more employees, 9,550 responses, 5,717 hours Arnold Strasser, 395-5080.

DEPARTMENT OF STATE (EXC. AID)

Agency Clearance Officer—Gail J. Cook—632-3538

New Forms

Supplement to Personal qualifications DSP-34
On occasion applicants for employment, 10,000 responses, 2,500 hours
John M. Allen, 395-3785

DPEARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426-1887

New Forms

Federal Highway Administration
Study of Trucking Service to Small Communities
Single time
Shippers/receivers in small rural communities, 200 responses, 100 hours
Susan B. Geiger, 395-5867

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Paul Elston—755–2744

New Forms

Resource Conservation and Recovery Act Regulations Affecting Generators and Transporters
On occasion
Generators of hazardous waste; 1 response 862,355 hours
Edward H. Clarke, 395–5867

GENERAL SERVICE ADMINISTRATION

Agency Clearnace Officer—John F. Gilmore—566–1164

Revisions

Value Management Consultant Qualification Questionnaire and Principals and Associates Personal Resume of VM
Qualifications
GSA 2759 and 2659–A
On occasion
Consultants desiring work; 400 responses, 200 hours
Kenneth B. Allen, 395–3785

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—632–7737

Revisions

Financial Disclosure Report
SF 278
On occasion
Senior government executives 10,000 responses, 10,000 hours
John M. Allen, 395–3785

TENNESSEE VALLEY AUTHORITY

Agency Clearance Officer-Eugene E. Mynatt—854–2596

New Forms

Home Insulation Program Participant Survey
TVA–6254J
Single time
Household in power distribution areas with over 25,000 meters, 22,746 responses, 3,791 hours
Charles A. Ellett, 395–5080

UNITED STATES INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer-Charles Ervin–523–0267

New Forms

Consumers' Questionnaire for Investigation 701–TA–10 [1]
Ferroalloys
Single time
Consumers of ferroalloys, 32 responses, 128 hours
Phillip T. Balazs, 395–4814
Importers' Questionnaire for 710–TA–10–Ferroalloys [1]
Single time
Importers of ferrolallys, 39 responses, 156 hours
Phillip T. Balazs, 395–4814

[1] These reports will be acted on before normal 10-day period. The clearance of these questionnaires on an expedited basis is necessary in order for the International Trade Commission to complete its investigation concerning these products within the statutory time limits.

C. Louis Kincannon,

Acting Assistant Director for Office of Regulatory and Information Policy.

[FR Doc. 80–4469 Filed 2–8–80; 8:45 am]

BILLING CODE 3110–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–0390]

Cornell Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to Section 107.102 of the Regulations governing small business investment companies (13 C.F.R. 107.102 (1979)), under the name of Cornell Capital Corporation (Applicant), for a license to operate as a Small Business Investment Company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant was incorporated under the laws of the State of New York, and it will commence operations with capital derived from a private placement offering which could range from a high of $1,430,000 or a minimum of $555,000.

The Applicant will have its place of business at 405 Lexington Avenue, New York, New York 10017, and it intends to conduct operations primarily in the State of New York.

The officers, directors and ten percent (10%) or more stockholders of the Applicant will be:

Barry Michael Bloom,[1] President and Director, 136 East 64th St., New York, NY 10021
James Russell Tompkins, Vice President, Treasurer, and Director, Main Street, Amagansett, NY 11930
Edgar Sydenstricker Walsh, Vice President, Secretary, and Director, 77 West 55th Street, New York, NY 10019

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person may, not later than 15 days after the date of publication of this Notice, submit written comments on the Applicant to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published by the Applicant in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 4, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80–4352 Filed 2–8–80; 8:45 am]

BILLING CODE 8025–01–M

[1] Mr. Bloom is a partner in the law firm of Jones, Hirsch, Kalmore & Bloom, New York City, New York and is the Applicant's organizer.

Roundhill Capital Corp.; Application for a License To Operate as a Small Business Investment Company

[License No. 02/02–0389]

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1979)) under the name of Roundhill Capital Corporation (Applicant), for a license to operate as a Small Business Investment Company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant will be incorporated under the laws of the State of New York and will commence operations with a capitalization of $505,000.

The Applicant will have its place of business at 44 Wall Street, New York, New York 10005, and it intends to conduct operations primarily in the State of New York.

The officers, directors and stockholders of the Applicant will be:

Joseph Morton Davis[1], Chief Executive Officer and Director; 7 Sutton Place So., Lawrence, NY 11559; 100 percent,
Murrary Koppelman, Vice President and Director, 155 E. 76th St., New York, NY 10021

[1] President and Director of D. H. Blair & Co., Inc., a New York Stock Exchange securities firm engaged in investment banking and the sale of securities.

David (NMN) Nachamie, Secretary and Director, 6405 Strickland Ave., Brooklyn, NY 11234

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the Applicant under their management, including adequate profitability and financial soundness in accordance with the Act and SBA Regulations.

Notice is hereby given that any person may, not later than 15 days after the date of publication of this Notice, submit written comments on the Applicant to the Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this Notice shall be published by the Applicant in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 4, 1980.

Peter F. NcNeish

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80-4353 Filed 2-8-80; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 06/06-0230]

Utica Investment Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to Section 107.102 of the Regulations governing small business investment companies (13 C.F.R. Section 107.102 (1979)), under the name of Utica Investment Corporation, 1924 South Utica Avenue, Tulsa, Oklahoma 74104, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and sole shareholder of the Applicant are as follows:

David D. Nunneley, President, Director, 2204 East 22nd Place, Tulsa, OK 74114
James D. Ross, Vice President, Director, 115 East 26th Place, Tulsa, OK 74114
Roger E. Chitwood, Vice President, Director, 1402 East 19th, Tulsa, OK 74120
Robert E. Carruth, Vice President, Director, 1743 S. Xanthus, Tulsa, OK 74104
Thomas J. Maloney, Secretary, Treasurer, Director, 5916 S. New Haven Ave., Tulsa, OK 74135
Utica Bankshares Corp., 100 percent shareholder, 1924 South Utica Ave., Tulsa, OK 74104

There will be one class of stock authorized: ten thousand shares of common stock. Initially only 5,000 shares will be issued with a resultant private capital of $500,000. Applicant proposes to conduct its operations principally in the State of Oklahoma.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in Tulsa, Oklahoma.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 5, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80-4351 Filed 2-8-80; 8:45 am]

BILLING CODE 8025-01

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

National Highway Safety Advisory Committee; Field Trip

The National Highway Safety Advisory Committee's Task Force on the 55 mph speed limit is planning a field trip to Topeka, Kansas, on March 4–5, and Salem, Oregon, on March 6–7.

Task Force members plan to meet with legislators, enforcement people including the judiciary, highway safety officials, educators and media representatives to discuss current programs used to improve voluntary compliance with the 55 mph speed limit. The members will also discuss the costs and benefits of the 55 mph program.

A report on the trip will be made by the Task Force chairman at the June meeting of the full Advisory Committee. The arrangements for visits to various officials are being made by the National Highway Traffic Safety Administration's VII and X and the Kansas and Oregon Governors' Highway Safety Representatives.

The visit is subject to the approval of the appropriate DOT officials.

Additional information may be obtained from the NHTSA Executive Secretary, Room 5221, 400 Seventh Street, SW., Washington, D.C., 20590, telephone, 202–426–2872.

Issued in Washington, D.C. on February 5, 1980.

Wm. H. Marsh,

Executive Secretary.

[FR Doc. 80-4231 Filed 2-8-80; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Asset Depreciation Range Guidelines; Study of Assets Used in the Manufacture of Glass

The Office of Industrial Economics (OIE), of the Office of the Secretary of the Treasury, has initiated a study of the asset guideline classes, their guideline depreciation periods and repair allowance percentages for assets used in the manufacture of glass and glass products. These assets are currently included in Asset Guideline Classes 32.1 and 32.11 (Rev. Proc. 77–10 1977–1 CB 548), under the Class Life Asset Depreciation Range System (IRC Secs. 167(m) and 263(f), and Reg. Sec. 1.167(a)–11).

Information is solicited from all persons. Persons interested in this study may submit comments in writing to OIE. Those who are interested in submitting relevant information are invited to attend a meeting at our offices in Room 4121, 15th and Pennsylvania Avenue, NW., Washington, DC, at 10:00 a.m., Thursday, February 28, 1980. At the meeting, information needs and procedures for obtaining and analyzing the requisite information will be discussed.

All communications concerning this study should be addressed to: Office of Industrial Economics, Project 32.1 & 32.11, P.O. Box 28018, Washington, DC 20005.

Karl Ruhe,

Director, Office of Industrial Economics.

[FR Doc. 80-4357 Filed 2-8-80; 8:45 am]

BILLING CODE 4810-25-M

[Supplement to Department Circular Public Debt Series—No. 5–80]

Notes of Series J–1983; Interest Rate

February 6, 1980.

The Secretary announced on February 5, 1980, that the interest rate on the notes designated Series J–1983, described in Department Circular—Public Debt Series—No. 5–80, dated January 31, 1980, will be 11⅞ percent. Interest on the notes will be payable at the rate of 11⅞ percent per annum.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 80–4426 Filed 2–8–80; 8:45 am]

BILLING CODE 4810–40–M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 29
Monday, February 11, 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).

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[M-267, Amdt. 4, Feb. 6, 1980]

CIVIL AERONAUTICS BOARD.

Addition and closure of item to the February 5, 1980 board meeting.

TIME AND DATE: 10 a.m., February 5, 1980.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 30. Discussion on Pan American and Aeroflot (BIA, BCP).

STATUS: 1-28 (open); 29-30 (closed).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Because of the developments which have occurred in the past 48 hours have made it necessary for this matter to be considered immediately. Accordingly, the following Members have voted that Item 30 be added to the February 5, 1980 meeting and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Public disclosure, particularly to foreign governments, opinions, evaluations, and strategies relating to the issues could seriously compromise the ability of the United States Delegation to achieve agreements which would be in the best interest of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that any meeting on this item should be closed:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.
Assistants to Board Members.—Mr. David Kirstein, Mr. James L. Deegan, Mr. Daniel M. Kasper, and Mr. Stephen H. Lachter.
Executive Assistant to the Managing Director: Mr. John R. Hancock.
Bureau of International Aviation.—Mr. Sanford Rederer, Mr. Douglas V. Leister, Mr. Ivars V. Mellups, Mr. Vance Fort, Mr. Francis S. Murphy, Mr. Joseph R. Chesen, Mr. John A. Driscoll, and Mr. Parlen L. McKenna.
Office of the General Counsel.—Ms. Mary McInnis Schuman, Mr. Michael Schopf and Mr. Donald H. Horn
Office of Economic Analysis.—Mr. Robert H. Frank and Mr. David Sibley.
Bureau of Consumer Protection.—Mr. Reuben B. Robertson.
Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Linda Senese.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9) and 14 CFR section 310b.5(9)(B) and that the meeting may be closed to public observation:

Mary McInnis Schuman,
General Counsel.

[S-271-80 Filed 2-7-80; 3:46 pm]
BILLING CODE 6320-01-M

2

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, February 12, 1980 at 10:30 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Personnel.

* * * * *

DATE AND TIME: Wednesday, February 13, 1980 at 10 a.m.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: Special meeting for discussion of regulations.

* * * * *

DATE AND TIME: Thursday, February 14, 1980 at 10 a.m.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings.
Correction and approval of minutes.
Certifications.
Advisory opinions: Draft AO 1979-58—Evan S. Dobelle, Chairman, Carter/Mondale Presidential Committee, Inc.; Draft AO 1979-62—Bruce N. Hahn, Staff Executive, Tooling and Machinery PAC; and Draft AO 1980-1—Hank Parkinson, Farmers Mutual, Hail Insurance of Iowa PAC (FMH-PAC).
1980 election and related matters.
Committee for Jimmy Carter, review of statements of net outstanding campaign obligations and associated documentation.
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-270-80 Filed 2-7-80; 3:32 pm]
BILLING CODE 6715-01-M

3

February 6, 1980.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., February 8, 1980.

PLACE: 825 North Capitol Street, N.E., Washington, D.C. 20426, Room 9306.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

(1) A request for the institution of a private formal investigation;

(2) A request for an Order of Private Investigation concerning possible violations of the Interstate Commerce Act and Elkins Act in receipt of loss allowances;

(3) A request for the institution of a private formal investigation into possible violations of the Natural Gas Act by Texas Sea Rim, Inc.;

(4) The agency's participation in civil antitrust law suits by natural gas pipeline companies against J. Ray McDermott and Company, Inc., and Brown and Root for damages sustained as a result of a conspiracy to fix prices, regulate bids and restrain trade;

(5) The institution of a private formal investigation into apparent diversions of natural gas in Aransas County, Texas in violation of the Natural Gas Act and Natural Gas Policy Act; and

(6) The recommendation of a subpoena enforcement action pursuant to Section 14(d) of the Natural Gas Act.

[S-264-80 Filed 2-7-80; 1:57 pm]

BILLING CODE 6450-01-M

4

February 6, 1980.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., February 13, 1980.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

Power Agenda—439th Meeting, February 6, 1980, Regular Meeting (10 a.m.)

CAP-1. Project No. 2897, S. D. Warren, a division of Scott Paper Co.
CAP-2. Docket No. ER79-112, Jersey Central Power & Light Co.
CAP-3. Docket No. ER79-429, Black Hills Power & Light Co.
CAP-4. Docket No. ER78-494, Pennsylvania Electric Co.

Gas Agenda—439th Meeting, February 13, 1980, Regular Meeting

CAG-1. Docket No. TA80-1-51, Great Lakes Transmission Co.
CAG-2. Docket No. TA80-1-6, Midwestern Gas Transmission Co.
CAG-3. Docket No. RP80-69, Pacific Gas Transmission Co.
CAG-4. Docket No. RP72-122 (PGA-2), Colorado Interstate Gas Co.
CAG-5. Docket No. G-17136, Trice Production Co.; Docket No. G-18516, Oleum Inc.; and Docket No. RI60-234, Trice Production Co.
CAG-6. Docket Nos. G-9547, RP61-18, RP65-1, and RP65-15, United Gas Pipe Line Co.
CAG-7. Docket Nos. RP80-70, and TA80-1-27 (PGA-1 and IPR80-1), North Penn Gas Co.
CAG-8. Docket No. RP78-23, Midwestern Gas Transmission Co.
CAG-9. Docket No. CI80-68, Getty Oil; Docket No. CI64-175, et al., Amoco Production Co., et al.; Docket No. CI78-924, Arco Oil and Gas Co., a division of Atlantic Richfield Co.; Docket No. CI79-9, Sohio Natural Resources, Co.; Docket Nos. CS67-25, et al., Parker & Parsley, Inc., et al.; Docket No. CI77-443, General American Oil Co.; Docket No. CI73-1, Exxon Corp.; Docket No. CI80-73, Arco Oil & Gas Co.; Docket No. CI79-485, Gulf Oil Corp.; Docket Nos. G-3359, et al, Phillips Petroleum Co., et al.; Docket No. CI78-1221, Texas Gas Exploration Corp.; Docket No. CI79-67, Exxon Corp.; Docket Nos. G-11828, et al., Marathon Oil Co., et al.; Docket Nos. G-14396, et al., Southland Royalty Co., et al.; Docket Nos. CI62-1525, et al., CRA, Inc (operator), et al.; Docket Nos. G-3359, et al., Phillips Petroleum, Co., et al.; Docket No. CI75-226, Cities Service Oil Co.; Docket No. CI80-103, Texas Eastern Co.; and Docket No. CI79-528, Amerada Hess Corp.
CAG-10. Docket No. CI79-408, Shell Oil Co.
CAG-11. Docket No. CP68-314, Kansas-Nebraska Natural Gas Co. and Docket No. CP319, Colorado Interstate Gas Co.
CAG-12. Docket No. CP80-125, Natural Gas Pipeline Co. of America; Docket No. CP80-131, Northern Natural Gas Co.; Docket No. CP80-132, Tennessee Gas Pipeline Co., a division of Tenneco Inc.; Docket No. 80-133, Trunkline Gas Pipe Line Co.; Docket No. CP80-137, United Gas Pipe Line Co.; Docket No. CP80-138, Midwestern Gas Transmission Co; and Docket No. CP80-169, Colorado Interstate Gas Co.
CAG-13. Docket No. CP80-142, Sea Robin Pipeline Co.
CAG-14. Docket No. CP79-11, Southern Natural Gas Co.
CAG-15. Docket No. CP80-104, Mississippi River Corp.
CAG-16. Docket No. CP80-13, Texas Eastern Gas Transmission Corp. and United Gas Pipe Line Co.; Docket Nos. CP77-410 and CP80-12, Sea Robin Pipeline Co.; Docket No. CP80-31, Trunkline Gas Co.
CAG-17. Docket Nos. CP79-141 and CP79-142, Great Lake Transmission Co.

Power Agenda—439th Meeting, February 13, 1980, Regular Meeting

I. Electric Rate Matters

ER-1. Docket No. ER80-153, Union Light, Heat and Power Co.
ER-2. Docket No. ER78-80, Central Illinois Public Service Co.
ER-3. Docket No. ER77-89, Central Illinois Public Service Co.
ER-4. Docket No. ER79-616, Northern States Power Co. (Minnesota), and Northern States Power Co. (Wisconsin).
ER-5. Docket Nos. ER80-66, ER80-67, and ER80-68, New England Power Co.
ER-6. Docket No. EL79-8, Central Power & Light Co., Public Service Co. of Oklahoma, Southwestern Electric Power Co., and West Texas Utilities Co.
ER-7. Docket Nos. ER77-488 and ER78-520 (phase II), El Paso Electric Co.

Miscellaneous Agenda—439th Meeting, February 13, 1980, Regular Meeting

M-1. Docket No. RM80-9, Reporting Requirements under section 211 of the Public Utility Regulatory Policies Act of 1978.
M-2. Docket No. RM79-55, Regulations under section 210 of the Public Utility Regulatory Policies Act of 1978 with regard to small power production and cogeneration.
M-3. Docket No. RM77-1, just and reasonable rate of return on equity for natural gas pipeline companies and public utilities.
M-4. (A) Docket No. RM80- , rule required by section 206(a) defining small boiler fuel users and (B) Docket No. RM80- , exemption from the rule required by section 206(a) defining small boiler fuel users.
M-5. (A) Docket No. RM80- , Form to report purchases under section 104 and 106(a) of the NGPA and (B) Docket No. RM80- , form to report sales under section 102, 103, 107, and 108 of the NGPA.
M-6. Docket No. RM79-40, interim rule—determination of alternate fuels for essential agricultural users.

Gas Agenda—439th Meeting, February 13, 1980, Regular Meeting

I. Pipeline Rate Matters

RP-1. Docket No. RP75-19, Texas Gas Transmission Corp.

II. Producer Matters

CI-1. Docket Nos. CI80-39 and CI80-40, Tenneco Exploration, Ltd.

III. Pipeline Certificate Matters

CP-1. Docket No. CP77-18, South Texas Natural Gas Gathering Co.; Docket No. CP67-337, Trunkline Gas Co.; and Docket Nos. CI77-278 and CI77-311, Coastal States Gas Producing Co.
CP-2. Docket No. CP79-240, Seagull Pipeline Corp.
CP-3. Docket Nos. CP78-123, et al., Northwest Alaskan Natural Gas Transportation Co.

Kenneth F. Plumb,

Secretary.

[S-265-80 Filed 2-7-80; 1:57 pm]

BILLING CODE 6450-01-M

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., February 14, 1980.

PLACE: 1700 G Street, N.W., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202-377-6677).

MATTERS TO BE CONSIDERED:

Application for Branch Office—Citizens Federal Savings and Loan Association, Jonesboro, Arkansas.

Application for Branch Office—Western Heritage Federal Savings and Loan Association, Pendleton, Oregon.

Application for Branch Office—Minnesota Federal Savings and Loan Association, St. Paul, Minnesota.

Application for Branch Office—First Federal Savings and Loan Association of Little Rock, Little Rock, Arkansas.

Application for Branch Office—California Federal Savings and Loan Association, Los Angeles, California.

Application for Branch Office—AmeriFirst Federal Savings and Loan Association, Miami, Florida.

Application for Branch Office—First Federal Savings and Loan Association of Crookston, Crookston, Minnesota.

Application for Branch Office—Southwest Federal Savings and Loan Association, Prescott, Arkansas.

Application for Branch Office—Chase Federal Savings and Loan Association, Miami, Florida.

Application for Branch Office—Fidelity Federal Savings and Loan Association, West Palm Beach, Florida.

Application for Limited Facility—Equitable Federal Savings and Loan Association, Fremont, Nebraska.

Application for Limited Facility—First Federal Savings and Loan Association of Paterson, Paterson, New Jersey.

Application for Limited Facility—Home Federal Savings and Loan Association, Algona, Iowa.

Application for Satellite Office—First Federal Savings and Loan Association of Berwyn, Berwyn, Illinois.

Merger—Union Savings and Loan Association, Covington, Kentucky, INTO First Federal Savings and Loan Association of Covington, Covington, Kentucky.

Bank Membership and Insurance of Accounts—New Horizons Savings and Loan Association, San Rafael, California.

Bank Membership and Insurance of Accounts—Taos Savings and Loan Associaton, Inc., Taos, New Mexico.

Application for Bank Membership and Insurance of Accounts—Cardinal Savings and Loan Association, Richmond, Virginia.

Application for Bank Membership—Dime Savings Bank of Williamsburgh, Brooklyn, New York.

Request for a Commitment to Insurance Accounts—Montana Savings and Loan Association, Kalispell, Montana.

Request for a Commitment to Insure Accounts—American Trust Savings and Loan Association, Hendersonville, Tennessee.

Amendment to Preliminary Conversion—First Federal Savings and Loan Association of Burlington County, Cinnaminson, New Jersey.

Preliminary Application for Conversion into a Federal Savings and Loan Association—Omaha Savings and Loan Association, Omaha, Nebraska.

Application for Permission to Convert from the Federal Mutual to the Federal Stock Form of Organization—City Federal Savings and Loan Association, Elizabeth, New Jersey.

Request for Compromise, Remission or Mitigation of a Liquidity Deficiency Penalty—First Federal Savings and Loan Association, Pine Bluff, Arkansas.

Termination of Insurance and Refund of the Pro Rata Share of the Secondary Reserve—Fredonia Savings and Loan Association, Fredonia, New York.

Assessments.

Application to Convert from Federal Mutual to Florida Chartered Stock Association—Freedom Federal Savings and Loan Association, Tampa, Florida.

Application to Convert to a Federal Chartered Stock Association—United Federal Savings and Loan Association of Rocky Mount, Rocky Mount, North Carolina.

[S-269-80 Filed 2-7-80; 3:12 pm]

BILLING CODE 6720-01-M

6

[USITC ERB-80-2A]

INTERNATIONAL TRADE COMMISSION EXECUTIVE RESOURCES BOARD (ERB).

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 8421 (February 7, 1980).

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, February 11, 1980.

CHANGES IN THE MEETING: Commissioners Alberger, Moore, and Stern, as members of the Executive Resources Board (ERB), determined by unanimous consent that Commission business requires the rescheduling of the meeting of February 11, 980, from 10 a.m., to 2 p.m., on the same date, and affirmed that no earlier announcement of the change in the schedule was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[FR Doc. S-266-80 Filed 2-7-80; 2:52 p.m.]

BILLING CODE 7020-02-M

7

[USITC SE-80-11]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Monday, February 11, 1980.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Emergency meeting—less than 10 days prior notice. Open to the public.

MATTERS TO BE CONSIDERED:

1. Microwave ovens (Inv. 731-TA-4)—vote.
2. Rail passenger cars Inv. 731-TA-5 and -6)—vote.
3. Frozen potato products (Inv. 701-TA-3)—vote.
4. Electric motors (Inv. 731-TA-7)—vote.

Commissioners Bedell, Alberger, Moore, Stern, and Calhoun determined by unanimous consent that Commission business requires that the meeting of February 11, 1980, be called with less than ten days' prior notice and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-267-80 Filed 2-7-80; 2:52 pm]

BILLING CODE 7020-02-M

8

[USITC SE-80-10]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, February 19, 1980.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary.
5. Spun acrylic yarn from Japan and Italy (Invs. 731-TA-1 and -2)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-268-80 Filed 2-7-80; 2:52 pm]

BILLING CODE 7020-02-M

9

NATIONAL ALCOHOL FUELS COMMISSION.

Notice of Closed Meeting.

NAME: National Alcohol Fuels Commission.

DATE: February 7, 1980.

TIME: 8:30 a.m.

PLACE: 363 Russell Senate Office Building, Washington, D.C. 20510.

TYPE OF MEETING: Closed.

CONTACT PERSON: Marilyn Herman, Deputy Executive Director, (202) 426-6490.

WRITTEN STATEMENTS: National Alcohol Fuels Commission, 412 First St., S.E., Washington, D.C. 20003.

Purpose of the Commission

The National Alcohol Fuels Commission was established under Section 170 of the Surface Transportation Assistance Act of 1978 (PL 95-599) to make a full and complete investigation and study of the long- and short-term potential for alcohol fuels from biomass (including municipal and industrial waste, sewage sludge, and oceanic and terrestrial crops) and coal to contribute to meeting the nation's energy needs.

Tentative Agenda

Consultation and planning during a closed session. Permission for a closed meeting was requested under Title 5, U.S.C. 552b(c) (2) and (6) as incorporated in Section 10(d) of the Federal Advisory Committee Act (5 U.S.C. App. 1).

Reason for Lack of Prior Notice

A meeting of the Commission was called by the Chairman on an emergency basis, which did not provide time to arrange for the required, usual notice.

Dated: February 6, 1980.

John May,

Chief of Administration.

[S–261–80 Filed 2–6–80; 4:23 pm]

BILLING CODE 6820–AN–M

10

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 2 p.m., Thursday, February 14, 1980.

PLACE: 1776 G Street, N.W., Washington, D.C., 7th Floor, Board Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rates.
2. Proposals for Financing the Paid-In Central Liquidity Facility Stock Subscription.
3. Adoption of agency policy statement pursuant to National Environmental Protection Act.
4. Amendments to Management Official Interlocks Regulation.
5. Establishment of Automatic Data Processing Oversight Committee.
6. Applications for charters, amendments to charters, by law amendments, mergers, conversions and insurance as may be pending at that time.

CONTACT PERSON FOR MORE INFORMATION: Rosemary Brady, Secretary of the Board, telephone (202) 357–1100.

[S–263–80 Filed 2–7–80; 10:24 am]

BILLING CODE 7535–01–M

11

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [45 FR 7672 February 4, 1980]

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Wednesday, January 30, 1980.

CHANGES IN THE MEETING: Deletion/ additional item. The following item will not be considered at a closed meeting scheduled for Thursday, February 7, 1980, following the 10 a.m. open meeting: Regulatory matter bearing enforcement implications.

The following additional item will be considered at a closed meeting scheduled for Thursday, February 7, 1980, following the 10:00 a.m. open meeting: Opinion.

Commissioners Loomis, Evans, and Pollack determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: George Yearsich at (202) 272–2178.

February 6, 1980.

[S–262–80 Filed 2–7–80; 10:28 am]

BILLING CODE 8010–01–M

federal register

Monday
February 11, 1980

Part II

Department of Transportation

Research and Special Programs Administration

Liquefied Natural Gas Facilities; Federal Safety Standards; Final Rule and Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 193

[Docket OPSO-46]

Liquefied Natural Gas Facilities; New Federal Safety Standards

AGENCY: Materials Transportation Bureau (MTB), DOT.

ACTION: Final rule.

SUMMARY: This final rule establishes a set of comprehensive safety standards governing the design (including site selection) and construction of liquefied natural gas (LNG) facilities used in the transportation of natural gas by pipeline in or affecting interstate or foreign commerce. Because of the grave consequences that could result from a major accident at a facility, present regulations are considered inadequate.

DATE: Effective date of this final rule is March 15, 1980, except for §§ 193.2119 and 193.2329 which will be made effective at a subsequent date.

FOR FURTHER INFORMATION CONTACT: Walter Dennis, 202–426–2392.

SUPPLEMENTARY INFORMATION: LNG is methane gas that has been cooled to about minus 260 degrees Fahrenheit where it occupies 1/600th of its original volume. LNG is hazardous because of its cold temperature, flammability, and dispersion characteristics upon release. Upon exposure to ambient temperatures, LNG vaporizes rapidly and the vapor may remain close to the ground and disperse into the atmosphere in the form of a cloud. The vapor can cause asphyxiation and is flammable in concentrations in air between 5 and 15 percent.

These standards cover LNG facilities used to liquefy natural or synthetic gas or to transfer, store, or vaporize LNG in conjunction with the transportation of gas by pipeline in or affecting interstate or foreign commerce. Part 193 prescribes an acceptable level of public safety considering the hazards of LNG and the potential causes and consequences of accidents and the steps that may be taken to safeguard against them. Part 193 provides for employee safety only to the extent that it is affected by measures required for public safety.

Background

The existing Federal safety standards governing LNG facilities used in the transportation of natural gas by pipeline are contained in § 192.12 of Title 49 of the Code of Federal Regulations. These standards were adopted by Amendment 192–10, issued on October 10, 1972 (37 FR 21638). The amendment adopted as the Federal LNG safety standards the National Fire Protection Association (NFPA) Standard 59A (1971 edition), as well as the other applicable requirements of Part 192. Subsequently, the 1972 edition of NFPA 59A was adopted (41 FR 13590).

In the preamble of Amendment 192–10, it was stated that the NFPA standard was adopted only as an interim measure while federally developed regulations specifically applicable to LNG facilities were being developed. MTB believes that there is a need for federally developed regulations for LNG facilities because the present referenced standards are not written in enforceable terms and do not adequately cover all safety problems respecting an LNG facility.

The need for comprehensive new Federal LNG facility safety standards arises because of the seriousness of potential hazards from LNG facilities coupled with the anticipated increase of LNG facility construction to meet the nation's energy needs, and the developing variations in the design of facilities near population centers, or areas of greatest energy demand. The Congress, the General Accounting Office; the Federal Energy Regulatory Commission and other Federal, State, and local agencies; nongovernment organizations; representatives of industry; and the public in general have expressed concern over the adequacy of present referenced standards to provide for public safety.

The extent of congressional concern regarding the inadequacy of the present standards and the need for the government to issue expeditiously federally developed LNG regulations is evidenced by the recent amendments to the Natural Gas Pipeline Safety Act of 1968 (the Act) under Pub. L. 96–129 (November 30, 1979). Under those amendments, the Department is now required to establish expeditiously regulations for the siting, design, construction, initial inspection, and initial testing of any new LNG facility.

A report issued on July 31, 1978, by the General Accounting Office titled "Liquefied Energy Gases" (EMD 78–28) highlights some of the safety concerns in the transportation and storage of LNG. Foremost among these are (1) protection of persons and property near an LNG facility from thermal radiation (heat) caused by ignition of a major spill of LNG, (2) protection of persons and property near an LNG facility from dispersion and delayed ignition of a natural gas cloud arising from a major spill of LNG, and (3) reduction of the potential for a catastrophic spill of LNG.

In 1974, the Department's Office of Pipeline Safety contracted for a study by Arthur D. Little, Inc., (ADL) to provide safety information on LNG facilities. The ADL report, titled "Technology and Current Practices for Processing, Transferring, and Storing Liquefied Natural Gas," included a comparative analysis of national, State, local, industrial, and professional society codes, standards, practices, and regulations relating to LNG facilities. Copies of the report (NTIS No. PB–241048) are available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151, telephone (703) 557–4650, in paper for $7.75 and in microfiche for $3.00. A copy is also available for review in the docket.

The study identified and analyzed many areas of public concern about the operation of LNG facilities. It also addressed many practices and functions where special precautions are needed to protect persons and property. MTB believes that the results of the ADL study are consistent with current information obtained from other sources. The ADL report found that NFPA 59A was the basis for practically all national, State, and local codes for LNG facilities. MTB agrees with this conclusion and has used the NFPA 59A, in part, as a basis for these proposed regulations.

Regulatory Proceeding

In April 1977, MTB issued an Advance Notice of Proposed Rulemaking (ANPRM) (42 FR 20776, April 21, 1977) inviting public participation at an early stage in the rulemaking process for adoption of new Federal safety standards in 49 CFR Part 193. The ANPRM contained a comprehensive set of draft regulations which were intended to serve as a basis for public comment and participation in identification of LNG safety problems and the development of appropriate regulatory solutions to these problems, considering all reasonable alternatives. Subsequently, a correction was published at 42 FR 24758; and a third notice (42 FR 42235, August 22, 1978) extended the comment period to December 1, 1978, and set forth a bibliography of resource information.

Comments were solicited on safety problems and on environmental and economic issues; and persons were asked to support their comments with rationale and documentation, and where appropriate, to propose alternative regulations that would provide an acceptable level of safety. MTB also encouraged comments on the annual and aggregate costs, benefits, and other

anticipated impacts associated with each of the draft regulations and all alternatives which commenters might suggest.

Comments were received on the ANPRM from 135 different commenters. Most of the comments were from industry associations or LNG operators, but a few government agencies, nonindustry-related organizations, and individuals also commented. These comments were reviewed in preparing a notice of proposed rulemaking (NPRM).

In February 1979, MTB issued an NPRM (44 FR 8142, February 8, 1979) based on Subparts A through K of the ANPRM, together with a Draft Evaluation of the costs, benefits, and other impacts associated with the proposed rules. These subparts provided a broad coverage of closely related proposed standards for the siting, design, and construction of new facilities and parts of existing facilities that are replaced, relocated, or significantly altered. They formed the basis for this final rule. While no conflicts or inconsistencies are expected between these final rules and future rules to be included in Part 193 on operation, maintenance, security, and fire protection, if any such inconsistencies are discovered as a result of the NPRM recently issued on those subjects, they will be resolved in that proceeding before final rules are added to Part 193.

Comments were received on the NPRM from about 100 different commenters. Similar to the comments received on the ANPRM, most of the comments were from industry associations or LNG operators, but government agencies, nonindustry-related organizations, and individuals also commented.

Several commenters to the NPRM reiterated positions taken on the ANPRM, especially with regard to the present referenced NFPA 59A standards. They argued that MTB should continue to adopt the NFPA 59A standards as the Federal standards because the LNG industry has an enviable safety record using these standards. The MTB is still not persuaded by this argument and continues to see the need for development of new, more stringent Federal safety standards for LNG facilities. As set forth in the preamble to the NPRM, the hazard from a catastrophic spill of LNG is very significant as shown by the spill of LNG in Cleveland on October 20, 1944, that killed 130 persons and injured 225 more. In addition, the leak of LNG in the facility in Cove Point, Maryland, on October 6, 1979, that killed one person and injured another person could have had more catastrophic effects. Also, of primary consideration in MTB's not continuing to rely solely on the NFPA 59A standards as the Federal standards is the recent amendment to the Act requiring the establishment of Federal LNG facility standards. Research conducted by various government agencies and industry groups on thermal radiation and vapor cloud dispersion has also clearly indicated the significant potential hazards that would occur if LNG escapes. Also, as indicated in the NPRM and the A. D. Little study, MTB has identified many deficiencies in the current standards which should be corrected to mitigate the potential for a major spill of LNG and provide an acceptable level of safety. Nevertheless, MTB has adopted portions of NFPA 59A to the extent appropriate. However, because of the difference in format and the need for regulatory language to facilitate enforcement, only a few sections of NFPA 59A have been incorporated by reference in the regulations as presented in the 59A Code, while other sections of NFPA 59A have been restated for their adoption as Part 193 sections.

The NFPA 59A has recently been updated by a 1979 edition that significantly strengthens many of the siting, design, and construction standards. This edition has been adopted as the referenced edition for the sections of the 59A Code incorporated by reference in the Part 193 regulations.

In response to many commenters to the NPRM, MTB has in a few cases established different standards for LNG facilities of small size having a capacity of 70,000 gallons or less. The MTB visited one manufacturer of small LNG storage tanks used in satellite facilities to discuss the need for different standards for small facilities. Because of the small size of such tanks, some standards are not necessary for such tanks. In addition, such tanks are normally shop fabricated subject to rigid quality control. The MTB has also recognized the need for continuing technological development of LNG facilities by not being overly rigid and permitting alternative compliance approaches for specific safety problems. The MTB has generally stated the proposed requirements in performance terms, using specific requirements where deemed necessary, and also referencing several industry consensus standards where appropriate.

Part 193 is adopted under the Natural Gas Pipeline Safety Act of 1968, as amended by Pub. L. 96–129. While almost all existing or planned LNG facilities involve the supply or delivery of natural gas by pipeline, it may be necessary in the future to broaden the scope of these regulations to cover LNG facilities which are not used in the pipeline transportation of gas.

Although the recordkeeping requirements proposed in the NPRM (§ 193.219 and 193.1037) have been incorporated in this final rule (§ 193.2119 and § 193.2329), the effective date of those requirements is deferred ending their coordination and clearance by the Office of Management and Budget (OMB) under the Federal Reports Act of 1946. Similarly, MTB is deferring the effective date of provisions of standards incorporated by reference in this final rule which call for the keeping of records. After completion of the OMB coordination and clearance process, MTB will publish notice of the date any given recordkeeping requirement becomes effective.

Coordination with the U.S. Coast Guard

The U.S. Coast Guard (USCG) and MTB executed a Memorandum of Understanding (MOU) with respect to a division of regulatory responsibilities for waterfront LNG facilities adjoining the navigable waters of the United States. This MOU, which became effective on February 7, 1978, was published in the **Federal Register** on July 14, 1978, (43 FR 30381) and again on February 8, 1979, as part of MTB's NPRM for this final rule. Under the MOU, the USCG is responsible for developing waterfront facility regulations with respect to fire protection, fire prevention, security, and all other matters between the vessel and the last manifold (or valve) immediately before the receiving tank. The USCG is concurrently developing regulations for the storage and handling of hazardous materials, including LNG, at waterfront facilities. On April 10, 1978, USCG issued an ANPRM on General Waterfront Facilities Requirements (43 FR 15107), and on August 3, 1978, issued an ANPRM on Waterfront LNG Facilities Requirements (43 FR 34362). In accordance with the MOU, MTB and USCG are coordinating their regulatory activities in this area to preclude problems involving overlapping jurisdiction. The scope of Part 193 (§ 193.2001) has been written to reflect the MOU's jurisdictional delineations regarding all matters between a vessel and tank, and matters relating to security and fire protection will be covered separately in final rules on those topics.

This final rule does not identify which waterfront LNG facilities are subject to the regulatory authority of USCG under the MOU, nor does this final rule use the

term "waterfront LNG facilities." Nonetheless, all LNG facilities, whether at waterfronts or not, are subject to the authority of the Department of Transportation. The applicability of USCG's or MTB's exercise of that authority with respect to security and fire protection at waterfront facilities will be resolved in the rulemakings being pursued by those agencies regarding the operation and maintenance of LNG facilities. While MTB's February 1979 NPRM on the siting, design, and construction of LNG facilities and USCG's ANPRM on waterfront LNG facilities proposed a definition of "waterfront LNG facility," the comments received on that definition have prompted MTB and USCG to seek public comment on a revised definition. The MTB has proposed the revised definition of "waterfront LNG facility" in its NPRM on LNG facility operation and maintenance. The USCG will propose the same definition in an NPRM on waterfront facilities to be issued shortly. This future USCG NPRM on LNG waterfront facilities will also propose identical standards for fire prevention, fire protection, and security standards, as well as operations and maintenance (except where differences are warranted because of waterfront facility characteristics) to the standards proposed in MTB's operation and maintenance notice.

These final regulations are in a format consistent with that planned to be used by USCG in its pending NPRM that covers all waterfront facilities. Using this format in Part 193 will facilitate use of Part 193 and the pending USCG regulations by the regulated industry. Most of the sections in these final rules essentially follow in order similar sections in the February 1979 NPRM, but are identified by a new numbering system. The subpart headings used in the February 1979 NPRM of this regulatory proceeding are used as subheadings under the new revised subparts. The following table shows the relation between the section numbers in the February 1979 NPRM and the section numbers in this final rule.

Final rule	NPRM	Section title
193.2001	193.1	Scope.
.2003	.2	Semisolid Facilities.
.2005	.3	Applicability.
.2007	.5	Definitions.
.2009	.7	Rules of Regulatory Construction.
.2011	.10	Reporting.
.2013	.11	Incorporation by reference.
.2015	.....	Petitions for finding or approval.
193.2051	.101	Scope.
.2055	.105	General.
.2057	.107	Thermal Radiation Protection.
.2059	.109	Flammable Vapor/Gas Dispersion Protection.
.2061	.111	Seismic Investigation and Design.
.2063	.113	Flooding.
.2065	.115	Soil Characteristics.
.2067	.117	Wind Forces.
.2069	.119	Other Severe Weather and Natural Conditions.
.2071	.121	Adjacent Activities.
.2073	.123	Separation of Components.
193.2101	193.201/193.301/193.401/193.501/193.601	Scope.
.2103	.203	General.
.2105	.205	Extreme Temperatures, Normal Operations.
.2107	.207	Extreme Temperatures, Emergency Conditions.
.2109	.209	Insulation.
.2111	.211	Cold Boxes.
.2113	.213	Piping.
.2115	.215	Concrete Subject to Cryogenic Temperatures.
.2117	.217	Combustible Materials.
.2119	.219	Records.
.2101	.301	Scope.
.2121	.303	General.
.2703	.304	Personnel.
.2123	.305	Valves.
.2125	.917	Automatic Shutoff Valves.
.2127	.307	Piping.
.2129	.309	Piping Attachments and Supports.
.2131	.311	Building Design.
.2133	.313	Buildings, Ventilation.
.2135	.317	Expansion or Contraction.
.2137	.319	Frost Heave.
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.2203	.521	Foundation.
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Final Evaluation Review

The Department has a Final Evaluation available in the Docket regarding an impact analysis of the costs and benefits of alternative potential regulations affecting the siting, design, and construction of new liquefied natural gas facilities. For this Final Evaluation, the NFPA Standard 59A (1975 edition) was used as the baseline regulatory standard against which the incremental facility costs, safety benefits, employment, environmental effects, and effects on consumers of these final regulations were measured. The other alternative potential regulations evaluated were: (a) Recommendations made in the General Accounting Office Report EMD–78–28, and (b) the Advance Notice of Proposed Rulemaking issued by MTB on April 21, 1977.

The Final Evaluation indicates that a wide range of benefits are associated with reducing or minimizing several types of potential LNG facility accidents. These benefits may range from saving several lives and injuries and preventing, or otherwise avoiding, an aggregate of $1.5 million in damage which would be incurred with a 10 cubic meter spill of LNG as a remotely located satellite facility, to saving several thousand lives and injuries, and preventing several billion dollars damage associated with minimizing the possibility of a catastrophic spill and ignition of a large LNG storage facility in a densely populated area.

Despite the very large savings that would result from preventing a major accident at an LNG facility, costly measures which reduce the likelihood of accidents are not justified by conventional theoretical cost benefit analysis because of the extremely low probability of a major accident occurring. The limited number of LNG facility accidents requires that probability estimates of accidents be based on theoretical analysis of factors which might lead to their occurrence. There is large inherent uncertainty associated with such estimates, and hence of cost-benefit values derived from them. In light of such uncertainties, prudence dictates an extra measure of caution where there is potential for a catastrophic accident. Such caution should be weighed along with other considerations when judging the need for safety measures that can reduce the likelihood of a catastrophic LNG accident, even when these measures may not be justified based on a theoretical risk analysis technique.

When compared to the baseline regulatory standard, the regulations contain eight sections which have been determined to have a major incremental cost (or more than $50,000 per section) with only minor benefits because of the low probability of the occurrence of an accident: § 193.2057, Thermal Radiation Protection; § 193.2059, Flammable Vapor Gas Dispersion Protection; § 193.2061, Seismic Investigation and Design; § 193.2063, Flooding; § 193.2067, Wind Forces; § 193.2169, Gas Leak Detection; § 193.2195, Penetrations; and § 193.2321, Nondestructive Tests.

The eight costly sections will add an average annual cost of from $200,000 to $1.1 million to the cost of a facility, depending on the types of facilities built. For the entire regulation (all sections) annualized costs per facility will be increased to from $270,000 to $1.4 million per year. This additional cost is over and above that for a facility built to the baseline regulatory standard prescribed in NFPA–59A (1975 edition). It should be recognized that many facilities would be built to a higher standard that that of NFPA–59A (1975 edition), so the above costs represent an upper limit on costs imposed by these sections.

Total annualized costs of these final rules, to build from 6 to 64 facilities, including the eight costly sections, as measured against the baseline regulatory standard, NFPA–59A (1975 edition) range from $8.4 million to $17.4 million yearly over a 20-year period.

The Final Evaluation also includes a comparison of the cost of these final rules with the recently published current edition of NFPA–59A (1979 edition), in which the total annualized costs range from $6.2 million to $12.4 million.

Considering the uncertainties inherent in risk analysis, the cost of these additional safety measures is not extreme, and the potential for the possible loss of thousands of lives and billions of dollars of property damage in the event of a major accident, MTB believes that a cost/benefit conclusion based on risk assessment alone should not be the exclusive determinant of what is necessary for public safety. The regulations are intended to prevent a catastrophic spill and the possible loss of thousands of lives and several billion dollars of property damage that might otherwise occur in a populated area.

After a careful review of the benefits, the annualized costs, and the uncertainties in predicting accident risks, MTB believes that the benefits outweigh the costs and that these eight sections are warranted as an investment in public safety.

These eight sections essentially parallel the views of the Technical Pipeline Safety Standards Committee (TPSSC) which provided MTB valuable technical assistance. A further discussion of the costs and benefits of the costly sections is discussed hereafter in the discussion related to those sections.

Discussion of Regulations

In accordance with Section 4 of the Act, the TPSSC met in Boston, Massachusetts, on June 12–15, 1979, to review the technical feasibility, reasonableness, and practicability of the regulations proposed in the NPRM. A copy of their report and minority views are available in the docket and may be obtained by writing to the Docket Branch, Materials Transportation Bureau, 400 Seventh Street, SW., Washington, D.C. 20590. A discussion of any rejections of the views of the TPSSC takes place hereafter in the discussion related to those particular sections of these final rules.

Using the new section numbers, the following portion of the preamble discusses the comments made to each particular section in the NPRM, as well as any revisions made to those proposed standards.

Subpart A—General

This subpart sets forth the applicability and other general features of the standards, and defines the types of LNG facilities subject to Part 193. The applicability of Part 193 as it relates to new and existing facilities is prescribed, and special terms or terms not used in the ordinary sense are defined. Regulatory expressions and the application and availability of referenced documents are explained. Also, the requirement to report leaks and spills at LNG facilities in accordance with Part 191 is clarified.

Scope of part. Jurisdictional aspects pertaining to waterfront facilities elicited the most response to the "Scope of part" § 193.2001. Many commenters proposed that the MOU between USCG and MTB be directly referenced. Some further advocated that the language in the MOU be included. The modifications were proposed because of a concern that failure to include all matters covered by the MOU might result in misunderstanding about the respective areas of responsibility.

As discussed previously, USCG is developing regulations to provide standards for safety, security, and environmental protection in the transportation, transfer, handling, and storage of liquefied natural gas at waterfront facilities. It intends for these regulations to become an integral part of its revised general waterfront facility regulations. MTB and USCG are coordinating their regulatory activities in this area to preclude problems involving overlapping jurisdiction in consonance with the MOU.

Specifically, at a waterfront facility, under the MOU, the USCG is responsible for facility site selection as it relates to management of vessel traffic in and around the facility; fire prevention and fire protection equipment, systems, and methods for use at a facility; security of a facility; and all other matters pertaining to the facility between the vessel and the last manifold (or valve) immediately before the receiving tanks.

Conversely, MTB is responsible under the MOU with USCG for facility siting safety except for vessel traffic matters, and all other matters pertaining to the facility beyond (and including) the last manifold (or valve) immediately before

the receiving tanks, except for those matters pertaining to fire prevention and protection, and to facility security.

In response to these objections regarding the definition of "waterfront LNG facility," the term has been deleted in § 193.2001. Appropriate delineation of the limits of MTB's responsibilities under the MOU over fire protection and security will be set forth in the scope of those topics in MTB's rulemaking covering operation and maintenance of LNG facilities.

Several commenters also proposed an addition to § 193.2001(b) exempting tanks with a capacity of 70,000 gallons or less. In some instances, the exemption was recommended only if the aggregate capacity would not exceed 140,000 gallons. The commenters felt such a proposal could be justified because tanks having a capacity up to 70,000 gallons can be shop fabricated, making this size subject to greater quality control. Also, the commenters argued that NFPA 59A was more appropriate for small containers.

The MTB has recognized the need for establishing appropriate regulations which would take into consideration the wide difference in size, type, and characteristics of LNG facilities. As a consequence, care has been taken in a number of instances, modifying requirements according to the size and type of a facility, so as not to be overly burdensome to a small plant. For example, § 193.2061, "Seismic investigation and design," includes provisions that greatly reduce the stringency of requirements for facilities of the size range suggested by commenters. In other standards, requirements vary according to either the extent of the hazard or facility size. This feature is exemplified by the exclusion zones required for thermal radiation and vapor dispersion whereby the exclusion distance would depend on size and characteristics of the facility, and by requirements for separation of facilities which are dependent on size.

The MTB has not adopted the recommendations to exempt tanks not exceeding 70,000 gallons capacity from the applicability of Part 193, since spills, even from small tanks, could also result in significant hazards.

A few commenters strongly recommended that the term "minimum standards" be used in lieu of "standards" so that it is clear that the standards may be exceeded, and to be in accord with the language of the Natural Gas Pipeline Safety Act of 1968. This proposal has not been adopted because such a term appears to imply that the standards are marginally adequate and must be supplemented. Therefore, this sections remains unchanged.

In accordance with Pub. L. 96–129 amendments to the Act, structures and equipment used as LNG facilities that are located in navigable waters (as defined by 16 U.S.C. 796(8)) are no longer subject to the Act. It was the intent of Congress that such facilities be regulated under the Port and Waterways Safety Act. Therefore, a new provision is added to § 193.2001 to exempt facilities in navigable waters from the scope of Part 193. Likewise, under this provision facilities located offshore would not fall under Part 193. Section 193.2003 addresses facilities handling semisolid natural gas in accordance with another Pub. L. 96–129 amendment to the Act that extended the definition of LNG to include natural gas in a semisolid state.

Section 193.2005, covering the applicability of these final regulations, has been substantially revised in conformance with Sec. 6 of the amended Act that establishes the applicability of these regulations to existing LNG facilities. The final regulations governing the siting, design, and construction (including initial inspection and testing) of an LNG facility will not apply to LNG facilities under construction before the date of publication of these regulations or to LNG facilities for which an application for approval of the siting, construction, or operation was filed before March 1, 1978, with the Department of Energy (DOE) (or any predecessor organization of DOE) or the appropriate State or local agency in the case of any facility not subject to the jurisdiction of DOE. (The siting, design, and construction of these facilities is governed by 49 CFR 192.12.) However, any subsequent replacement, relocation, or significant alteration of such facilities must comply with Part 193 requirements for siting, design, and construction, except that the siting requirements apply only to relocation of LNG storage tanks and to any replacement or alteration of an LNG storage tank that increases the storage capacity of the original facility. It was decided not to apply the siting standards to existing facilities other than storage tanks because of the high costs and impacts involved with facilities of lesser safety significance. This limitation of the applicability of siting requirements to existing facilities is consistent with the new provisions of Section 6 of the Act which precludes the imposition of siting standards on replacements made at certain existing facilities. The MTB does not consider replacements to include construction that results in increased storage capacity. Such construction as well as movement of a tank to a new site is more akin to construction of a new facility to which Congress intended the new rules to apply. In addition, again consistent with Section 6 of the Act, any subsequent relocation, replacement, or significant alteration of existing facilities could be designed, installed, or constructed in accordance with the original specifications or an alternative manner found acceptable by the Director, if Part 193 design, installation, and construction requirements would make the replaced, relocated, or altered facility incompatible with other facilities or would be impracticable.

Definitions. Changes to various definitions in § 193.2007 were recommended by many commenters. Definitions for additional terms were also proposed. Only words not used in the ordinary dictionary sense and words that are necessary to apply the rules are defined. Some words have been deleted as a result of changes in the text of the rules. Revisions with appropriate editorial modifications have been made as a result of changes in the text; in response to comments; to clarify the meaning; or otherwise, to make the definition more concise. Although there has been no change in the meaning intended, the definition of "cargo transfer system" has been changed in order to define the term independently from connected "transfer piping." It has also been made more concise by eliminating unnecessary verbiage, and the term "associated area" has been deleted in accordance with comments from the TPSSC. Where area is relevant to compliance, the term is used in the final rules.

The term "critical component" has been deleted. The TPSSC, as well as most commenters, stated that the term was not clearly defined and not distinguishable from the word "component." These regulations now use the term "component" and, in some cases, general descriptive terminology refers to the specific components that may be more hazardous. The term "critical process" has also been deleted because it appears unnecessary.

In accordance with the views of the TPSSC and other comments, which requested deletion of the term "impermeable" from the definition of the word "dike," MTB has deleted the term together with other terms that are design features since such provisions are more appropriately covered by design standards.

Many commenters, together with the TPSSC, objected to the proposed definition of "hazardous fluid." In the

NPRM, "hazardous fluid" was defined by reference to Parts 172 and 173 of 49 CFR which include many materials that would not be hazardous in an LNG facility. Commenters felt that a "hazardous fluid" should be defined only as a flammable gas or liquid. The MTB has included toxicity also as a measure of safety since minute quantities could be injurious to the public, or if plant operators are affected, an unsafe operating condition could result.

A definition for "hazardous liquid" has been added since it is used both in the definition of "hazardous fluid" and in the body of the text. The TPSSC had suggested that the term be defined as "a hazardous fluid in the liquid state." However, the final definitions appear to be clear and more concise.

Objections to the definition of "LNG facility" were primarily based on uncertainty about the delineation between LNG facilities and other gas pipeline facilities. Accordingly, the term has been revised. The new definition identifies facilities dedicated to LNG by utilizing the definition of "pipeline facility" in the Act to describe the nature of facilities that are included. It is important to note that "pipeline facility" is used to define the term "LNG facility" in accordance with Pub. L. 96–129 amendments to the Act, so that the term "LNG facility" applies to any part of an overall related series of facilities used for the transportation or storage of LNG, or for conversion (liquefaction, solidification, or vaporization) of LNG. An entire series of related LNG facilities is defined as an "LNG plant."

The term "maximum allowable operating pressure" (MAOP) has been changed to "maximum allowable working pressure" (MAWP). The TPSSC, along with some commenters, objected to the definition of MAOP because no basis for determination was set forth in the design portion of Part 193. Some commenters felt the term should be changed to "maximum allowable working pressure" (MAWP) or defined in accordance with consensus standards. The MTB had recognized the potential difficulties in establishing MAOP for this part in the manner used by Part 192 as a result of the design portion and operating portion of Part 193 being issued separately. In veiw of this, and because MAWP is a more appropriate term for plant type facilities, MTB has used the term "maximum allowable working pressure" in the text of the regulations consistent with the use of the term in the referenced design codes.

Although the intent of "normal operation" remains essentially the same, it has been made more concise by describing "other criteria" as that "required by this part." This change essentially is in accord with the recommendations by the TPSSC and some commenters. In effect, as long as a facility is performing within the prescribed criteria of Part 193, its operation may be considered to be normal, thereby giving a broader understanding of the term.

The definition of the term "transfer piping" is changed to refer to a system of piping and not to individual components in such a system. Also, the phrase "and associated area" is deleted in accordance with a recommendation from the TPSSC, because there is no general need for it in the standards, and it is not physically a part of the piping. Where appropriate, it has been incorporated in the applicable section. The word "supports" has been eliminated also, and treated separately where appropriate in the section concerned. In addition, the definition has been revised to resolve potential difficulties with the term "containers" by designating the individual components that describe the limits of transfer piping. In this respect, the term "other than pipeline facilities" pertains to facilities such as those that might use LNG for cryogenic purposes, such as freezing, in a process not involving the transportation of gas.

Reporting. One comment advised that the extent of "leaks and spills" as used in § 193.2011 should be described. The MTB feels this is unnecessary, since the operator must report leaks and spills in accordance with the requirements prescribed in 49 CFR Part 191. However, MTB recognizes that LNG facilities are not effectively covered by the present reporting forms under Part 191, so MTB plans to develop reporting forms appropriate for LNG facilities. MTB is also contemplating establishing reporting requirements for abnormal operations, which could serve as a source of information for the design of new LNG facilities. Until new forms are developed, however, information applicable to leaks or spills of gas or LNG at LNG facilities must be reported to the maximum extent possible on the existing forms prescribed by Part 191.

Incorporation by reference. With respect to § 193.2013, one commenter proposed that wording be changed to reference editions that are current at the time of plant design because MTB has not routinely updated the editions of incorporated documents. Only current editions, it was said, reflect the consensus of the originating organizations and establish "good engineering practice."

The MTB has not adopted this recommendation, because it would be both an abrogation of responsibility by MTB and contrary to the Administrative Procedures Act and implementing regulations of the **Federal Register.** Documents referenced in Part 193 are set out in Appendix A and the applicable edition is referenced. Later published editions will be reviewed by MTB and, if warranted, proposed for inclusion in Appendix A as part of our current program for keeping referenced documents up to date.

Subpart B—Site Related Design Requirements

The criteria for site related design requirements that must be considered in the planning and selection of a site are set forth in this section. Also, provisions to assure that the site will have accessibility and sufficient size for mobility around components in the event of an emergency are included. Public response to the notice on this subpart was more extensive than for all other subparts combined.

Scope. Only nine commenters responded to § 193.2051 in the notice. These comments were used in formulating the "Applicability" section in Subpart A. The extent to which siting requirements would be imposed on replacements and alterations of existing facilities was the major issue. Some commenters proposed that, for existing facilities, the Subpart B siting requirements be applied only to actions that result in an increase in LNG storage capacity. Others argued that safety improvements would be inhibited if modifications or repairs had to comply with siting requirements and emphasized the need for flexibility to permit repairs and modifications.

To illustrate the commenters' objections, studies relating to thermal radiation, vapor dispersion, seismicity, and other site-related features were viewed as unreasonable for the replacement of components. Such studies were viewed as appropriate for existing facilities only where either an expansion in LNG storage or relocation of an existing facility to a new site is involved.

As reflected in § 193.2005, after much deliberation, MTB determined that the applicability of site related requirements to replacements of existing facilities should be limited to replacements that increase storage capacity. Considering the greater cost expected for compliance with site-related requirements at existing facilities, safety would be best served where new standards are made

to apply to conditions that impose the greatest potential hazards. This position also appeared to be in general accord with the public comments. However, the Pipeline Safety Act of 1979 (Pub. L. 96–129) makes this matter, and the alleged conflict with the 1968 Act regarding existing facilities, somewhat of a moot issue. Consistent with the Act, as amended by Pub. L. 96–129, and as set forth in § 193.2005, Applicability, replacements of an existing facility would be exempt from the siting standards if application for approval was filed with appropriate Federal or local agencies before March 1, 1978. This exemption policy also is applied to all LNG facilities under construction before Part 193 is published.

Objections to use of the term "critical component" in the scope section were expressed also. In particular, the objection by the TPSSC "concerns the applicability to existing critical components which are not clearly defined." As discussed earlier, the term has been deleted.

This section lists the components or LNG facilities to which this subpart applies. The list of components which was set forth in § 193.111 and § 193.113 in the NPRM has now been incorporated in § 193.2051 to apply to all sections in this subpart and has been revised in accordance with a few comments. Those comments argued that only "emergency shutdown control systems" should be included because there are many "shutdown control systems" that are not critically important to the safe operation of an LNG facility during the occurrence of an earthquake. In addition, as proposed by these same commenters, the fire control system should be designed to withstand an earthquake because an operable fire control system is essential to the safety of an LNG facility during an earthquake.

Acceptable site. Consistent with views expressed previously, commenters and the TPSSC again objected to the term "critical component" in § 193.103 in the NPRM.

The use of this term has been discussed under earlier sections, and the term has been eliminated from these rules. Further, in the case of this section, it was found to be a duplication of § 193.2055, and therefore, this section has been deleted.

General. Among approximately 12 commenters who uniformly responded to sections of this subpart, about half felt that § 193.2055 as proposed in the NPRM was acceptable. This section prescribes generally that a site must be suitable for design of leak and spill protection and ease of access. The TPSSC conditionally found this section to be feasible, reasonable, and practicable, if the words "and other hazardous liquids" are removed. Six commenters, all representing the regulated industry, objected to this term. The term "flammable refrigerants" was proposed as a replacement by five commenters. They argued that regulations should apply only to spills of liquids stored in large volumes. One commenter, however, felt that coverage should be expanded by using the term "hazardous fluids" because a large vapor leak could be dangerous.

Four of the former five also argued that the definition in the NPRM made the term "hazardous liquids" too broad. This appeared to be the reason for the TPSSC's objection.

The recommendation by the TPSSC which would subject only LNG to the regulation has not been adopted because the exemption of other hazardous fluids, potentially more hazardous under certain conditions, clearly is not in the interest of safety. Even the regulated industry did not seek exemption for hazardous liquids other than LNG.

The MTB also has rejected changing the term to "flammable refrigerants" since the exclusion of other flammable fluids, merely because they are not used as refrigerants, is clearly unjustified from a safety viewpoint. For example, where propane used as a refrigerant in the liquefaction process at a small peak-shaving plant would be subject to the regulation, it would be inconsistent to exempt possibly larger potential spills or leaks of propane at a baseload or satellite facility, simply because it is used as a fuel or heat transfer medium. Also, where the storage volumes are small, associated safety considerations normally will be subsumed by the requirements for the larger storage of LNG. Accordingly, design to minimize offsite leak and spill hazards from small storage volumes should not impose a significant burden on facility design. The MTB believes that this aspect, together with the change in definitions of hazardous liquids and fluids, will assuage concerns of these commenters, as well as the TPSSC.

The MTB believes that without adequate provisions, a large gas or vapor leak could be dangerous. For example, discharge from relief vents or stacks or damage from external causes, such as impact from falling objects to containers or piping, could present an unnecessary hazard unless location or protection is properly planned. Accordingly, MTB has adopted the proposal to assure that the site can accommodate design to mitigate hazards from leaks and spills of both LNG and "other hazardous fluids."

A change in the wording "persons and property" to either "the public" or "offsite persons and property" was proposed by six commenters. The change was needed to assure an understanding that only the offsite public and not plant personnel are referenced, according to five responding. Four of the five also argued that otherwise the intent of the NPRM "Supplementary Information" would be contradicted.

On Page 8142 of the NPRM, under "Supplementary Information," it states that, "In most cases, Part 193 would provide for employee safety only to the extent that it is affected by measures required for public safety." While such standards as exclusion zones for thermal radiation and vapor dispersion are intended to provide offsite protection, some standards such as employee training provide protection to employees as well as the offsite public. In addition, requirements for ease of access to provide for evacuation clearly apply more directly to employee safety. This is consistent with wording in the "Supplementary Information" which indicates that in some cases provisions are intended for employee safety.

Partly in accordance with the recommendation, MTB has revised the wording to "persons and offsite property" to more clearly show that, within reasonable limits, consideration should be given also to employee safety in the plant layout design.

A recommendation that the phrase "to the facility" be added after the words "ease of access" was made by four commenters. Two of these commenters argued that clarification was needed to show that a means of getting people and equipment to the facility during an emergency is required, while the other two felt the addition was important to show that facility access rather than site access is the issue. One other commenter proposed that the requirement for "ease of access" be deleted. Since the function of the access is explicitly described in the text, MTB believes the proposed addition would only serve to confuse the meaning. Accordingly, the original wording has been retained without change.

An editorial change to show more clearly that one function of the requirement for ease of access is to provide for personnel evacuation, with or without assistance from others, was made in accordance with one comment. Other comments involved exclusions based on the MOU between USCG and MTB, and objections to the word "determine." Both matters are discussed

under Subpart A, and no changes are made in these respects.

Thermal radiation protection. Because of the extensive response to § 193.2057, most comments will be discussed by subsection. As a general comment, however, two commenters felt that detailed fire modeling should not be included in Part 193. Formal hearings, they argued, would assure acceptable design, and therefore, only flux levels, prescribed in performance language, should be set forth in this section. While formal hearings have not been established, flux levels are prescribed in the last subsection, and use of the model proposed in the NPRM has been deleted.

The format of § 193.2057(a) has been set forth in two parts, (a)(1) and (a)(2), for clarity. With respect to (a)(2), three commenters advocated that the requirement for grading and drainage to be treated as an impounding space be deleted. Most commenters, however, appeared to find the provision acceptable. Essentially, the various reasons for the opposition were that: the spill amount and fire duration will be small because of automatic shutdown; thermal radiation hazards would be minimal; grading and drainage is most appropriate near boundaries; spill disposal by grading and drainage would meet the requirements; an operator choosing to design more protection (by grading and drainage) would be penalized.

Within an exclusion zone, the exposure time to reach limits of human tolerance to heat radiation from a fire are very short. Therefore, even if the period of the fire and thermal radiation is short, the public would be subject to potential harm or injury. Additional protection distance is also needed where grading and drainage or other impoundment for small spills is located near boundaries. In most instances, the exclusion zone required for major impounding systems could extend beyond zones needed for small spills. Therefore, with a well engineered layout, there would be minimal or no additional cost to provide a thermal exclusion zone for grading and drainage. However, if additional protection is needed, even for small spills, the distance must be provided. Accordingly, MTB has retained this regulation.

Deletion of § 193.2057(b), "Measurement of exclusion zone," was proposed indirectly as a result of alternate proposals by seven commenters. One commenter proposed a "spherical" model which will be discussed further under paragraph (c) of this section. If adopted, this paragraph would not apply because the model was based on a different geometry of measurement. However, this model excluded wind effect on the fire pattern (tilt) which was said to be offset by the cooling effect of wind on the target. Considering the lack of precision in modeling thermal radiation, this model appears to have much merit, particularly for application in safety standards. However, since it was verified only by correlation with another more complex model, rather than with test data and it did not provide a method of measurement which could account for topographical variations, this comment was not adopted.

The six other commenters would replace this paragraph by the use of performance language and public hearings, by performance language in conjunction with the simple point source equation of the form $d=(f)\ V\ A$, or by the simple point source equation without prescribing a method of measurement to account for the geometry of the fire pattern relative to the target. Aspects of some of these proposals have been adopted and will be discussed under the appropriate subsections. However, the method of measurement set forth in paragraph (b), with some modification, has been retained in order to assure a uniform method of measurement which includes some provisions for wind effects and geometry of the fire relative to the target.

One other commenter recommended only that the diagram in this paragraph be deleted, arguing that because the method does not consider flame height, structures at higher elevations would be subject to higher thermal flux since the flame would rise. This apparently is a misunderstanding, since the diagram is intended to account specifically for the target elevation and the relative geometry due to flame height and other parameters.

Modification of the diagram to show that calculations are correct was also suggested. This was said by one commenter to be needed in order to assure accurate calculations. While the diagram does not show a sample exclusion zone, samples of the exclusion distance "d," which defines the boundary of an exclusion, are depicted. An elevation view, which cannot illustrate the exclusion zone, is necessary to explain the method of measurement and thereby assure that calculations will be accurate. Consequently, this suggestion has not been adopted. However, the diagram has been modified in accordance with certain comments, changes in other paragraphs, and to better assure a correct understanding.

Also relating to the diagram, a recommendation to locate point (T) at the edge rather than the center of a target was made by one commenter. This location was said to be more appropriate to define exclusion zones, particularly because targets may be very large. The MTB intended for point (T) to be a point on the target closest to point (P) and has modified both the diagram and the language accordingly.

According to one commenter, a third point to identify geometric planes referenced in the diagram was said to be necessary because three or more points are necessary to identify such planes. The plane in question was referenced in the final rule to describe (PT) and (PD). Where a plane is unbounded and described as vertical, it may be specially described by two points only. The reference has been deleted in the rule because it was used only to clarify and is unnecessary. However, these latter two comments bring attention to a possible ambiguity in the NPRM diagram, which does not give an upper limit to the angular elevation of line (PT). As a result, incident flux might have exceeded the intended level since (PT) was free to rotate around an axis through (P) and orthogonal with the vertical plane (of the NPRM). Thus, a high structure could theoretically be positioned above the thermal envelope. The MTB has been aware of the need to correct this mathematical anomaly, and the diagram has been modified by including the necessary upper limit.

The methods prescribed for determining both (θ) and (L) were an issue of major concern to several commenters. To determine (θ), an angle to account for flame tilt and potential formation of some vapor before ignition occurs, the NPRM prescribed equation G–4 in American Gas Association (AGA) report IS–3–1. Some commenters indicated preference for equation F–14 (or Thomas's equation) from the report IS–3–1, arguing that it is more realistic and predicts less tilt except at lower wind speeds, or that equation F–14 should be used for an emissive flux of 45,000 BTU/ft.^{2} hour. One commenter submitted comparative data illustrating the wide divergence between flame tilt determined by an IS–3–1 method and his own calculations. Similarly, many recommendations were made to alter the method for determining (L), a dimension to account for flame length. The NPRM prescribed equation G–7 or G–8 from IS–3–1. Some commenters advocated the use of equation F–13 (or G–5) because it predicts that the ratio L/D will decrease as D (the flame base diameter) increases, while G–7 and G–8 predict the reverse and are therefore more conservative. Others argued that

F–13 should be used if an emissive flux of 45,000 BTU/ft.^{2} hour is prescribed. One commenter noted that F–13 represents the average rather than maximum flame length. Another commenter said that F–13 predicts (L) with reasonable accuracy if the correct boiling rate is used, and another stated that a recent report uses an L/D ratio of 3. The report doesn't mention correlations from equations in IS–3–1.

With respect to both (θ) and (L), several commenters recommended allowing the use of any of the equations given in IS–3–1. A number of commenters advocated that a specific method not be prescribed, and that the rules provide for alternate models to permit the use of improvements in technology as more is learned about emissive power, flame tilt, flame length ratio (L/D), burning rates, and other flame characteristics.

Optional use of different methodologies giving different results as recommended by some commenters is not appropriate for a standard to establish consistent and uniform levels of safety. The proposal to reference report IS–3–1 in general has not been adopted. Also, because of the uncertainties evidenced by the conflicting methods, results, and viewpoints, rigorous modeling with the information currently available is unjustified. The MTB agrees that models should permit the use of additional and more valid information when it becomes available. Accordingly, the regulation has been modified by deleting reference to any specific model and permitting the establishment of θ and L in accordance with the use of alternate models that are approved by the Director.

The MTB believes that optional fixed values of (θ) and (L) are needed in order to provide a simplified method which will assure a conservatively safe exclusion zone. Such fixed values will preclude extensive data compilation, calculation, and probabilistic determinations that could be needed otherwise. This approach is needed until more rigorous models can be verified by test. More specifically, it is intended for use when rigorous methods are unjustified because of expense or lack of wind data, and some alternative is needed. The regulation has been modified accordingly. A value of $(\theta)=45°$ for optional use is provided as originally set forth in the ANPRM. It is based on the limited data in IS–3–1, since data for fires of larger size are unavailable. Also, to a limited extent, it is intended to provide for the formation of some combustible vapor before ignition occurs. The value for (L) is based on an (L/D) ratio of 3. This is consistent with the recent report mentioned by one commenter and the unsteady state of LNG fires, particularly at the time of ignition if some vapor has formed.

Other modifications in § 193.2057(b) are made to provide greater clarity.

In consideration of the many comments about § 193.2057(c), concerning the computation of exclusion distance, this subsection has been significantly revised. With respect to paragraph (c)(1), the method of determining the assumed emissive area of the flame "A" was clearly the principal issue. Commenters argued variously that the bottom and back; the bottom and top; or the bottom, top, and half of the side area of the flame should not be included. Three commenters said "A" should be the fuel surface area, but would retain the emissive power for a flame. Two contended that the proposed determination of "A" defies the most simple concepts of physics and laws of nature. A variety of other adverse comments also were made with regard to "A".

The MTB believes that the description for "A" given in the NPRM (as corrected) is reasonable. The formula G–9 on page G—27 of the report IS–3–1 uses the total emissive power of the flame. This is determined most directly by using the product of flame surface area and emissive power per unit of flame area, since data giving the fraction of total combustion energy radiated to the surroundings is not well established. Because the model is a point source, emissive power is radiated in all directions, requiring consideration of the entire surface of the assumed flame cylinder. The MTB concedes that some question may exist about the use of the bottom of the flame cylinder. However, because thermal radiation data and predictive methods are uncertain, the entire assumed cylinder area was used to assure reasonable conservatism. For these reasons, and because of other modifications to be discussed, none of the recommendations has been adopted.

Taking an opposite position, one commenter, who recognized the familiar point source equation, expressed agreement with the logic of determining "A" according to the NPRM. Using the entire surface area of an assumed flame cylinder, "A", as the surface of a sphere, a new and simple "spherical" model was derived from the resulting geometry. Comparisons with sample results of a more sophisticated model showed relatively close correlation. Considering the range of accuracy in radiation modeling, the commenter recommended that the "spherical" model be used in place of both models (paragraph (c)(1) and (c)(2)) in the NPRM. The MTB believes the recommendation may have merit. However, the spherical model has not been correlated with actual test data. Because of this and for reasons more fully discussed under § 193.2005(b), MTB has not adopted this recommendation.

The NPRM formula in paragraph (c)(1) was also criticized by some commenters as being inconsistent with detailed sophisticated techniques or incorrect, defying the laws of nature. Others expressed the view that the formula has good far field correlation, but is inappropriate for near field application. The formula is a rearranged expression of the point source equation (G–9) from page G–27 of IS–3–1. It has the limitation of an overly simplified formula, but was considered appropriate for application as an optional simplified approach if adequate conservatism was provided, particularly in view of the uncertainties associated with thermal radiation data. However, as discussed below, it does not appear in the final rules.

The emissive flux of 45,000 BTU/ft.^{2} hour, prescribed for use with the methods of both paragraph (c)(1) and (c)(2), also was found unacceptable by a number of commenters. For the most part, objections were based on the use of a higher emissive flux level than the flux level used with the prescribed model as it appeared on IS–3–1. The flux level of 45,000 BTU/ft.^{2} hour was selected by the MTB due to the wide scatter in emissive flux data, and the lack of such data for large fires where some evidence indicates that flux could be even higher. The MTB does not agree that the prescribed flux made the model invalid. As noted by one commenter, as intended, its use merely increased the exclusion distance. However, concerns expressed are nullified, since a specific flux is not prescribed in the final rule.

The simple point source equation of the form "d" = (f)V A was recommended by a number of commenters. Two of these commenters felt this simple equation should replace the more sophisticated method in paragraph (c)(2) also. By using appropriate (f) values, this model was said to assure adequate conservatism, and to account for fire, tilt, and down wind flux increase. Its relative simplicity was viewed as a desirable feature.

Many commenters objected to the more sophisticated specific model prescribed in paragraph (c)(2) in the NPRM. In line with recommendations regarding paragraph (b), some commenters said the rule should be changed to permit the use of either model in IS–3–1. In addition, provision

to permit the use of future alternate models was strongly recommended. This provision, it was reasoned, would permit use of improved technology as more is learned about thermal radiation and flame characteristics. Some contended that a specified model would limit amendments to requirements, while the elimination of a specified model would encourage further research and development.

The nature of the comments clearly illustrates that uncertainties and lack of agreement exist among commenters regarding thermal radiation modeling. The degree of precision in predictability has not been established, particularly for large fires, since there has been no verification testing in the necessary size range and scaling effects are not yet known. In consideration of these problems, MTB has adopted the recommendations of many commenters to provide for alternate models to be used as future technical data with a known degree of reliability are developed. Accordingly, § 193.2057(c)(2) provides for the use of a mathematical model to determine exclusion distance length which meets prescribed criteria and receives approval by the Director.

Also, considering the lack of reliable thermal radiation data, lack of precision, and corresponding range of differences in predictive results from current sophisticated models, the MTB has adopted the recommendation of a number of commenters to use the simple point source equation of the form $d=(f)(A)^{0.5}$, as originally proposed in the ANPRM. This equation in § 193.2057(c)(1), used in conjunction with values of (f) in paragraph (d) of this section, provides a simple means of assuring adequate protection distance for public safety until sophisticated techniques for establishing reliable thermal radiation data are developed. Also, it would continue to apply where more sophisticated techniques are unjustified.

The MTB believes these modifications agree with the intent of the TPSSC who felt the NPRM formulas were not reasonable for establishing exclusion distance and questioned the availability of the proposed model.

To establish the limiting values for incident radiant flux in § 193.2057(d), according to the characteristics of offsite targets, (f) values corresponding to prescribed flux levels have been included for use with the point source equation in paragraph (c)(1). The level of flux permissible on some targets has been also slightly modified. In the NPRM, a flux of 1,600 BTU/ft.^{2} hour was proposed as the level for human exposure in ourdoor areas. In response to the NPRM, one commenter felt the flux levels were too low, contending they were based on total, instantaneous, and immediately ignited spills. The MTB believes this argument is not valid because technical reports on this subject do not support these arguments. A reduction in the 1,600 BTU/ft.^{2} hour flux level was proposed by four commenters. The flux range of 450 to 500 BTU/ft.^{2} hour was viewed as appropriate by two commenters, based on the argument that USCG Standards (CG 446–3 Vol. III CHRIS) considers 450 BTU/ft.^{2} hour to be the safe limit for people. A copy of the referenced information was enclosed in the comment. A second enclosure from the same document gave information to show that an intensity of 1,500 BTU/ft.^{2} hour required protective clothing. The USCG, which formerly had supported higher flux levels based on NFPA 59A, now agrees with the flux levels set forth in this standard. The referenced document is not a standard, but a guide applying to indefinitely long periods of exposure and does not apply to circumstances where persons would seek shelter or depart. Some, noting that 500 BTU/ft.^{2} hour was only slightly more that thermal radiation from the sun, argued that such a low flux would be excessively costly and would permit the continuation of normal activities which could impede emergency movement. The majority commenting recommended retention of the proposed 1,600 BTU/ft.^{2} hour flux level. At that flux level, according to some comments and technical reports, exposure time for pain is 15 to 20 seconds and about 30 seconds for injury. During this period, a healthy person could increase his protection distance by 300 to 600 feet and thereby reduce the flux level and increase the allowable time of exposure. Also, clothing, partial shielding from nearby objects or topography, or altering position to change the area of the body exposed will afford additional time to move out of range or find shelter. The cooling effect of the wind will increase the time further, and if the wind speed is low, greater distance will have been provided because the distance measurement under § 193.2057(b) is based on tilt at higher wind speeds. A study by Dr. R. O. Parker concludes that thermal radiation becomes hazardous to personnel at 2,000 BTU/ft.^{2} hour, which would allow a solar level of 350 plus 1,650 BTU/ft.^{2} hour from other sources. Therefore, in consideration of the factors described and in accordance with the views of the majority of commenters, MTB believes that establishing a permissible flux level of 450 to 500 BTU/ft.^{2} hour is unjustified, and the proposed 1,600 BTU/ft.^{2} hour flux level is retained in the final rule.

Also, numerous commenters felt that the term "outdoor assembly" should be more specifically defined in describing the target. Some felt that some beach areas would present major difficulties, particularly if casual access was to be a consideration, and where the laws of some States preclude private ownership. The respective target has been redefined to areas occupied by 20 or more persons during normal use in order to be both more definitive and preclude some of the problems foreseen. Most importantly, it is made consistent with the definition of outdoor assembly established and used in Part 192.

Four commenters advocated a uniform flux level at the boundary. One who did not recommend a specific level felt it was unsound to use variable flux levels because the purchase of land may be necessary to provide for future land changes. A single uniform flux of 1,600 BTU/ft.^{2} hour was proposed by two commenters. One expressed the view that escape time is not adequate because the level of 4,000 BTU/ft.^{2} hour allows only 5 to 7 seconds before second degree burns are experienced. Shelter, it was said, could not be found in such a short time. Without giving justification, the fourth commenter proposed a single uniform flux level of 2,800 BTU/ft.^{2} hour.

The concept of single uniform flux levels has not been adopted because MTB believes the level of protection should be established according to the degree of protection needed in order that the level of safety will be uniform, and to reduce unwarranted costs. While land purchases may be necessary to provide for future change, the zoning concept in the definition of exclusion zone was specifically intended to provide relief in this regard. In addition to control by a government agency, purchased land could be put to use in various ways that conform to the regulations. Reduction in thermal radiation flux levels due to wind cooling effects, clothing, running away, etc., as discussed with respect to persons in outdoor areas, applies equally to target areas subject to a flux level of 4,000 BTU/ft.^{2} hour. Also, areas of this type would have nearby shelter, and some shelter from trees, bushes, or other structures would be likely. In addition, persons in these areas would be either sheltered indoors, or away from the area a large percentage of the time.

Several commenters proposed an increase from a flux level of 4,000 to 5,000 or 6,700 BTU/ft.^{2} hour. This was based on tests of a variety of woods showing ignition did not occur at this

flux level. This recommendation would reduce exposure time to a critically low level where persons may be present or need time for escape. However, the recommendation has been adopted in part by more of a realistic categorization discussed below.

In response to a comment that the terms "frequently occupied" and "exceptional value" lack specificity and could be misinterpreted, the characteristics defining offsite target areas subject to a flux level of not more than 4,000 BTU/ft.^{2} hour have been restated. The new definition divides the proposed offsite target (2) into two parts, (2) and (3). Both categories apply to buildings. Category (2) applies to buildings based on human occupancy and clearly shows that residences are included. Also, for consistency with Part 192 and other sections of Part 193, the term "frequently occupied" is redefined as "being occupied by 20 or more persons during normal use."

In category (3), the buildings are identified according to their fire-resistant properties and their usage. The meaning of "exceptional value" has been restricted to specific historic merit. The feature of durable shielding has been added so that flux levels will be low enough to permit escape or the removal of objects if shielding for the duration of a fire is not adequate.

Conversely, a new category (4) for flux levels of 6,700 BTU/ft.^{2} hour also applies to buildings based on properties for protection from thermal radiation in conjunction with the same uses specified for category (3). The MTB solicits comments on the establishment of this flux level for this new category (4), rather than 10,000 BTU/ft.^{2} as proposed in the NPRM.

Under category (5) (formerly category (4) in the NPRM), applying to public streets, highways, and mainlines of railroads, one commenter recommended retention of the 4,000 BTU/ft.^{2} hour flux level for public streets, but proposed an increase to 10,000 BTU/ft.^{2} hour for highways and mainlines of railroads. Another commenter proposed an increase to 10,000, while a third recommended 6,700 BTU/ft.^{2} hour as the appropriate level. Two other commenters indicated that the flux level should be increased, but did not recommend a specific level. It was argued that high mobility of highways and railroads affords protection, and the ability to close transportation corridors prevents long term danger. Some said that vehicles and their speed would provide protection to the 10,000 BTU/ft.^{2} hour flux level, while one felt these conditions justified the 6,700 BTU/ft.^{2} hour thermal flux.

Although commenters disagree on the specific flux levels that are appropriate, the MTB believes the arguments presented have merit. Speed and mobility certainly afford some protection by permitting faster escape. Also, even if a flux of 6,700 BTU/ft.^{2} hour allows only 3 seconds for escape, as mentioned by one commenter, all the mitigating factors, such as cooling effects of wind discussed previously in regard to outdoor assembly, are equally applicable in this case. In addition, even the glass areas of vehicles provide some shielding. Based on these considerations, the MTB believes that an increase to an incident flux of 6,700 BTU/ft.^{2} hour is appropriate, and has modified the requirement accordingly.

Under category (6), formerly category (4) in the NPRM, which permits a 10,000 BTU/ft.^{2} hour flux level, a revision has been made to include the property line of the facility, if a structure is not the limiting feature. Consensus standards in existence for a number of years have imposed a similar restriction. Also, former category (5) of the NPRM has been deleted by incorporating "other structures made of cellulose, metal, or masonry materials" within category (6) of the final rule, in concurrence with two commenters. Where structures do not have the use features described under categories (3) and (4) and would not cause additional hazards if exposed to high levels of thermal radiation, there is no justification for imposing flux levels below 10,000 BTU/ft.^{2} hour.

The Final Evaluation shows that § 193.2057 would have a major cost impact on construction of a new LNG facility as compared to the baseline regulatory standard, NFPA 59A (1975 edition), because of additional land area that would have to be acquired. However, there are various options that an operator may choose to lessen the cost impact of this regulation, such as:

(1) Selection of a site which minimizes the need for construction of additional pipelines so that the combined cost of land and pipelines is not high.

(2) Choosing a site where, because of the nature of the surrounding area, the thermal flux permitted under this regulation would not require the acquisition of additional land.

(3) Locating a facility where local meteorological conditions would result in lower exclusion distances.

(4) Utilization of alternative plant designs to reduce the exclusion distances. For example, the use of either a Class 1 impounding system (§ 193.2153), cavern storage, or a larger number of small tanks would minimize the necessary exclusion distance.

The need to provide an exclusion distance to protect the public from the thermal radiation of a large fire on the LNG facility is of utmost importance in assuring the proper selection of such a facility.

Providing an adequate thermal radiation exclusion distance, which was one of the principal deficiencies in the NFPA 59A (1979 edition), will protect people who live or work near the facility by providing sufficient separation from the heat of burning LNG at the site. The current NFPA 59A (1975 edition) significantly strengthens the earlier NFPA 59A edition and approaches the exclusion distances established by this regulation. A discussion of the current NFPA 59A standard for thermal radiation exclusion distance is also discussed in the Final Evaluation.

Flammable vapor-gas dispersion protection. Most commenters agreed with the original language of § 193.2059(a). However, revisions have been made in § 193.2059(a) to make the language consistent, where appropriate, with § 193.2057. In response to comments, the term "frequently occupied" has been defined as "occupied by 20 or more persons during normal use." This should alleviate the concerns of one commenter who suggested using the term "regular organized outdoor assembly." In the same way, the term "exceptional value" is now based on "historic uniqueness" that is specifically described. The basis for these expressions is more fully explained under § 193.2057. A change to base the criteria for an exclusion zone on the percent of area covered by a plume was proposed by one commenter who claimed that isoplethis are very narrow. This proposal has not been adopted, since much remains to be learned about dispersion and gravity spread particularly when wind velocities are low and could result in large upwind and lateral dispersion.

Agreement with § 193.2059(b) was expressed by most commenters also. One commenter recommended a change to require that dispersion distance be determined by horizontal measurement rather than following ground contour. No explanation in support of this proposal was given. While vapor dispersion characteristics are still uncertain, some work currently in progress for the Department of Energy indicates that changes in elevation would tend to diffuse the vapor. Considering the range of accuracy expected with current dispersion models, the difference in distance should not be significant. Since using horizontal measurement, when

preferred, would always meet distance requirements of following the ground contours, the MTB has not adopted this proposal.

Response to § 193.2059(c) was very extensive. The principal issue was the commenter's argument that provisions should be made to permit the use of new dispersion models when additional technical information is developed. Fifteen commenters suggested various methods by which this might be accomplished. Although MTB believes that present models may be conservative, diverse assumptions and results coupled with the lack of verification testing at appropriate scale cause much uncertainty. Accordingly, the MTB has included a provision for the use of models which meet specific criteria, including approval by the Director.

Commenters were critical of most current models. AGA IS–3–1 models were said to be based on questionable data and inappropriate because of being based on a sudden spill. One commenter strongly favored the models SLICE and SIGMET, but these models include certain assumptions and represent departures in principal and results. Although the MTB believes that these models may ultimately prove to be quite valid, verification is needed to justify the resulting reduction in conservatism. The model proposed in the NPRM was also widely criticized. Its ability to provide for only continuous spills, rather than sudden spills and spills of finite duration was viewed as a particular limitation. However, one commenter contended that it could be used if the method is modified to allow for finite spills. Commenters who criticized the NPRM model most extensively also recommend that the rule continue to reference that model for optional use. The MTB believes that modifications will allow for finite spills, but even if distance is based on a continuous spill, results will not be significantly different. Accordingly, the NPRM model is referenced in the final rule for optional application.

The TPSSC found this regulation unreasonable because part (c) requires use of a single questionable formula, without allowance for mitigating measures. The MTB believes that allowing the use of a model submitted by the operator for approval by the Director should satisfy the concerns expressed by the TPSSC.

A requirement to determine the dispersion distance for each impoundment met with objections from two commenters who argued that the impounding system needing the longer distance would control. Other commenters advocated retention of the feature. Since it is necessary to determine the dispersion distance in order to know which impounding system controls, the requirement has been retained.

A recommendation by 2 commenters to change the gas concentration from 2.5 percent to a range between 2.5 percent and 5 percent according to atmospheric stability has not been adopted because there are insufficient data to justify the change. Also, the IS–3–1 report suggested that 2 percent may be a more appropriate level.

The weather conditions under paragraph (c)(2) have been changed from a 95 percent level of nonexceedance to a 90 percent level, in accordance with a number of recommendations, since weather data shows the wind to be clam at least 5 percent of the time in most locations. In addition, optional weather parameters have been provided for use with some models in order to provide for locations where data are unavailable or to permit an operation to proceed with calcuations without extensive data compilation.

Section 193.2059(d) has undergone major revision. Numerous comments were made indicating a need for clarification of intent and often providing constructive suggestions which have been incorporated in the modification. Other changes were made because of changes in § 193.2061 on allowable seismic design. The TPSSC found the proposed regulation to be unreasonable because the Committee believed the prescribed vaporization rate was intended to exceed the combined discharge of LNG and flash vapor from the failed piping. This misunderstanding arose because of the term "LNG" before the word discharge in the second line of paragraph (d)(1)(i) of the NPRM. The adopted paragraph (d)(1)(i) restates the vaporization rate to show more clearly that it is the sum of vapor formed by flashing and from boiling due to heat transfer from contact surfaces. Also, the spill duration for top transfer and for side or bottom penetrations is spelled out. Provisions for an alternate model for determining surface contact conditions that meets prescribed criteria is included, consistent with the provision for other models.

Section 193.109(d)(2) of the NPRM proposed that vapor dispersion resulting from a prescribed tank failure be based on local seismic conditions and other surrounding conditions. In view of changes made in allowable seismic design, consideration of high seismic activity become less of a concern. Also, other provisions in the new standards, such as design of diking in the vicinity of airports, address hazards from the other surrounding conditions. Therefore, this paragraph has been deleted in its entirety. Objections by the TPSSC to the 0.4g seismic acceleration criteria and the credibility of the spill condition are thereby eliminated. In paragraph (d)(2), the safety factor of (2) on impoundment insulation has been eliminated in the final rules. Rather, performance reliability is predicated on testing and proper design installation and maintenance of the insulation.

The concept of planned ignition as set forth in § 193.2059(e) was found to be unacceptable by the TPSSC because of dangers to plant personnel. A large number of commenters also expressed opposition to planned ignition. It was argued that plant insurance would be difficult to acquire and that a minor spill could become a distinct hazard. One commenter expressed the view that the concept is controversial and repugnant at first thought, but adds that in the event of offsite dispersion, it may safeguard abutters with limited additional risk on site since offsite ignition would be likely anyway. The MTB has revised this requirement based on the significant number of commenters who are opposed to an ignition option. The revision permits the operator to prepare a plan for controlling the spread of LNG beyond the facility site. Methods, including igniting the LNG vapors, could be included in the plan. The operator can exercise the option on how the LNG will be controlled from spreading if a vapor dispersion exclusion zone is not practical to provide.

The Final Evaluation shows that § 193.2059 would have a major cost impact on the construction of an LNG facility as compared to the baseline regulatory standard, amounting to about 60 percent of the costs of the eight costly sections. Since the Draft Evaluation shows that the bulk of the cost would be due to land acquisition, most of the factors discussed under § 193.2057 on how land costs might be mitigated are equally applicable to § 193.2059. Even assuming a low probability of an accident that would cause flammable vapors to disperse beyond the plant site, MTB believes that the added costs are justified by the potentially disastrous effects that would result from the ignition of an LNG vapor cloud in a populated area.

The current NFPA 59A (1979 edition) strengthens the earlier NFPA 59A edition. A discussion of the current NFPA 59A standard for vapor cloud

dispersion distance is also discussed in the Final Evaluation.

Seismic investigation and design. Section 193.2061 establishes site investigation requirements for ground motion caused by earthquakes to protect against the catastrophic failure of certain LNG facilities (see § 193.2051). In regions having a higher expectancy of earthquakes, these facilities would have to be designed to withstand, without loss of structural or functional integrity, the most critical earthquake motion which is ascertained probabilistically if such data are sufficient, or deterministically when available earthquake data are insufficient to provide probabilistic estimates. In regions having a lower expectancy of earthquakes, these facilities would be designed to withstand, without loss of functional or structural integrity, the forces in the Uniform Building Code, Vol. I, 1976 edition.

The geotechnical investigation for facilities in regions having a higher expectancy of earthquakes must include factors which would affect the seismic design of the facility. Factors such as faults, quaternary activity of those faults, tectonic structures, static and dynamic properties of soils, earthquakes, hydrologic regime, and potential for liquefaction must be included in the geotechnical investigation. Under paragraph (f), LNG storage tanks would be prohibited in locations having a potential for very high fault displacement, earthquake potential, or liquefaction.

Most of the commenters objected to parts of this proposed rule, most of the objections focusing on the proposed requirements mandating a probabilistic determination of the expectancy of an earthquake and the prohibiting of an LNG facility in certain locations. Most of the comments were general in nature without going into detail with regard to specific requirements. A few commenters did comment substantively with regard to the technical feasibility of each specific requirement. Some of these commenters relied on opinions by recognized experts in the design and construction of structures in seismic areas to prepare those comments.

On April 24 and 25, 1979, MTB held a conference in Washington, D.C., with representatives of Western LNG Associates, Inc., Bixby Ranch, American Gas Association, Hollister Ranch, and various representatives of operators having LNG facilities to discuss the seismic requirements proposed in § 193.111. The proposed requirements in §§ 193.107, 193.109, and 193.117, and Subpart E were also discussed, but not to as great an extent as the proposed seismic requirements. This meeting served to meaningfully discuss the proposed seismic requirements with people vitally interested in the seismic proposals, including eminent recognized experts in seismic investigations and design. This conference proved helpful in providing MTB the opportunity to gather information and discuss the proposed seismic requirements.

A few commenters to this proposal advocated that the seismic design requirements of the NRC be adopted. On the other hand, a few commenters advocated that the Uniform Building Code (UBC) design method is adequate, and therefore, should be used in the design of LNG facilities. While the probability of an earthquake occurring at a site does not depend on whether the site is for an LNG or nuclear facility, the nature of the hazard differs according to the type of facility. For instance, the release of LNG in an accident would not have the long term contaminating effects of escaping radioactivity, nor is the area affected by an LNG spill as widespread as the area affected by the wind-blown radioactivity of a nuclear release. Therefore, these differences should be reflected in different design standards.

Further, the requirements for nuclear plants use two levels of designs for earthquakes, one level at which the nuclear facility would continue to operate while another level at which the nuclear facility would be safely shut down and maintained in a shutdown mode. The MTB does not believe that two levels of design are appropriate for LNG facilities because hazards often cannot be reduced by shutdown, and has established a requirement that certain facilities must be designed and built to the critical ground motion without loss of functional or structural integrity.

MTB does not believe that LNG facilities should be designed to the standards in UBC in regions having a higher expectancy of earthquakes. The UBC does not take into consideration the function of the structures, such as the hazardous nature of an LNG facility nor does it consider the large area that would be affected by a catastrophic spill of LNG. A large number of commenters recognized the inadequacies of designing an LNG facility to the standards in UBC.

Because of the revisions to this section, it has been reorganized into a different format for clarity. The new format more clearly defines the requirements, in sequence, that must be conducted in the seismic investigation and design.

As suggested by a commenter, § 193.2061(a) which applies to sites in Zone 0 or 1 of the Seismic Risk Map of the U.S., UBC, requires a study of faults, hydrologic regime, and soil conditions to learn if there is evidence indicating a potential for surface faulting or soil liquefaction at the proposed site.

Section 193.2061(b)(1) sets forth the seismic loads to which facilities at the higher risk sites must be designed and built to withstand, without loss of structural or functional integrity. LNG facilities in Puerto Rico, Zone 2, 3, or 4 or at a site in Zones 0 and 1 determined to have a potential for surface faulting or soil liquefaction fall under this requirement.

Section 193.2061(b)(2) establishes the UBC as seismic design requirements for LNG facilities not subject to paragraph (b)(1). This part of the regulation has been revised in accordance with comments that the UBC does not designate horizontal or vertical seismic acceleration as proposed in the NPRM, but instead the UBC sets forth lateral forces.

A number of commenters suggested that the extent of the factors involved in a geotechnical investigation to determine seismic design loads should be set out in the regulation in order to assure an adequate and consistent seismic investigation. A listing of factors was originally suggested in the draft proposals in the ANPRM of this regulatory proceeding, but was omitted in the NPRM to avoid duplication of the proposed general requirement to conduct a geotechnical investigation. However, because commenters showed a need to specify the extent of the seismic investigation, MTB has included a few details of what an investigation should include in the final rule. These details are based on commenters' proposed criteria for conducting the geotechnical investigation. These criteria have been summarized and included in § 193.2061(c).

In keeping with practically all of the comments on this section that there are not sufficient earthquake data in most parts of the country to make a determination of the critical ground motion solely on a probabilistic basis, MTB has provided an option in paragraph (d) that the most critical ground motion may also be ascertained deterministically when available earthquake data are insufficient to provide probabilistic estimates. During the course of this rulemaking, MTB has concluded that there are regions in the country that, in the future, probably will have sufficient earthquake data to determine critical ground motion on a probabilistic basis with a yearly probability of exceedence of 10^{-4} or less as proposed in the NPRM. The MTB

believes that a probabilistic determination of critical ground motion is the preferable approach because if derived from adequate data, it will establish a common basis of seismic design for all LNG facilities.

The criteria in § 193.2061(e) that must be investigated in determining critical ground motion are in accordance with the views of commenters that proposed such a requirement. Including this requirement, according to these commenters, is necessary to assure a common basis for determining critical ground motion. The MTB agrees and has adopted this suggestion. Some of the criteria have been revised to assure that there is definitiveness in the terms, in order to assure a consistent determination of critical ground motion. A revision has been made to the commenters' proposal with regard to critical ground motion by establishing that the vertical design response spectra are equal to the horizontal design response spectra within 10 miles of the earthquake source. This requirement is consistent with earthquake data that indicate that the vertical and horizontal response spectra are essentially similar at distances of 10 miles or less from the earthquake source.

Section 193.2061(f) prohibits an LNG storage tank from being located in certain areas of high seismic activity. This regulation differs from that proposed in the NPRM in order to establish both a magnitude as well as the frequency for seismic activity. Most commenters argued that LNG facilities should not be prohibited at any location, arguing that designers could design an LNG storage tank to accommodate almost any seismic force. During the conference on April 24 and 25, 1979, in which the proposed seismic requirements were discussed, some witnesses argued that the storage tank could effectively withstand horizontal or vertical displacement of a fault directly under the LNG tank. However, one witness disagreed with that argument, saying that a design to withstand the horizontal or vertical displacement of a fault directly under the LNG tank has not undergone the test of a real earthquake displacement. The substantive written comments on these proposed prohibited areas argue that areas of severe seismic activity should not be prohibited, but an approval by the Director should be required in these areas. These comments categorize different ranges of fault displacement and the type of foundation construction required in these areas.

The MTB is not convinced that LNG storage tanks should not be prohibited in areas of very high seismic activity. The MTB believes that the consequences of a very severe earthquake are so significant that it is not in the public interest to permit construction of an LNG storage tank in these areas. The MTB believes that because LNG storage tanks have not experienced very severe earthquakes, there has not been substantiation of arguments by commenters that such earthquake forces can be handled by appropriate design. Therefore, MTB has retained the prohibitions of LNG storage tanks in areas having high probability of severe seismic activity. So, with appropriate revisions, MTB has prohibited as LNG facility sites those locations that some commenters proposed should require MTB approval. As for any MTB safety rule, the Director would evaluate a petition for waiver of these prohibitions if an operator demonstrates why they should not be followed and how the public would be protected by deviating from them. With regard to the requirement in the NPRM prohibiting LNG storage tanks in areas of severe seismic activity, the 1-mile distance from a fault has been retained because faults cannot be defined more precisely when considering uncertainties in the nature of a fault. In addition, the probability of a splay from a fault would make the area of hazard difficult to define; however, the proposed prohibition has been modified to consider recency of movement and amount of movement in any way similar to that proposed by a commenter. The recency of movement is based on the determination of movement within Quaternary time rather than over the last 35,000 years, as proposed by the commenter, because MTB believes that the last 35,000 years is not a sufficiently long period to assure prediction of subsequent seismic activity. The prohibiting of an LNG storage tank where the estimated design horizontal acceleration at the foundation exceeds 0.8g is adopted because such a load is cause for questioning the selection of a site that would be subjected to such severe seismic activity. In accordance with various commenters, the prohibition regarding liquefaction recognizes that the potential for such a phenomenon can be mitigated.

Section 193.2061(g) has not been changed from the NPRM because there were no substantive comments on this section.

The TPSSC stated that the concept of the seismic investigations as proposed in the NPRM is appropriate, but, as proposed, was neither reasonable nor practicable. They recommended that MTB review the testimony of Mr. James Devine, U.S. Geological Survey, at the meeting. The MTB has used Mr. Devine's testimony, as well as utilizing Mr. Devine, in developing this final rule.

The Final Evaluation shows that § 193.2061 would have a major cost impact on construction of an LNG facility as compared to the baseline regulatory standard because of the more detailed seismic investigation and more stringent seismic design requirements, such as the added cost of structural steel, concrete, and earthwork. While the Final Evaluation concludes that the occurrence of an earthquake is unlikely, MTB believes that the consequences of a major earthquake are so devastating, as illustrated by damage to structures from previous earthquakes, that LNG facilities must be designed to prevent the failure of various components from such an occurrence. The requirement for seismic investigation for design in the current NFPA 59A (1979 edition) is not very different from the requirement established by this regulation. A discussion of the current NFPA 59A standard for seismic design is also discussed in the Final Evaluation.

Flooding. The principal concern of several who commented on § 193.2063 related to the risk of flooding against which protection would be required. Three suggested that the level of risk be changed to a more stringent level, such as the 500-year flood plane used in the guidelines of the Water Resources Council. While MTB believes that risk levels should be uniform, data relating to different environmental phenomena have not been uniformly determined. In the case of flooding, many different events are involved and combined to describe the worst event expected based on a 100-year interval. Based on present data, however, the MTB is not convinced that a change to impose more stringent risk levels is necessary. Accordingly, the wording proposed in the NPRM has been retained in the final rules.

The TPSSC felt that a clarification was needed to show that every foundation need not be protected against flooding. Another clarification showing that the operator is not responsible for a power supply over which the operator has no control was recommended by the committee. As discussed above, the components and foundations to which § 193.2063 applies are listed in the scope (§ 193.2051) of Subpart B. Another provision in § 193.2051 shows that responsibility for protection of power supplies applies to either normal or auxiliary power facilities associated with facilities to

which Subpart B applies. Only LNG facilities used for power supply are intended to be covered, not facilities beyond the operator's control.

The Final Evaluation identifies § 193.2063 as a major cost item due to the cost of additional concrete and earthwork needed to protect the facility against the occurrence of a flood. The Final Evaluation concludes that the occurrence of a flood is unlikely. However, if a flood does occur, MTB believes that its consequences would result in significant damages and perhaps a catastrophic failure if the foundation of an LNG storage tank or other significant component is undermined. The MTB believes that major benefits would accrue through prevention of such a catastrophic failure.

Soil characteristics. Most commenters and the TPSSC agreed with the proposed language of § 193.2065(a). One commenter recommended use of the Nuclear Regulatory Commission (NRC) regulatory guide 1.132 as a baseline to assure a thorough investigation. Another commenter felt that a requirement for a determination of the dynamic properties of the soil should be added. The MTB does not consider the NRC guide to be an appropriate baseline for LNG facilities in view of the wide range in size and complexity of LNG facilities as well as the difference in nature of the hazards between an LNG and a nuclear facility. Also, the proposed rule included requirements relating to a soil's dynamic properties. Therefore, § 193.2065(a) is unchanged.

Approval of § 193.2065(b) was indicated by most commenters also. One commenter, however, felt modifications were needed to allow for conditions other than natural soil properties on the basis that soil can be improved by technical means. Although the proposal did not intend to preclude the use of engineering techniques to improve natural soil conditions, the final rule clarifies this point by use of the terms "naturally occurring or designated" to describe the soil characteristics that must be provided at a site. The TPSSC recommended that the term "rollover" be deleted as a dynamic load because other rules require its control. Although MTB prescribes measures for the control of rollover, because such a possibility can occur due to human error, occurrence of the phenomenon is not totally precluded. Because rollover would result in vibration and other dynamic loading, the rule has been retained as proposed.

Wind forces. Most commenters and the TPSSC approved § 193.2067(a). However, based on recommendations by commenters and consistent with overall modifications to eliminate the term "critical component," paragraph (a) has been substantially rearranged and modified. In § 193.117(a), the term "critical component" has been eliminated by defining the components subject to the requirements according to the hazards which must be considered. Specific conditions that must be evaluated and accommodated by design are prescribed based on specific comments. Two commenters recommended that the rules include requirements to design for (1) the direct drag and lift forces of winds and (2) the pressure differential across dividing portions of a partial or total enclosure. These commenters plus two other commenters advocated the inclusion of impact forces and partial penetration from wind borne missiles. Another commenter proposed that pressure gradients due to tornadoes be addressed. This proposal falls into the more generally described condition described in proposal (2) above. The MTB agrees that these recommended design considerations should be specifically designated, and paragraph (a) has been modified accordingly.

With respect to § 193.2067(b), both the design wind speed and the method for determining wind speed were the primary issues. Several commenters proposed that the rules permit both probabilistic and deterministic methods for establishing wind speed in a manner similar to the alternate procedures proposed for seismic design. This proposal was not accepted because MTB does not know of previous practices of establishing wind speed deterministically. A change to increase the probability of occurrence to 10^{-3} or more was also advocated. The MTB believes that because damage and uncertainties associated with high winds, such as tornadoes, are comparable with seismic effects, the proposed probability should be retained. However, a requirement to determine wind speed based on the probability of nonexceedance has been prescribed in accordance with recommendations by nine commenters. The MTB agreed with this recommendation, since setting a fixed wind speed is analogous to setting earthquake intensity based solely on the probability of occurrence. Therefore, under the final rules, the most critical combination of velocity and duration must be established probabilistically when the data for such a determination are available. However, because these data are not uniformly available throughout the country, the rules set forth an alternate fixed velocity to be used when a probabilistic determination is not possible. Many commenters objected to the 250 miles per hour design windspeed specified in the NPRM. On the basis that a study by one expert indicated that 98 percent of tornadoes have velocities below 150 miles per hour, a commenter argued that 200 miles per hour is a more realistic and less costly wind speed to use. Another commenter recommended a 210 mile per hour speed if local data is unavailable because only 2.3 percent of tornadoes have velocities above 207 miles per hour and 62 percent have speeds of 112 miles per hour or less. Other commenters made similar arguments. One commenter said that less than 1 percent of tornadoes have winds exceeding 250 miles per hour, and another commenter stated that Nevada had never experienced winds as high as 250 miles per hour. The TPSSC found the proposed standard to be unacceptable, stating the 250 mile per hour speed should be reduced because it is excessive. The MTB recognizes that there is a lack of valid wind speed data for tornadoes. Even data on the occurrence of tornadoes is not wholly reliable since many tornadoes have not been reported, and velocities are frequently unmeasured. The MTB is aware that recent reports have contended that tornado wind speeds are less than previously thought to be. In accordance with this understanding and documented recommendations, the design wind speed has been revised from 250 to 200 miles per hour, which is to be used only if local wind data are inadequate, and a lower speed would be allowed if justified and approved by the Director.

A revision to reference ANSI A 58.1 rather than UBC for wind loading applicable to small shop fabricated tanks was recommended by six commenters. The UBC standard was said to be less current and not applicable to critical structures. Four other commenters also proposed that the reference to UBC be changed, but did not suggest an alternative. The MTB recognizes that UBC is not intended for highly critical structures and expects that future editions of UBC may indicate this limitation. Therefore, in accordance with recommendations by commenters, the related reference has been revised.

The Final Evaluation identifies § 193.2067 as a major cost item as compared to the baseline regulatory standard because of the design for high wind loads and the low probability of occurrence of such wind loads. The MTB believes that the provision for the high wind load design is necessary to

mitigate the catastrophic failure of an LNG storage tank from such winds. Previous failures of structures due to excessive wind loads clearly illustrate the severe consequences of such a failure. The need to protect against the consequences of a failure of the tank is very important to properly protect the public who live or work near the facility. The design for wind loads in the current NFPA 59A (1979 edition) approaches the design established by this regulation. A discussion of the current NFPA 59A standard for wind load design is also discussed in the Final Evaluation.

Other severe weather and natural conditions. The majority of commenters supported § 193.2069 without modification. One commenter proposed to change the words "a hazard," appearing in § 193.2069(b), to "the occurrence of an uncontrollable emergency." Otherwise, a definition of hazard was said to be necessary. Also, the TPSSC reported that the word "hazard" does not express the intent. The MTB agrees that the word "hazard" was inappropriate. Changes in this respect have been made to other sections based on response and discussion of the NPRM. Accordingly, the wording has been revised to "an emergency."

Adjacent activities. A revision to § 193.2071(a) changes the words "persons and property" to "persons and offsite property" and deletes the qualifying phrase "located off the site." This makes the language consistent with other sections.

In § 193.2071(b), the word "safety" has been added to describe "control systems," based on one recommendation, since it is clearly not the intent of MTB to impose regulatory burdens of LNG facilities that are not safety-related.

Separation of components. Although § 193.123(b) in the NPRM was supported by many commenters, some, however, felt that the intended provisions regarding spill and collapse hazards were adequately covered by 59A as referenced in § 193.2073(b). The TPSSC held a similar view, calling for the wording to be clarified so as to express the intent described in the transcript of the hearings. Concern was expressed also that it could be interpreted to mean that exclusion distances required by Subpart B for thermal radiation and vapor dispersion must be provided within the plant. The MTB agrees that the requirement is not necessary and could cause confusion. Therefore, it has been deleted in § 193.2073.

Subpart C—Design

Materials. Several commenters to § 193.2103, General, pointed out that every component need not be qualified under Subpart B and thus the Subpart B environmental forces should not apply to every component under the terms of § 193.2103. In view of the change in the scope of Subpart B, the wording of § 193.2103 has been clarified to state that Subpart B design requirements are not to be applied to components unless applicable under that subpart. The words "within design limits" were added after "compatible" in § 193.2103(b) for purposes of clarity.

Section 193.2107(a), Extreme temperatures, has been rewritten to better express the intent. Based on the comments of the TPSSC and others, § 193.2107(c) has been revised to recognize that emergency response may be provided to delay failure to allow adequate time for other measures to be taken. It was pointed out that the proposed "two hours" criterion is adequate in some instances and inadequate in others.

The MTB finds that the subject of § 193.2109, Insulation, and terminology associated with it, are presently in a state of flux. Section 193.209 of the ANPRM used the term "which do not support combustion." Based on a large number of comments by operators and associations, this was changed to "self-extinguishing" as a more generally accepted term by these commenters. This was reiterated by their comments on the NPRM.

However, this brought forth comments from the Federal Trade Commission (FTC) and from several insulation manufacturers, who had not previously responded, calling attention to the order and decision of the FTC dated November 4, 1974, which prohibits the use of publication of such terms as "non-burning," "self-extinguishing," "non-combustible," or any term of like meaning to describe the burning characteristics of cellular plastic products. Presumably this prohibition does not necessarily extend to other forms of insulation.

One commenter pointed out that the Thermal Insulation Manufacturers Association is working towards the establishment of a standardized pipe insulation fire test which would indicate actual fire performance. It was recommended this test be used in specifying fire performance *when* it becomes available. The MTB is willing to consider this suggestion at that time.

It is MTB's position that insulation or coverings other than cellular plastic products can be used and can be rightfully termed "noncombustible." This term is therefore being used in this part until such time as other agencies or the industry develops new criteria.

It is significant that the draft of NFPA 59A–1979 uses this term in paragraph 4113.

There were many other varying comments in regard to insulation in § 193.2109. The requirement that the covering must have a melting point above 1500° F has been deleted, as MTB agrees this would preclude use of other materials other than steel which would be adequate in many cases. Most commenters argued that the 1500° F requirement was unnecessarily restrictive. The need to withstand the force of fire hose streams has also been deleted as this is only one possible source of impact loading, and it may be questionable whether it would be practical to withstand the force of streams developed by modern firefighting equipment.

The TPSSC agreed with the intent of § 193.2111 dealing with cold boxes, but felt the wording was ambiguous. This has been changed for clarification.

The revised definition of "hazardous fluids" should meet the many objections to the use of that term in § 193.2113 dealing with piping.

The MTB agrees with the commenters on § 193.2117, Combustible materials, that "is impractical" better expresses the intent rather than "not commercially available."

Records are required by § 193.2119 as well as elsewhere in this part are required by MTB to verify compliance with these regulations. It is not believed this is a burden, as this information is available during the design and construction of a facility, and should be retained.

Design of Components and Buildings

Section 193.304 of the NPRM is now § 193.2703 of the new Subpart H—Personnel Qualifications and Training.

Particularly based on the recommendation of the TPSSC, the several sections of this part pertaining to valves have been reorganized. Section 193.2123 pertains to the design of all types of valves used in an LNG facility. Section 193.2123(a) and (b) have been added; they are taken from paragraphs 6130 and 6131 of NFPA 59A, the interim standard now in effect in Part 192. The ban on use of cast, malleable, and ductile iron valves in paragraph 6132 is covered by § 193.2113 of this part. Section 193.617(d) of the NPRM has been revised and is now § 193.2123(e), as this does pertain to design.

Section 193.917 of the NPRM is now titled "automatic shutoff valves" and is now § 193.2125, as it lists specific design requirements for such valves.

Valves for specific requirements associated with equipment are covered in the appropriate subparts.

Section 193.2127 has been revised to correct the seemingly contradictory or conflicting requirements in (d) and (e) of the NPRM. A number of commenters offered similar requirements which have been adopted.

As suggested by the TPSSC, the word "pipe" has been changed to "piping" in § 193.2129 and elsewhere in these regulations where the word "piping" is more appropriate. Section 193.2129(a) of the NPRM has been deleted, as it was not the intent that all pipe supports comply with extreme temperature requirements.

Section 193.2131, Building design, has been rewritten to incorporate paragraph 220 of NFPA 59A, as being more meaningful, yet providing the original intent.

In § 193.2133, Buildings, ventilation, "15 percent" has been changed to "25 percent" in (a)(2) and (3), based on the consensus of comments and the recommendation of the TPSSC. This becomes consistent with other sections of this part.

The word "determine" was changed to "consider" in § 193.2135, as MTB agrees that calculations involved in a rigorous investigation are not required for many components.

The alternative inspection requirement in § 193.2137 in respect to frost heave has been modified to permit the operator to use a method and schedule to detect changes in elevation as included in the maintenance procedures required by this part.

The requirement for lightning rods and arrestors has been deleted in § 193.2143, as it is agreed that proper electrical grounding is adequate to protect personnel and components in an LNG facility.

The title of § 193.2145 has been changed to "Boilers and pressure vessels" as this section does pertain to both subjects.

Regarding § 193.2149, the majority of the commenters and the TPSSC objected to the mandatory requirement for an impounding system for transfer lines in excess of 4 inches in diameter and for cargo transfer systems. This was in response to the MTB request in the preamble of the NPRM for comments as to a diameter break point for transfer lines. It was pointed out that the many factors involved, such as diameter, pressure, length, or location precluded the establishment of such a break point. Accordingly, MTB now mandates an impoundment system for storage tanks, but uses performance language in § 193.2149(b), allowing an operator to use grading or drainage or, where necessary, an impounding system, depending on site related conditions, for the listed components.

Commenters and the TPSSC stated that in § 193.2151, the term "under the worst predictable spill conditions" was an undefinable term, and not practical or reasonable. Accordingly, this term has been deleted.

In spite of the justification presented in the preamble of the NPRM, commenters, including the TPSSC, objected to classification of impounding systems in § 193.2153. The MTB believes this is required for use in other sections of this part. Section 193.2153(a), Class 1, has been revised to permit a 24-inch space between the system and the component served. This may be done for construction or maintenance reasons, yet meets the objectives of a Class 1 system.

Section 193.2155(c) has been revised to indicate that this requirement applies only to large airports serving large aircraft as defined in 14 CFR Part 1.1.

In § 193.2157, as elsewhere, "self-extinguishing" has been replaced by "noncombustible." Section 193.2117(c) is now applicable only when the insulation is used to maintain the functional integrity of an impounding system.

Section 193.2159(d) has been revised to eliminate mandated changes, as it was pointed out other methods may be used to minimize the wetted floor area.

In spite of repeated comments and views of the TPSSC, MTB stands by its position expressed in the NPRM that dike penetrations be prohibited. It is felt it is in the interest of safety to prohibit them, and that furthermore they are already prohibited by a number of existing local ordinances.

The MTB agrees that "detain" is a more appropriate word that "entrain" in § 193.2163, and has made this change.

As suggested, "membranous covering" has been replaced by "flammable nonmetallic membrane" in § 193.2167(b). This is now consistent with § 193.2187(b).

Section 193.2169 is essentially the same as proposed in the NPRM. There were few comments to this section.

The Final Evaluation shows that § 193.2169 would have a major cost impact because of the instrumentation that would have to be provided to detect leaks. The MTB believes that the added costs are justified by the early warning that would be provided should a leak occur. Even with a minor leak, the extreme cold of LNG could produce excessive localized thermal stresses in surfaces contacted. Resulting cracks could damage the structural integrity of a component making it susceptible to a possible catastrophic failure. In addition, with current design of high dikes located closely adjacent to a component, a small leak of either LNG or cold gas could result in a combustible mixture forming between a component and its diking. The current NFPA 59A (1979 edition) has revised this standard so that it is very similar to § 193.2169. A discussion of the current NFPA 59A standard for gas leak detection is also discussed in the Final Evaluation.

In § 193.2171, a sump basin is required only for collection of water. A small spill of LNG would probably evaporate before reaching the sump basin, and if it reached the sump basin, it would evaporate from that location. Commenters and the TPSSC felt other means could be used to contain small spills of LNG, if necessary. There did not appear to be any objections to a sump basin for water; and therefore, this requirement has been retained.

A more acceptable parameter has been established to define the average predictable collection rate of water from a storm in § 193.2173. The majority of commenters stated that the water collection rate as required in the NPRM was unreasonable and would require excessively large pumps. The proposed mandatory requirement for automatic operation of sump pumps has also been deleted. The TPSSC felt the requirement for sump pumps was unreasonable as it restricted alternate methods of water removal, although it did not suggest what such methods could be.

Section 193.435 in the NPRM has been deleted and included in § 193.2107.

The TPSSC stated that § 193.2179(a) was impossible to understand and technically inappropriate. In response, MTB has deleted paragraph (a) in the NPRM, but has retained paragraph (b) dealing with capacities for displacement.

Section 193.2181 covering impoundment capacity of impoundment systems is unchanged except for the addition of (b), which clarifies the status of covered impoundment systems. The MTB still believes the discussion of this section in the preamble of the NPRM is still valid and need not be repeated here.

Section 193.2183, Impoundment capacity; equipment and transfer systems, and § 193.2185, Impounding capacity; parking areas, portable vessels, have been modified to be consistent with the revision of § 193.2149.

The section in the NPRM, § 193.445, has been deleted, as MTB agrees the requirements are actually covered in other sections of this subpart.

Likewise, § 193.447 of the NPRM has been deleted, since it serves no purpose with the deletion of § 193.429 of the ANPRM covering spill removal, regarding which MTB recognized that the many problems involved overode the potential benefits. As impoundment systems are designed for containment, sump basins within them serve no purpose.

LNG Storage Tanks

Section 193.2189(d) dealing with loading forces was revised to be consistent with other standards, such as paragraph 4–12.7 of NFPA 59A, stating the minimum density of LNG to be assumed. Some commenters felt this section was unnecessary, as the loading forces listed were covered by referenced standards. The MTB feels it is well to include them as given in this subpart.

Section 193.2191, Stratification, has been changed by replacing "by" with "such as." This would permit use of other satisfactory mitigating measures.

Section 193.2193, Movement and stress, has been retained. There were no objections, although, like § 193.2189, commenters pointed out the requirements were covered by referenced standards.

Section 193.2195, Penetrations, has been revised substantially. Practically all commenters objected to the proposed prohibition of penetrations below the liquid level. They pointed out many pros and cons for top and bottom connections. Although top connections were viewed as perhaps inherently safer, it was argued they pose other problems: submerged pumps in the tank, which would require means of withdrawal, with associated hazards to personnel; the tank structure and roof would require strengthening; the roof could be exposed to spills; a greater number of pumps would be required due to pump design limitations; and high voltage power would have to be provided for pump motors. Most commenters, including the TPSSC, stated that side penetrations could be designed to be at least as strong as the tank shell or stronger. Some commenters and the TPSSC felt such connections should be permitted if suitable safety precautions were provided.

Accordingly, MTB now requires tanks to be designed with penetrations in accordance with API 620, including Appendix Q, providing an analysis is made of all contributing forces, and that an internal shutoff valve be provided on all penetrations below the liquid level. Paragraph (d) has been added to establish separate design requirements for penetrations of LNG storage tanks having a capacity of 70,000 gallons or less because of the special design and quality control of such tanks.

Because of the requirement that an internal shutoff valve be provided on all penetrations below the liquid level, the Final Evaluation shows that § 193.2057 would have a major cost impact as compared to the baseline regulatory standard, NFPA 59A (1975 edition). The MTB believes that because penetrations below the liquid level in the storage tank expose the facility to a high risk of failure, an internal shutoff valve is a necessary requirement to protect against such an event. The cost of an internal shutoff valve when compared to the consequences of a spill through the bottom penetration of an LNG storage tank is clearly seen to be justified.

Section 193.2197, Internal design pressure, drew many comments, largely due to misunderstanding of the intent and the wording of the section. The MTB recognizes that consideration must be given to vapor handling equipment, relief devices or other mitigating measures to establish the internal design pressure. The section has been modified to clearly recognize this. Also, the operator must now "establish" rather than "determine" the design pressure. Paragraph (b)(2) no longer states any cause for rollover.

Section 193.2199, External design pressure, presented the same problems as § 193.2197 and has likewise been revised to clarify the intent.

Most commenters on § 193.2201, Internal temperature, could not understand why such a very accurate determination of internal temperature was necessary. The MTB concurs with the TPSSC that the LNG tank and tank components be designed for the lowest temperature which can be attained.

In § 193.2203, Foundations, the second sentence of (a) has been deleted, as this is only one design consideration out of many. Paragraph (c) has also been deleted, as it is redundant with § 193.2063.

The redundant instrumentation requirements for all instrumentation have been revised in § 193.2209. Paragraph (a)(5) has been revised to "abnormal temperature in tank structure" rather than "excessive thermal stress in tank structure" as it is questionable whether thermocouples could provide stress values. Here also the different instrumentation required for tanks with a capacity of 70,000 gallons or less is now recognized in (b).

As stated in the preamble to the NPRM, MTB agrees with most of the commenters that § 193.2213 was inadequate in respect to design of concrete tanks and that section 42 of NFPA–59A should be used. After review of this section, MTB concurred. This revision drew little comment. However, at the TPSSC meeting, the question was raised and considerable discussion ensued in respect to several references in NFPA–59A concerning their validity and which could have possible legal effects. To date, MTB has been unable to substantiate these claims. It is also significant that in NFPA–59A–1979, these references have been retained.

Section 193.535(d), involving support systems, now permits an air space between the tank bottom or its foundation, if designed to withstand forces caused by the ignition of a combustible vapor cloud in this space. The MTB believes such a design would provide adequate safety. One commenter presented a detailed imdependent study showing such a design is feasible.

Paragraph (b) of § 193.2219, Internal piping, has been deleted as MTB agrees that the availability of internal excess flow valves for LNG is questionable at this time, and they could provide a false sense of security, as in most cases only a complete rupture of a line would make them operable.

Design of Transfer Systems

§ 193.2223(c), the term "cryogenic temperatures," has been changed to "in transfer systems for LNG or flammable refrigerants" for clarity. Paragraph (d) has also been revised, as MTB recognizes that a cooling medium must be used to precool piping prior to normal operation of transfering cold fluids.

Section 193.2225 has been deleted because it is redundant with similar requirements in other sections.

As previously stated, all sections dealing with valves have been reorganized so that they more specifically apply to the subpart in which they appear. This is the case in § 193.2233, which deals with shutoff valves in transfer systems.

Subpart D—Construction

Section 193.2305, Procedures, now has more appropriate wording in (a) because of the deletion of the term "critical process."

Although no commenters objected to the intent, the TPSSC stated it was unreasonable that this requirement be applicable to all components, and should apply only to those components which affect safety. The MTB feels that an operator would have written specifications, procedures, and drawings, as appropriate, for all

components in any case, and cannot foresee any undue hardship because of this requirement.

Section 193.1009 in the NPRM, dealing with qualification of personnel, is now § 193.2705 in Subpart H—Personnel Qualifications and Training.

Section 193.2307(c), Inspection, has been revised for clarity and to use generally accepted terminology.

Section 193.2313(f), Welding, has been deleted because a requirement for capture and disposal of contaminants would have been redundant with other sections of this part. This was suggested by TPSSC and commenters.

Because of several comments on § 193.2315(a)(2), joining of copper piping by brazing is permitted only in nonflammable service. It was pointed out that such joints will fail rapidly if exposed to fire. In (b), 0.63 was changed to 0.063 to correct a typographical error. Section 193.2315(d) has been revised to require that compression-type couplings must meet the requirements of ANSI B31.3. The MTB is satisfied that these requirements provide for safe use of such couplings under the conditions established in that standard. Paragraphs (e) and (f), taken from paragraphs 6–3.1.1 and 6–3.2.4 of NFPA 59A, have been added to afford a greater degree of safety.

In § 193.2319, Strength tests, MTB recognizes that pneumatic testing is required for certain LNG facility piping and that such testing has been carried out as accepted practice at lower levels than that required for hydrostatic testing because of possible hazards to property and personnel. Paragraph (b) has been revised accordingly and should be consistent with the suggestions of the commenters and the TPSSC. Paragraphs (a)(3) and (4) have been deleted, as these forces are provided for in design, and strength tests for weight of ice or snow and environmental forces such as seismic or wind cannot be practically accomplished.

Section 193.2321, Nondestructive tests, is virtually unchanged, despite the comments to the ANPRM and NPRM. The MTB believes the required testing provides for safer installations, and has expressed its views in detail in the preamble of the NPRM. The TPSSC considered this section to be feasible, reasonable, and practical as written. Paragraph (d) was modified and (e) was added to recognize and differentiate between the applicable codes for low and high pressure tanks.

The Final Evaluation shows that § 193.2321 would have a major cost impact as compared to the baseline regulatory standard, NFPA 59A (1975 edition). The MTB believes that the additional testing, which would be done by personnel already at the site, can be justified because of the importance of assuring that piping welds be sound and not affect the integrity of the pipe. The MTB believes that it is vitally important that all piping welds be tested, rather than 30 percent as set forth in the baseline regulatory standard. The current NFPA 59A (1979 edition) has revised this standard so that it is similar to § 193.2321. A discussion of the current NFPA 59A standard for nondestructive tests is also discussed in the Final Evaluation.

The MTB has revised § 193.2327, Storage tank tests, so as not to require that an LNG tank be filled with water to its maximum liquid level. As the maximum density of LNG is less than half that of water, a tank and its foundation would have to be designed to carry the weight of water involved for the duration of the test and not for the weights involved for the rest of the life of the tank. Many of the comments pointed out other factors such as overloading and possible long-range failure of the insulation under the tank, and possible need for piling of foundation to carry the weight of water. The TPSSC states such a test would not be reasonable or practical, as it would not achieve objectives expressed by staff. Most commenters objected to the preamble statement in the NPRM that overstressing of materials and foundation should mitigate the onerous aspects of this test, stating that few operators would risk such overstressing. It was also pointed out that the 100 percent radiographic testing of all welds, as well as other tests normally carried out, would ensure the integrity of the upper portion of the tank, which is subject to low stress levels in any case.

The MTB has therefore revised § 193.2327, requiring tests be in accordance with API 620, Appendix Q, for tanks with internal design pressures of not more than 15 psig; and in accordance with Section VIII of the ASME Boiler and Pressure Vessel Code. It must be pointed out that, in accordance with API 620, if ground bearing or the foundation provides sufficient support, the storage tank would have to be filled with water to the limits of that support.

Subpart E—Equipment

Vaporization Equipment. Consistent with the revisions of other sections of this part, MAOP has been replaced by MAWP in § 193.2405.

In § 193.2407, Operational control, some of the monitoring devices required in (a) were not feasible or needed, such as inlet and outlet temperature of heating medium fluids. The paragraph has been revised to require only pertinent information. Gas leaving the vaporizer is now termed vaporized gas, to distinguish it from natural gas which may be used as the heating medium.

Section 193.2411, Relief devices, has been revised to reference § 193.2429 in its entirety as it is now written.

Liquefaction Equipment

The MTB agrees that § 193.807, Contaminants, in the NPRM, is an operating problem not related to safety, and consequently this section has been deleted.

Some commenters stated that § 193.2421, Cold boxes, did not recognize that some cold boxes operate with a gaseous atmosphere rather than air or inert gas. The MTB has revised this section to provide requirements for the different atmospheres which may be maintained in a cold box.

Control Systems

Based on the opinions of commenters and the TPSSC, MTP agrees that all signal lines installed for control systems need not be routed separately, as required by § 193.2427(d). Such separate routing is now required only on those lines that can affect the operation of a component that does not fail safe.

Section 193.2429, Relief devices, now consolidates all requirements in respect to relief devices, pressure and vacuum, and is referenced in sections where such requirements are applicable. A number of changes have been made, such as the requirement that introduction of air under excess vacuum conditions must not create a flammable mixture. The MTB recognizes that such introduction of air through a vacuum relief would probably create such a mixture at the interface of the LNG vapor and air, but that (1) there would be no source of ignition and (2) such admission would prevent a possible catastrophic failure.

The MTB believes this, with other changes made, retains the basic intent of the section, yet resolves the problems commenters and the TPSSC had with the original wording.

Section 193.917 of the NPRM, Shutoff valves, more properly dealt with, and is now § 193.2125, automatic shutoff valves. An automatic shutoff valve would include the valve controller. This would meet the TPSSC objection that the controller (and the valve) be fail-safe, rather than the valve itself.

Section 193.2439 deals only with emergency shutdown control systems, rather than all systems, many dealing with operations having no connection with safety. The TPSSC and other commenters stated that § 193.605 of the

NPRM was unnecessary, and urged that the appropriate requirements should be incorporated in § 193.2439. This has been done. It was pointed out that paragraph (a)(4) of the NPRM, requiring shutdown based on the failure of a component, would be a requirement that is too general and undefined. The new (a)(5) more properly states the conditions. Also, as suggested by the TPSSC, 25 percent in (a)(4) has been changed to 40 percent, to be consistent with the requirement in § 193.2439(a)(4).

Based on the recommendation of the TPSSC and others, § 193.2445 has been revised to require two sources of power for emergency lighting, not all lighting. This is defined in the National Electrical Code as "illumination essential for safety to life and property."

Subpart H—Personnel Qualifications and Training

This new subpart is a result of the coordination between MTB and USCG in developing a common numbering system for the two agencies' regulations which would make both sets of regulations easier for the public to understand.

All sections pertaining to personnel qualifications and training will be consolidated in this subpart.

At present, only two sections are included, § 193.2703, dealing with design, and § 193.2705, dealing with construction. Others will be added as the balance of Part 193 is adopted.

The wording suggested by the TPSSC is being used in § 193.2703 as more properly expressing the intent.

Section 193.1009(b) of the NPRM has been deleted, as MTB agrees with commenters and the TPSSC that use of qualification tests for all activities is unwarranted.

Acknowledgements: Valuable technical assistance has been provided in the development of this regulatory proceeding by Mr. Michael Anuskiewicz, consultant, Albany, New York. In addition, Mr. James Devine, Deputy Director, Office of Earthquake Studies of the U.S. Geological Survey, and Mr. James Cooper, Structural Research Engineer, Federal Highway Administration, have assisted in the development of the requirements for seismic investigation for design. Staff members of the Federal Energy Regulatory Commission were of considerable assistance in conducting some studies for the Final Evaluation on the consequences of a spill with regard to the requirements on vapor cloud dispersion and thermal radiation. Additionally, MTB personnel have conferred with operators, constructors of LNG facilities, and other technical branches of government, and have researched and studied many technical reports, codes, and data.

Of particular assistance in the preparation of these rules were the comments and report provided by the TPSSC as a result of a meeting held on June 12–15, 1979, in Boston, Massachusetts. Also, a conference held on April 24 and 25, 1979, in Washington, D.C., with various industry and public representatives to discuss the proposed seismic, vapor dispersion, thermal radiation, and wind force requirements was of considerable assistance to MTB. Finally, MTB thanks all of the commenters for the information and comments that were used in shaping these final rules.

Issued in Washigton, D.C., on January 30, 1980.

L. D. Santman,

Director, Materials Transportation Bureau.

Title 49, Code of Federal Regulations is amended by adding a new Part 193 to read as follows:

PART 193—LIQUEFIED NATURAL GAS FACILITIES: FEDERAL SAFETY STANDARDS

Subpart A—General

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193.2003 Semisolid facilities.
193.2005 Applicability.
193.2007 Definitions.
193.2009 Rules of regulatory construction.
193.2011 Reporting.
193.2013 Incorporation by reference.
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193.2059 Flammable vapor-gas dispersion protection.
193.2061 Seismic investigation and design forces.
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193.2141 Electrical systems.
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193.2185 Impoundment capacity; parking areas, portable vessels.

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Subpart F [Reserved]

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Appendix A to Part 193—Incoporation by Reference

I. List of organizations and addresses

II. Documents Incorporated by Reference

Authority: 49 U.S.C. 1671 et seq.; 49 CFR 1.53, Appendix A of Part 1, and Appendix A of Part 106.

Subpart A—General

§ 193.2001 Scope of part.

(a) This part prescribes safety standards for LNG facilities used in the transportation of gas by pipeline that is subject to the Natural Gas Pipeline Safety Act of 1968 and Part 192 of this chapter.

(b) This part does not apply to—

(1) LNG facilities used by ultimate consumers of LNG or natural gas.

(2) LNG facilities used in the course of natural gas treatment or hydrocarbon extraction which do not store LNG.

(3) In the case of a marine cargo transfer system and associated facilities, any matter pertaining to the system or facilities between the marine vessel and the last manifold (or in the absence of a manifold, the last valve) located immediately before a storage tank.

(4) Any LNG facility located in navigable waters (as defined in Section 3(8) of the Federal Power Act (16 U.S.C. 796(8)).

§ 193.2003 Semisolid facilities.

An LNG facility used in the transportation or storage of LNG in a semisolid state need not comply with any requirement of this part which the Director finds impractical or unnecessary because of the semisolid state of LNG. In making such a finding, the Director may impose appropriate alternative safety conditions.

§ 193.2005 Applicability

(a) New or amended standards in this part governing the siting, design, installation, or construction of an LNG facility and related personnel qualifications and training do not apply to—

(1) LNG facilities under construction before the date such standards are published; or

(2) LNG facilities for which an application for approval of the siting, construction, or operation was filed before March 1, 1978, with the Department of Energy (or any predecessor organization of that Department) or the appropriate State or local agency in the case of any facility not subject to the jurisdiction of the Department of Energy under the Natural Gas Act (not including any facility the construction of which began after November 29, 1979, not pursuant to such an approval).

(b) If an LNG facility listed in paragraph (a) of this section is replaced, relocated, or significantly altered after February 11, 1980, the replacement, relocated facility, or significantly altered facility must comply with the applicable requirements of this part governing siting, design, installation, and construction, except that—

(1) The siting requirements apply only to relocations of LNG storage tanks and to any replacement or significant alteration of LNG storage tanks that increases the storage capacity of the original facility; and

(2) To the extent compliance with the design, installation, and construction requirements would make the replaced, relocated, or altered facility incompatible with other facilities or would otherwise be impracticable, the replaced, relocated, or significantly altered facility may be designed, installed, or constructed in accordance with the original specifications for the facility, or in a manner that the Director finds acceptable.

(c) The siting, design, installation, and construction of an LNG facility that is under construction before February 11, 1980, or that is listed in paragraph (a)(2) of this section must meet the applicable requirements of § 192.12 of this chapter.

§ 193.2007 Definitions.

As used in this part—

"Ambient vaporizer" means a vaporizer which derives heat from naturally occurring heat sources, such as the atmosphere, sea water, surface waters, or geothermal waters.

"Cargo transfer system" means a component, or system of components functioning as a unit, used exclusively for transferring hazardous fluids in bulk between a tank car, tank truck, or marine vessel and a storage tank.

"Component" means an LNG facility for controlling, processing, or containing hazardous fluids or to provide safety.

"Container" means a component other than piping that contains a hazardous fluid.

"Control system" means a component, or system of components functioning as a unit, including control valves and sensing, warning, relief, shutdown, and other control devices, which is activated either manually or automatically to establish or maintain the performance of another component.

"Controllable emergency" means an emergency where reasonable and prudent action can prevent harm to people or property.

"Design pressure" means the pressure used in the design of components for the purpose of determining the minimum permissible thickness or physical characteristics of its various parts. When applicable, static head shall be included in the design pressure to determine the thickness of any specific part.

"Determine" means make an appropriate investigation using scientific methods, reach a decision based on sound engineering judgment, and be able to demonstrate the basis of the decision.

"Dike" means the perimeter of an impounding space forming a barrier to prevent liquid from flowing in an unintended direction.

"Director" means Director of the Materials Transportation Bureau or any person to whom authority in the matter concerned has been delegated.

"Emergency" means a deviation from normal operation, a structural failure, or severe environmental conditions that probably would cause harm to people or property.

"Exclusion zone" means an area surrounding an LNG facility in which an operator or government agency legally controls all activities in accordance with § 193.2057 and § 193.2059 for as long as the facility is in operation.

"Fail-safe" means a design feature which will maintain or result in a safe condition in the event of malfunction or failure of a power supply, component, or control device.

"g" means the standard acceleration of gravity of 9.806 metre per second^2 (32.17 feet per second^2).

"Gas," except when designated as inert, means natural gas, other flammable gas, or gas which is toxic or corrosive.

"Hazardous fluid" means gas or hazardous liquid.

"Hazardous liquid" means LNG or a liquid that is flammable or toxic.

"Heated vaporizer" means a vaporizer which derives heat from other than naturally occurring heat sources.

"Impounding space" means a volume of space formed by dikes and floors which is designed to confine a spill of hazardous liquid.

"Impounding system" includes an impounding space, including dikes and floors for conducting the flow of spilled hazardous liquids to an impounding space.

"Liquefied natural gas" or "LNG" means natural gas or synthetic gas having methane (CH_4) as its major constituent which has been changed to a liquid or semisolid.

"LNG facility" means a pipeline facility that is used in the process of liquefying or solidfying natural gas or synthetic gas or transferring, storing, or vaporizing liquefied natural gas.

"LNG plant" means an LNG facility or system of LNG facilities functioning as a unit.

"m^3" means a volumetric unit which is one cubic metre, 6.2898 barrels, 35.3147 ft.^{3}, or 264.1720 U.S. gallons, each volume being considered as equal to the other.

"Maximum allowable working pressure" means the maximum gage pressure permissible at the top of the equipment, containers or pressure vessels while operating at design temperature.

"Normal operation" means functioning within ranges of pressure, temperature, flow, or other operating criteria required by this part.

"Operator" means a person who owns or operates an LNG facility.

"Person" means any individual, firm, joint venture, partnership, corportation, association, state, municipality, cooperative association, or joint stock association and includes any trustee, receiver, assignee, or personal representative thereof.

"Pipeline facility" means new and existing piping, rights-of-way, and any equipment, facility, or building used in the transportation of gas or in the treatment of gas during the course of transportation.

"Piping" means pipe, tubing, hoses, fittings, valves, pumps, connections, safety devices or related components for containing the flow of hazardous fluids.

"Storage tank" means a container for storing a hazardous fluid, including an underground cavern.

"Transfer piping" means a system of permanent and temporary piping used for transferring hazardous fluids between any of the following: liquefaction process facilities, storage tanks, vaporizers, compressors, cargo transfer systems, and facilities other than pipeline facilities.

"Transer system" includes transfer piping and cargo transfer system.

"Vaporization" means an addition of thermal energy changing a liquid or semisolid to a vapor or gaseous state.

"Vaporizer" means a heat transfer facility designed to introduce thermal energy in a controlled manner for changing a liquid or semisolid to a vapor or gaseous state.

§ 193.2009 Rules of regulatory construction.

(a) As used in this part—

(1) "Includes" means including but not limited to;

(2) "May" means is permitted to or is authorized to;

(3) "May not" means is not permitted to or is not authorized to; and

(4) "Shall" or "must" is used in the mandatory and imperative sense.

(b) In this part—

(1) Words importing the singular include the plural; and

(2) Words importing the plural include the singular.

§ 193.2011 Reporting.

Leaks and spills of LNG must be reported in accordance with the requirements of Part 191 of this chapter.

§ 193.2013 Incorporation by reference.

(a) There are incorporated by reference in this Part all materials referred to in this Part that are not set forth in full. The incorporated materials are deemed published under 5 U.S.C. 552(a) and 1 CFR Part 51 and are part of this regulation as though set forth in full. All incorporated materials are listed in Appendix A to this Part 193 with the applicable editions in parentheses following the title of the referenced material. Only the latest listed edition applies, except that an earlier listed edition may be followed with respect to components which are designed, manufactured, or installed in accordance with the earlier edition before the latest edition is adopted, unless otherwise provided in this part. The incorporated materials are subject to change, but any change will be announced by publication in the **Federal Register** before it becomes effective.

(b) All incorporated materials are available for inspection in the Materials Transportation Bureau, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590, and at the Office of the Federal Register Library, 1100 L Street, NW., Washington, D.C. In addition, copies of the incorporated materials are available from the respective organizations listed in Appendix A to this Part 193.

(c) Incorporated by reference provisions approved by the Director of the Federal Register, February 4, 1980.

§ 193.2015 Petitions for finding or approval.

Where a rule in this part authorizes the Director to make a finding or approval, any operator may petition the Director to make such finding or approval. Petitions must be sent to the Director, Material Transportation Bureau, 400 Seventh Street, SW., Washington, D.C. 20590, and be received at least 90 days before the operator requests that the finding or approval be made. Each petition must refer to the rule authorizing the action sought and contain information or arguments that justify the action. Unless otherwise specified, no public proceeding is held on a petition before it is granted or denied. The Director notifies the petitioner of the disposition of each petition.

Subpart B—Site-Related Design Requirements

§ 193.2051 Scope.

This subpart prescribes site-related requirements for the design of the following LNG facilities: containers and their impounding systems, transfer systems and their impounding systems, emergency shutdown control systems, fire control systems, and associated foundations, support systems, and normal or auxiliary power facilities necessary to maintain safety.

§ 193.2055 General.

An LNG facility must be located at a site of suitable size, topography, and configuration so that the facility can be designed to minimize the hazards to persons and offsite property resulting from leaks and spills of LNG and other hazardous fluids at the site. In selecting a site, each operator shall determine all site-related characteristics which could jeopardize the integrity and security of the facility. A site must provide ease of access so that personnel, equipment, and materials from offsite locations can reach the site for fire fighting or controlling spill associated hazards or for evacuation of personnel.

§ 193.2057 Thermal radiation protection.

(a) *Thermal exclusion zone.* Each LNG container and LNG transfer system must have a thermal exclusion zone in accordance with the following:

(1) Within the thermal exclusion zone, the impounding system may not be located closer to targets listed in paragraph (d) of this section than the exclusion distance "d" determined according to this section, unless the target is an LNG facility of the operator.

(2) If grading and drainage are used under § 193.2149(b), operators must comply with the requirements of this section by assuming the space needed for drainage and collection of spilled liquid is an impounding system.

(b) *Measurement.* The exclusion distance "d" is measured along the line (PT), as shown in the following impoundment diagram, where the following apply:

(1) T is a point on the target that is closest to (P).

(2) D is a point closest to (T) on the top inside edge of the innermost dike.

(3) θ is one of the following angles with the vertical, to account for flame tilt and potential preignition vapor formation:

(i) An assumed angle of (θ)=45°; or

(ii) An angle determined in accordance with a mathematical model that meets the criteria of paragraph (c)(2) of this section, using the maximum wind speed that is exceeded less than 5 percent of the time based on recorded data for the area.

(4) L is one of the following lengths to account for flame height:

(i) An assumed length of (L)=6(A/π)$^{0.5}$, where (A) is the horizontal area across the impounding space measured at the lowest point along the top inside edge of the dike; or

(ii) A length determined in accordance with a mathematical model that meets the criteria of paragraph (c)(2) of this section, using appropriate parameters consistent with the time period that a target could be subjected to exposure before harm would result.

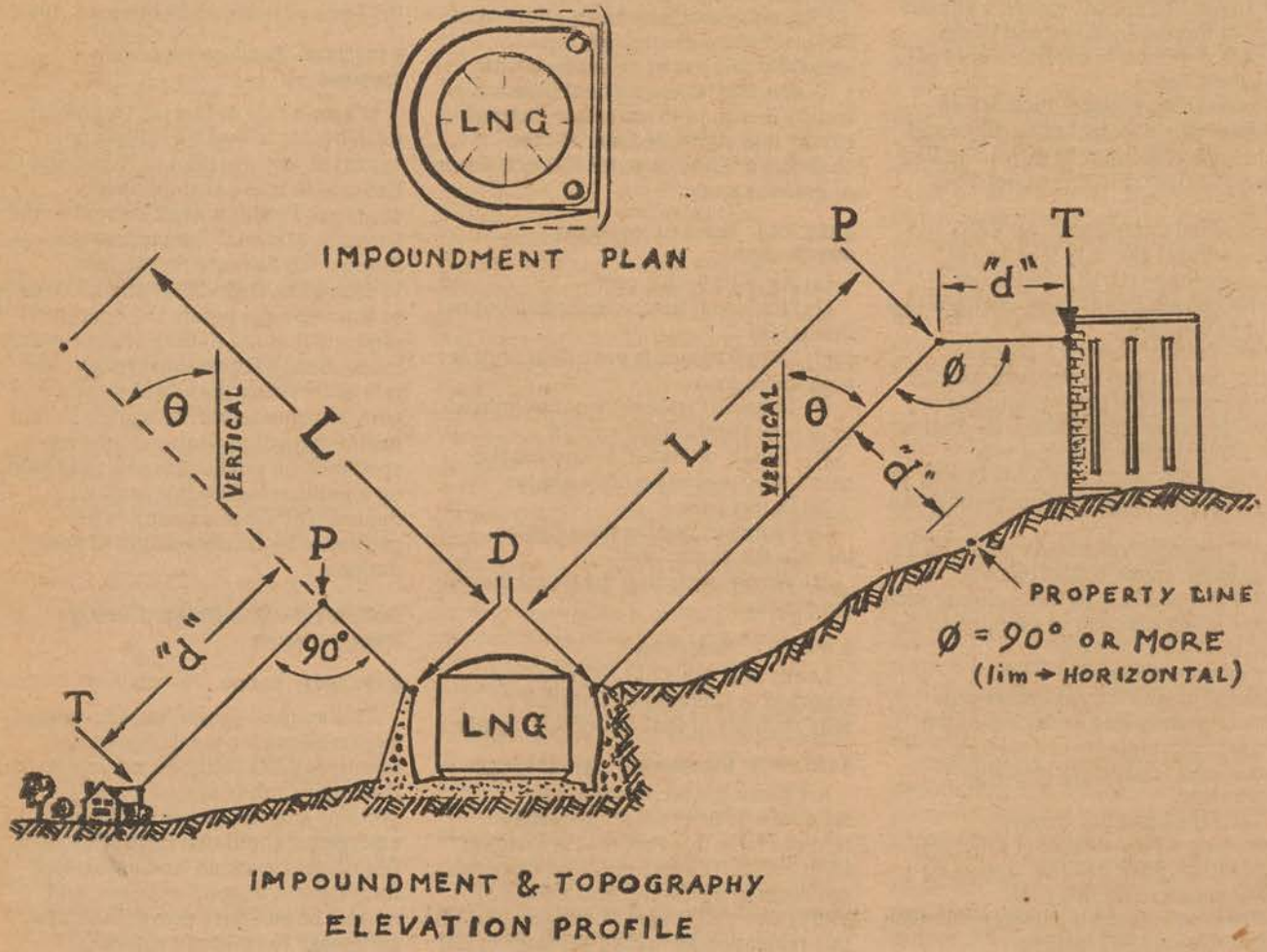
(5) PD is a line of length (L) or less, lying at angle θ in the vertical plane that intersects points (D) and (T).

(6) PT is a line lying in the vertical plane of line (PD), that:

(i) Is perpendicular to line (PD) when (PD) is less than (L); or

(ii) Has an angular elevation not above the horizontal at (P) when (PD) equals (L);

(7) P is the point where (PT) and (PD) intersect.



(c) *Exclusion distance length.* The length of an exclusion distance for each impounding space may not be less than the distance "d" determined in accordance with one of the following:

(1) $d=(f)(A)^{0.5}$, where

A=the largest horizontal area across the impounding space measured at the lowest point along the top inside edge of the dike.

f=values for targets prescribed in paragraph (d) of this section.

(2) Determine "d" from a mathematical model for thermal radiation and other appropriate fire characteristics which assures that the incident thermal flux levels in paragraph (d) of this section are not exceeded. The model must:

(i) Use atmospheric conditions which, if applicable, result in longer exclusion distances than other atmospheric conditions occurring at least 95 percent of the time based on recorded data for the site area;

(ii) Have been evaluated and verified by testing at a scale, considering scaling effects, appropriate for the range of application;

(iii) Have been submitted to the Director for approval, with supportive data as necessary to demonstrate validity; and

(iv) Have received approval by the Director.

(d) *Limiting values for incident radiant flux on offsite targets.* The maximum incident radiant flux at an offsite target from burning of a total spill in an impounding space must be limited to the distances in paragraph (c) of this section using the following values of "(f)" or "Incident Flux":

Offsite target	(f)	Incident flux Btu/ft.^{2} hour
(1) Outdoor areas occupied by 20 or more persons during normal use, such as beaches, playgrounds, outdoor theaters, other recreation areas or other places of public assembly	(3)	1,600
(2) Buildings that are used for residences, or occupied by 20 or more persons during normal use	(1.6)	4,000
(3) Buildings made of cellulosic materials or are not fire resistant or do not provide durable shielding from thermal radiation that: (i) Have exceptional value, or contain objects of exceptional value based on historic uniqueness described in Federal, State, or local registers; (ii) Contain explosive, flammable, or toxic materials in hazardous quantities; or (iii) Could result in additional hazard if exposed to high levels of thermal radiation	(1.6)	4,000
(4) Structures that are fire resistant and provide durable shielding from thermal radiation that have the characteristics described in subdivisions (3)(i) through (3)(iii) above	(1.1)	6,700
(5) Public streets, highways, and mainlines of railroads	(1.1)	6,700
(6) Other structures, or if closer to (P), the property line of the facility	(0.8)	10,000

§ 193.2059 Flammable vapor-gas dispersion protection.

(a) *Dispersion exclusion zone.* Except as provided by paragraph (e) of this section, each LNG container and LNG transfer system must have a dispersion exclusion zone with a boundary described by the minimum dispersion distance computed in accordance with this section. The following are prohibited in a dispersion exclusion zone unless it is an LNG facility of the operator:

(1) Outdoor areas occupied by 20 or more persons during normal use, such as beaches, playgrounds, outdoor theaters, other recreation areas, or other places of public assembly.

(2) Buildings that are:

(i) Used for residences;

(ii) Occupied by 20 or more persons during normal use;

(iii) Contain explosive, flammable, or toxic materials in hazardous quantities;

(iv) Have exceptional value or contain objects of exceptional value based on historic uniqueness described in Federal, State, or local registers; or

(v) Could result in additional hazard if exposed to a vapor-gas cloud.

(b) *Measuring dispersion distance.* The dispersion distance is measured radially from the inside edge of an impounding system along the ground contour to the exclusion zone boundary.

(c) *Computing dispersion distance.* A minimum dispersion distance must be computed for the impounding system. If grading and drainage are used under § 193.2149(b), operators must comply with the requirements of this section by assuming the space needed for drainage and collection of spilled liquid is an impounding system. Dispersion distance must be determined in accordance with the following dispersion parameters, using applicable parts of the mathematical model in Appendix B of the report, "Evaluation of LNG Vapor Control Methods," 1974, or a model for vapor dispersion which meets the requirements of subdivisions (ii) through (iv) in § 193.2057(c)(2):

(1) Average gas concentration in air = 2.5 percent.

(2) Dispersion conditions are a

combination of those which result in longer predicted downwind dispersion distances than other weather conditions at the site at least 90 percent of the time, based on U.S. Government weather data, or as an alternative where the model used gives longer distances at lower wind speeds, Category F atmosphere, wind speed = 4.5 miles per hour, relative humidity equals 50.0 percent, and atmospheric temperatures = 0.0 C.

(3) Dispersion coordinates y, z, and H, where applicable, = 0.

(d) *Vaporization design rate.* In computing dispersion distance under paragraph (c) of this section, the following applies:

(1) Vaporization results from the spill caused by an assumed rupture of a single transfer pipe (or multiple pipes that lack provisions to prevent parallel flow) which has the greatest overall flow capacity, discharging at maximum potential capacity, in accordance with the following conditions:

(i) The rate of vaporization is not less than the sum of flash vaporization and vaporization from boiling by heat transfer from contact surfaces during the time necessary for spill detection, instrument response, and sequenced shutdown by the automatic shutdown system, but not less than 10 minutes, plus, in the case of side or bottom penetrations, any additional time necessary for the differential head acting on the opening to reach zero.

(ii) In determining variations in vaporization rate due to surface contact, the time necessary to wet 100 percent of the impounding floor area shall be determined by equation C–9 in the report "Evaluation of LNG Vapor Control Methods," 1974, or an alternate model which meets the requirements of subdivisions (ii) through (iv) in § 193.2057(c)(2).

(iii) After spill flow is terminated, the rate of vaporization is vaporization of the remaining spillage, if any, from boiling by heat transfer from contact surfaces that are reducing in area and temperature as a function of time.

(iv) Vapor detention space is all space provided for liquid impoundment and vapor detention outside the component served, less the volume occupied by the spilled liquid at the time the vapor escapes the vapor detention space.

(2) The boiling rate of LNG on which dispersion distance is based is determined using the weighted average value of the thermal properties of the contact surfaces in the impounding space determined from eight representative experimental tests on the materials involved. If surfaces are insulated, the insulation must be designed, installed, and maintained so that it will retain its performance characteristics under spill conditions.

(e) *Planned vapor control.* An LNG facility need not have a dispersion exclusion zone if the Director finds that compliance with paragraph (a) of this section would be impractical and the operator prepares and follows a plan for controlling LNG vapor that is found acceptable by the Director. The plan must include circumstances under which LNG vapor is controlled to preclude the dispersion of a flammable mixture from the LNG facility under all predictable environmental conditions that could adversely affect control. The reliability of the method of control must be demonstrated by testing or experience with LNG spills.

§ 193.2061 Seismic investigation and design forces.

(a) Except for shop fabricated storage tanks of 70,000 gallons or less capacity mounted within 2 feet of the ground, if an LNG facility is located at a site in Zone 0 or 1 of the "Seismic Risk Map of the United States," UBC, each operator shall determine, based on a study of faults, hydrologic regime, and soil conditions, whether a potential exists at the site for surface faulting or soil liquefaction.

(b) Subject to paragraph (f) of this section, LNG facilities must be designed and built to withstand, without loss of structural or functional integrity, the following seismic design forces, as applicable:

(1) For LNG facilities (other than shop fabricated storage tanks of 70,000 gallons or less capacity mounted within 2 feet of the ground) located at a site in Puerto Rico in Zone 2, 3, or 4 of the "Seismic Risk Map of the United States," or at a site determined under paragraph (a) of this section to have a potential for surface faulting or soil liquefaction, the forces that could reasonably be expected to occur at the foundation of the facility due to the most critical ground motion, motion amplification, permanent differential ground displacement, soil liquefaction, and symmetric and assymmetric reaction forces resulting from hydrodynamic pressure and motion of contained liquid in interaction with the facility structure.

(2) For all other LNG facilities, the total lateral force set forth in UBC, Volume 1, corresponding to the zone of the "Seismic Risk Map of the United States" in which the facility is located, and a vertical force equal to the total lateral force.

(c) Each operator of an LNG facility to which paragraph (b)(1) of this section applies shall determine the seismic design forces on the basis of a detailed geotechnical investigation and in accordance with paragraphs (d) and (e) of this section. The investigation must include each of the following items that could reasonably be expected to affect the site and be sufficient in scope to identify all hazards that could reasonably be expected to affect the facility design:

(1) Identification and evaluation of faults, Quaternary activity of those faults, tectonic structures, static and dynamic properties of materials underlying the site, and, as applicable, tectonic provinces within 100 miles of the site;

(2) Identification and evaluation of all historically reported earthquakes which could affect the determination under this section of the most critical ground motion or differential displacement at the site when correlated with particular faults, tectonic structures, and tectonic provinces, as applicable; and

(3) Identification and evaluation of the hydrologic regime and the potential of liquefaction-induced soil failures.

(d) The most critical ground motion must be determined in accordance with paragraph (e) of this section either:

(1) Probabilistically, when the available earthquake data are sufficient to show that the yearly probability of exceedance of most critical ground motion is 10^{-4} or less; or

(2) Deterministically, when the available earthquake data are insufficient to provide probabilistic estimates, with the objective of determining a most critical ground motion with a yearly probability of exceedance of 10^{-4} or less.

(e) The determination of most critical ground motion, considering local and regional seismological conditions, must be made by using the following:

(1) A regionally appropriate attenuation relationship, assuming that earthquakes occur at a location on a fault, tectonic structure, or tectonic province, as applicable, which would cause the most critical seismic movement at the site, except that where epicenters of historically reported earthquakes cannot be reasonably related to known faults or tectonic structures, but are recognized as being within a specific tectonic province

which is within 100 miles of the site, assume that those earthquakes occur within their respective provinces at a source closest to the site.

(2) A horizontal design response spectrum determined from the mean plus one standard deviation of a free-field horizontal elastic response spectra whose spectral amplitudes are consistent with values expected for the most critical ground motion.

(3) A vertical design response spectrum that is either two-thirds of the amplitude of the horizontal design response spectrum at all frequencies or equal to the horizontal design response spectrum where the site is located within 10 miles of the earthquake source.

(f) An LNG storage tank may not be located at a site where investigation under paragraph (c) of this section shows that—

(1) The estimated differential Quaternary fault displacement within 1 mile of the tank foundation exceeds 60 inches;

(2) The estimated design horizontal acceleration exceeds 0.8g at the tank foundation; or

(3) The potential for soil liquefaction cannot be accommodated by design and construction in accordance with paragraph (b)(1) of this section.

(g) Each container which does not have a structurally liquid-tight cover must have sufficient freeboard with an appropriate configuration to prevent the escape of liquid due to sloshing, wave action, and vertical liquid displacement caused by seismic action.

§ 193.2063 Flooding.

(a) Each operator shall determine the effects of flooding on an LNG facility site based on the worst occurrence in a 100-year period. The determination must take into account:

(1) Volume and velocity of the floodwater;

(2) Tsunamis (local, regional, and distant);

(3) Potential failure of dams;

(4) Predictable land developments which would affect runoff accumulation of water; and

(5) Tidal action.

(b) The effect of flooding determined under paragraph (a) of this section must be accommodated by location or design and construction, as applicable, to reasonably assure:

(1) The structural or functional integrity of LNG facilities; and

(2) Access from outside the LNG facility and movement of personnel and equipment about the LNG facility site for the control of fire and other emergencies.

§ 193.2065 Soil characteristics.

(a) Soil investigations including borings and other appropriate tests must be made at the site of each LNG facility to determine bearing capacity, settlement characteristics, potential for erosion, and other soil characteristics applicable to the integrity of the facility.

(b) The naturally occurring or designed soil characteristics at each LNG facility site must provide load bearing capacities, using appropriate safety factors, which can support the following loads without excessive lateral or vertical movement that causes a loss of the functional or structural integrity of the facility involved:

(1) Static loading caused by the facility and its contents and any hydrostatic testing of the facility; and

(2) Dynamic loading caused by movement of contents of the facility during normal operation, including flow, sloshing, and rollover.

§ 193.2067 Wind forces.

(a) LNG facilities must be designed to withstand without loss of structural or functional integrity:

(1) The direct effect of wind forces;

(2) The pressure differential between the interior and exterior of a confining, or partially confining, structure; and

(3) Impact forces and potential penetrations by wind borne missiles.

(b) The wind forces at the location of the specific facility must be based on one of the following:

(1) For shop fabricated containers of LNG or other hazardous fluids with a capacity of not more than 70,000 gallons, applicable wind load data in ANSI A 58.1, 1972 edition.

(2) For all other LNG facilities—

(i) Where adequate wind data are available, the most critical combination of wind velocity and duration with respect to the effect on a structure having a probability of exceedance in a 50-year period of 0.5 percent or less; or

(ii) Where adequate wind data are unavailable, an assumed sustained wind velocity of not less than 200 miles per hour, unless the Director finds a lower velocity is justified by adequate supportive data.

§ 193.2069 Other severe weather and natural conditions.

(a) In addition to the requirements of §§ 193.2061, 193.2063, 193.2065, and 193.2067, each operator shall determine from historical records and engineering studies the worst effect of other weather and natural conditions which may predictably occur at an LNG facility site.

(b) The facility must be located and designed so that such severe conditions cannot reasonably be expected to result in an emergency involving the factors listed in § 193.2063(b).

§ 193.2071 Adjacent activities.

(a) Each operator shall determine that present and reasonably foreseeable activities adjacent to an LNG facility site that could adversely affect the operation of the LNG facility or the safety of persons or offsite property, if damage to the facility occurs.

(b) An LNG facility must not be located where present or projected offsite activities would be reasonably expected to—

(1) Adversely affect the operation of any of its safety control systems;

(2) Cause failure of the facility; or

(3) Cause the facility not to meet the requirements of this part.

§ 193.2073 Separation of facilities.

Each LNG facility site must be large enough to provide for minimum separations between facilities and between facilities and the site boundary to—

(a) Permit movement of personnel, maintenance equipment, and emergency equipment around the facility; and

(b) Comply with distances specified in Sections 2-2.4 through 2-2.7 of NFPA 59A.

Subpart C—Design

§ 193.2101 Scope.

This subpart prescribes requirements for the selection and qualification of materials for components, and for the design and installation or construction of components and buildings, including separate requirements for impounding systems, LNG storage tanks, and transfer systems.

Materials

§ 193.2103 General.

Materials for all components must be—

(a) Able to maintain their structural integrity under all design loadings, including applicable environmental design forces under Subpart B of this part;

(b) Physically, chemically, and thermally compatible within design limits with any fluid or other materials with which they are in contact; and

(c) Qualified in accordance with the applicable requirements of this subpart.

§ 193.2105 Extreme temperatures; normal operations.

Each operator shall—

(a) Determine the range of temperatures to which components will be subjected during normal operations, including required testing, initial startup,

cooldown operations, and shutdown conditions; and

(b) Use component materials that meet the design standards of this part for strength, ductility, and other properties throughout the entire range of temperatures to which the component will be subjected in normal operations.

§ 193.2107 Extreme temperatures, emergency conditions.

(a) Each operator shall determine the effects on components not normally exposed to extreme cold (including a component's foundation or support system) of contact by LNG or cold refrigerant that could result from error, a spill, or other emergency determined as required by this part.

(b) Each operator shall determine the effects on components (including their foundations or support systems) of the extreme heat which could result from an LNG or other hazardous fluid fire.

(c) Where the exposure determined under paragraph (a) or (b) of this section could result in a failure that would worsen the emergency, the component or its foundation or support system, as appropriate, must be:

(1) Made of material or constructed to be suitable for the extreme temperature to which it could be subjected; or

(2) Protected by insultation or other means that will delay failure due to extreme temperature in order to allow adequate time to take emergency responses.

(d) If a material that has low resistance to flame temperatures is used in any component containing a hazardous fluid, the material must be protected so that any heat resulting from a controllable emergency does not cause the release of fluid that would result in an uncontrollable emergency.

§ 193.2109 Insulation.

During normal operations, insulation materials must—

(a) Maintain insulating values;

(b) Withstand thermal and mechanical design loads; and

(c) Be covered with a material that is noncombustible in the installed state, is not subject to ultraviolet decay, and that can withstand the forces of wind according to ANSI A58.1 and anticipated loading which could occur in a controllable emergency.

§ 193.2111 Cold boxes.

All cold boxes must be made of noncombustible material and the insulation must be made of materials which are noncombustible in the installed condition.

§ 193.2113 Piping.

(a) Piping made of cast iron, malleable iron, or ductile iron may not be used to carry any cryogenic or hazardous fluids.

(b) Piping materials intended for normal use at temperatures below −28.9° C (−20° F) or for use under § 193.2107(c)(1) must be qualified by testing in accordance with ANSI B 31.3 to comply with § 193.2103(b).

§ 193.2115 Concrete subject to cryogenic temperatures.

Concrete intended for normal use at cryogenic temperatures or for use under § 193.2107(c)(1) may not be used unless—

(a) Materials, measurements, mixing, placing, prestressing, and poststressing of concrete meets generally accepted engineering practices;

(b) Metallic reinforcing, prestressing wire, structural and nonstructural members used in concrete are acceptable in the installed condition for the temperature and stress levels encountered at design loading conditions; and

(c) Tests for the compressive strength, the coefficient of contraction, an acceptable thermal gradient, and, if applicable, acceptable surface loading to prevent detrimental spalling are performed on the concrete at the lowest temperature for which the concrete is designed or similar test data on these properties are available.

§ 193.2117 Combustible materials.

Combustible materials are not permitted for the construction of buildings, plant equipment, and the foundations and supports of buildings and plant equipment in areas where ignition of the material would worsen an emergency. However, limited combustible materials may be used when the use of noncombustible materials is impractical.

§ 193.2119 Records

Each operator shall keep a record of all materials for components, buildings, foundations, and support systems, as necessary to verify that material properties meet the requirements of this part. These records must be maintained for the life of the item concerned.

Design of Components and Buildings

§ 193.2121 General.

Components, including their foundations and support systems, must be designed, fabricated, and installed to withstand, without loss of functional or structural integrity, predictable loadings not including environmental design forces under Subpart B of this part unless applicable under that subpart.

§ 193.2123 Valves.

(a) Each valve, including control valves and relief valves, must be designed, manufactured, and tested to comply with ANSI B31.3 or ANSI B31.5 or ANSI B31.8 or API Standard 6D, if design conditions fall within their scope.

(b) Extended bonnet valves must be used for service temperatures below −45.6° C (−50° F).

(c) Valves used for cryogenic liquid service must be designed to operate in the position in which they are installed.

(d) Powered local and remote operation must be provided for valves that would be difficult or excessively time-consuming to manually operate during a controllable emergency.

(e) Valves must be designed and installed so that an excessive load on the piping system does not render the valve inoperable.

§ 193.2125 Automatic shutoff valves.

Each automatic shutoff valve or combination of valves must—

(a) Have a fail-safe design;

(b) Operate to stop fluid flow which would endanger the operational integrity of plant equipment; and

(c) Close at a rate to avoid fluid hammer which would endanger the operating integrity of a component.

§ 193.2127 Piping.

(a) Piping must be designed, manufactured, and tested to comply with ANSI B 31.3.

(b) All cryogenic and hazardous fluid piping must have connections to facilitate blowdown and purge as required by this part.

(c) Each cryogenic or hazardous fluid piping system that is aboveground must be identified by color coding, painting, or labeling.

(d) Seamless pipe or pipe with a longitudinal joint efficienty of 1.0 determined in accordance with ANSI B31.3, or pipe with a design pressure less than two-thirds of the mill-proof test pressure or subsequent shop or field hydrostatic test pressure must be used for process and transfer piping handling cryogenic or other hazardous fluids with a service temperature below −22° F (−30° C).

(e) For longitudinal or spiral weld piping handling LNG or cryogenic fluids, the heat affected zone must comply with § 323.2.2 of ANSI B31.3.

(f) Threaded piping used in hazardous fluid service must be at least Schedule 80.

§ 193.2129 Piping attachments and supports.

Piping attachments and supports for LNG or refrigerant piping must be

designed to prevent excessive heat transfer which can result in either unintentional restraint of piping caused by ice formations or the embrittlement of supporting steel.

§ 193.2131 Building design.

(a) Each building or structural enclosure in which potentially hazardous quantities of flammable materials are handled must be designed and constructed to minimize fire hazards.

(b) Buildings or structural enclosures in which hazardous or cryogenic fluids are handled shall be of light-weight, noncombustible construction with nonload-bearings walls.

(c) If rooms containing such fluids are located within or attached to buildings in which such fluids are not handled, i.e., control rooms, shops, etc., the common walls shall be limited to not more than two in number, shall be designed to withstand a static pressure of at least 4800 Pa (100 psf), have no doors or other communicating openings, and shall have a fire resistance rating of at least 1 hour.

§ 193.2133 Buildings; ventilation.

(a) Each building in which potentially hazardous quantities of flammable fluids are handled must be ventilated to minimize the possibility, during normal operation, of hazardous accumulation of a flammable gas and air mixture, hazardous products of combustion, and other hazardous vapors in enclosed process areas by one of the following means:

(1) A continuously operating mechanical ventilation system;

(2) A combination gravity ventilation system and normally off mechanical ventilation system which is activated by suitable flammable gas detectors at a concentration not exceeding 25 percent of the lower flammable limit of the gas;

(3) a dual rate mechanical ventilation system with the high rate activated by suitable flammable gas detectors at a concentration not exceeding 25 percent of the lower flammable limit of the gas; or

(4) A gravity ventilation system composed of a combination of wall openings, roof ventilators, and, if there are basements or depressed floor levels, a supplemental mechanical ventilation system.

(b) The ventilation rate must be at least 1 cubic foot per minute of air per square foot of floor area. If vapors heavier than air can be present, the ventilation must be proportioned according to the area of each level.

§ 193.2135 Expansion or contraction.

Each operator shall consider the amount of contraction and expansion of each component during operating and environmental thermal cycling and shall—

(a) Provide components that operate without detrimental stress or restriction of movement, within each component and between components, caused by contraction and expansion; and

(b) Prevent ice buildup from detrimentally restricting the movement of components caused by contraction and expansion.

§ 193.2137 Frost heave.

(a) Each operator shall—

(1) Determine which components and their foundations could be endangered by frost heave from ambient temperatures or operating temperatures of the component; and

(2) Provide protection against frost heave which might impair their structural integrity.

(b) For each component and foundation determined under paragraph (a) of this section, instrumentation must be installed to warn of potential structural impairment due to frost heave, unless the operator includes in the maintenance procedures required by this part, a method and schedule of inspection that will detect changes in the elevation.

§ 193.2139 Ice and snow.

(a) Components must be designed to support the weight of ice and snow which could normally collect or form on them.

(b) Each operator shall provide protection for components from falling ice or snow which may accumulate on structures.

(c) Valves and moving components must not become inoperative due to ice formation on the component.

§ 193.2141 Electrical systems.

(a) Each operator shall select and install electrical equipment and wiring for components in accordance with NFPA–70 and, where applicable Section 7–62 of NFPA–59A.

(b) Electrical grounding and bonding must be in accordance with Section 7–7.1.1 of NFPA–59A.

(c) Protective measures for stray or impressed currents must be provided in accordance with Section 7–7.3 of NFPA–59A.

§ 193.2143 Lightning.

Each operator shall install proper grounds as necessary to minimize the hazard to plant personnel and components, including all electrical circuits, as a result of lightning.

§ 193.2145 Boilers and pressure vessels.

Boilers must be designed and fabricated in accordance with Section I or Section IV of the ASME Boiler and Pressure Vessel Code. Other pressure vessels subject to that Code must be designed and fabricated in accordance with Division 1 or Division 2 of Section VIII.

§ 193.2147 Combustion engines and turbines.

Combustion engines and gas turbines must be installed in accordance with NFPA–37.

Impoundment Design and Capacity

§ 193.2149 Impoundment required.

(a) An impounding system must be provided for storage tanks to contain a potential spill of LNG or other hazardous liquid.

(b) Grading or drainage or an impounding system must be provided to ensure that accidental spills or leaks from the following components and areas do not endanger components or adjoining property or enter navigable waterways:

(1) Liquefaction and other process equipment;

(2) Vaporizers;

(3) Transfer systems;

(4) Parking areas for tank cars or tank trucks; and

(5) Areas for loading, unloading, or storing portable containers and dewar vessels.

(c) Impounding systems for LNG must be designed and constructed in accordance with this subpart. Impounding systems intended for containment of hazardous liquids other than LNG must meet the requirements of NFPA–30.

§ 193.2151 General design characteristics.

(a) An impounding system must have a configuration or design which, to the maximum extent possible, will prevent liquid from escaping impoundment by leakage, splash from collapse of a structure or part thereof, momentum and low surface friction, foaming, failure of pressurized piping, and accidental pumping.

(b) The basic form of an impounding system may be excavation, a natural geological formation, manufactured diking, such as berms or walls, or any combination thereof.

§ 193.2153 Classes of impounding systems.

(a) For the purpose of this part, impounding systems are classified as follows:

Class 1. A system which surrounds the component served with the inner surface of

the dike constructed against or within 24 inches of the component served.

Class 2. A system which surrounds the component or area served with the dike located a distance away from the component or at the periphery of the area.

Class 3. A system which conducts a spill by dikes and floors to a remote impounding space which does not surround the component or area served.

(b) In the case of an impounding system consisting of a combination of classes, requirements of this part regarding a single class apply according to the percentage of impoundment provided by each class.

§ 193.2155 Structural requirements.

(a) Subject to paragraph (b) of this section, the structural parts of an impounding system must be designed and constructed to prevent impairment of the system's performance reliability and structural integrity as a result of the following:

(1) The imposed loading from—

(i) Full hydrostatic head of impounded LNG;

(ii) Hydrodynamic action, including the effect of any material injected into the system for spill control;

(iii) The impingement of the trajectory of an LNG jet discharged at any predictable angle; and

(iv) Anticipated hydraulic forces from a credible opening in the component or item served, assuming that the discharge pressure equals design pressure.

(2) The erosive action from a spill, including jetting of spilling LNG, and any other anticipated erosive action including surface water runoff, ice formation, dislodgement of ice formation, and snow removal.

(3) The effect of the temperature, any thermal gradient, and any other anticipated degradation resulting from sudden or localized contact with LNG.

(4) Exposure to fire from impounded LNG or from sources other than impounded LNG.

(5) If applicable, the potential impact and loading on the dike due to—

(i) Collapse of the component or item served or adjacent components; and

(ii) If the LNG facility adjoins the right-of-way of any highway or railroad, collision by or explosion of a train, tank car, or tank truck that could reasonably be expected to cause the most severe loading.

(b) For spills from LNG storage tanks with Class 2 or 3 impounding systems, imposed loading and surging flow characteristics must be based on a credible release of the tank contents.

(c) If an LNG storage tank is located within a horizontal distance of 6,100 m. (20,000 ft.) from the nearest point of the nearest runway serving large aircraft as defined in 14 CFR Part 1.1, a Class 1 impounding system must be used which is designed to withstand collision by, or explosion of, the heaviest aircraft which can take off or land at the airport.

§ 193.2157 Coatings and coverings.

Insulation, sealants, or other coatings and coverings which are part of an impounding system—

(a) Must be noncombustible in an installed condition when exposed to an LNG fire resulting from a spill that covers the floor of the impounding space;

(b) Must withstand exposure to fire from sources determined as required by this part, other than impounded LNG, for a period of time until fire protective or fire extinguishing action is taken; and

(c) When used for the purpose of maintaining the functional integrity of an impounding system, must be capable of withstanding sudden exposure to LNG without loss of such integrity.

§ 193.2159 Floors.

Floors of Class 2 and Class 3 impounding systems must, to the extent feasible—

(a) Slope away from the component or item impounded and to a sump basin installed under § 193.2171;

(b) Slope away from the nearest adjacent component;

(c) Drain surface waters from the floor at rates based on a storm of 10-year frequency and 1-hour duration and other natural water sources; and

(d) Be designed to minimize the wetted floor area.

§ 193.2161 Dikes, general.

(a) Penetrations in dikes to accommodate piping or any other purpose are prohibited.

(b) An outer wall of a component served by an impounding system may not be used as a dike except for a concrete wall designed to comply with the requirements of § 193.2155(c) or equivalent design impact loading.

§ 193.2163 Vapor barriers.

If vapor barriers are installed in meeting the requirements of § 193.2059, they must be designed and constructed to detain LNG vapor.

§ 193.2165 Dike dimensions.

In addition to dike dimensions needed to comply with other requirements of this subpart, to minimize the possibility that a trajectory of accidentally discharged liquid would pass over the top of a dike, the distance from the inner wall of the component or vessel served to the closest inside edge of the top of the dike must at least equal the vertical distance from the maximum liquid level impounded to the inside edge of the top of the dike.

§ 193.2167 Covered systems.

(a) A covered impounding system is prohibited unless it is—

(1) Sealed from the atmosphere and filled with an inert gas; or

(2) Permanently interconnected with the vapor space of the component served.

(b) Flammable nonmetallic membranous covering is prohibited in a covered system.

(c) For systems to which paragraph (a)(1) of this section applies, instrumentation and controls must be provided to—

(1) Maintain pressures at a safe level; and

(2) Monitor gas concentrations in accordance with § 193.2169.

(d) Dikes must have adequate structural strength to assure that they can withstand impact from a collapsed cover and all anticipated conditions which could cause a failure of the impounding space cover.

§ 193.2169 Gas leak detection.

Appropriate areas within an impounding system where collection or passage of LNG or LNG vapor could be expected must be equipped with sensing and warning devices to monitor continuously for the presence of LNG or LNG vapor and to warn before LNG gas concentration levels exceed 25 percent of the lower flammable limit.

§ 193.2171 Sump basins.

Except for Class 1 impounding systems, a sump basin must be located in each impounding system for collection of water.

§ 193.2173 Water removal.

(a) Except for Class 1 systems, impounding systems must have sump pumps and piping running over the dike to remove water collecting in the sump basin.

(b) The water removal system must have adequate capacity to remove water at rates which equal the maximum predictable collection rate from a storm of 10-year frequency and 1-hour duration, and other natural causes.

(c) Sump pumps for water removal must—

(1) Be operated as necessary to keep the impounding space as dry as practical; and

(2) If sump pumps are designed for automatic operation, have redundant automatic shutdown controls to prevent operation when LNG is present.

§ 193.2175 Shared impoundment.

When an impounding system serves more than one component, tank car, tank truck, or dewar vessel, a means must be provided to prevent low temperature or fire resulting from leakage from any one of the items served causing any other item to leak. If § 193.2059(a) applies, the means must not result in a vapor dispersion distance which exceeds the exclusion zone.

§ 193.2179 Impoundment capacity; general.

In addition to capacities otherwise required by this subpart, an impounding system must have sufficient volumetric capacity to provide for—

(a) Displacement by the component, tank car, tank truck, container, or dewar vessel served; and

(b) Where applicable, displacement which could occur when a higher density substance than the liquid to be impounded enters the system, considering all relevant means of assuring capacity.

§ 193.2181 Impoundment capacity, LNG storage tanks.

(a) Except as provided in paragraph (b) of this section, each impounding system serving an LNG storage tank must have a minimum volumetric liquid impoundment capacity as follows:

Number of tanks in system	Class or type of system	System capacity in percent of LNG tank's maximum liquid capacity
1	Class 1	110 percent.
	Classes 2 and 3	150 percent.
More than 1	Classes 2 and 3	100 percent of all tanks or 150 percent of largest tank, whichever is greater.

(b) For purposes of this section, a covered impounding system serving a single LNG storage tank may have a capacity of 110 percent of the LNG tank's maximum liquid capacity if it is covered by a roof that is separate and independent from the LNG storage tank.

§ 193.2183 Impoundment capacity; equipment and transfer systems.

If an impounding system serves a component under § 193.2149(b) (1)–(3), it must have a minimum volumetric liquid impoundment capacity equal to the sum of—

(a) One-hundred percent of the volume of liquid that could be contained in the component and, where applicable, tank car or tank truck served; and

(b) The maximum volume of liquid which could discharge into the impounding space from any single failure of equipment or piping during the time period necessary for spill detection, instrument response, and sequenced shutdown by the automatic shutdown system under § 193.2439.

§ 193.2185 Impoundment capacity; parking areas, portable containers.

Each impounding system serving an area listed under § 193.2149(b) (4) or (5) must have a minimum volumetric liquid impoundment capacity which complies with the requirements of § 193.2181, assuming each tank car, tank truck, portable container, or dewar vessel to be a storage tank.

LNG Storage Tanks

§ 193.2187 General.

(a) LNG storage tanks must comply with the requirements of this subpart and the other applicable requirements of this part.

(b) A flammable nonmetallic membrane liner may not be used as an inner container in a storage tank.

§ 193.2189 Loading forces.

Each part of an LNG storage tank must be designed to withstand without loss of functional or structural integrity any predictable combination of forces which would result in the highest stress to the part, including the following:

(a) Internal design pressure determined under § 193.2197.

(b) External design pressure determined under § 193.2199.

(c) Weight of the structure.

(d) Weight of liquid to be stored, except that in no case will the density assumed be less than 29.3 pounds per cubic foot (470 kilograms per cubic meter).

(e) Loads due to testing required by § 193.2327.

(f) Nonuniform reaction forces on the foundation due to predictable settling and other movement.

(g) Superimposed forces from piping, stairways, and other connected appurtenances.

(h) Predictable snow and ice loads.

(i) The loading of internal insulation on the inner container and outer shell due to compaction and movement of the container and shell over the design life of the insulation.

(j) In the case of vacuum insulation, the forces due to the vacuum.

(k) In the case of a positive pressure purge, the forces due to the maximum positive pressure of the purge gas.

§ 193.2191 Stratification.

LNG storage tanks with a capacity of 5,000 barrels or more must be equipped with means to mitigate a potential for rollover and overpressure such as:

(a) Selective filling at the top and bottom of the tank;

(b) Circulating liquid from the bottom to the top of the same tank; or

(c) Transferring liquid selectively from the bottom of the tank to the bottom or top of any adjacent storage tank.

§ 193.2193 Movement and stress.

(a) Each operator shall determine for normal operations of each LNG storage tank—

(1) The amount and pattern of predictable movement of components, including transfer piping, and the foundation, which could result from thermal cycling, loading forces, and ambient air changes; and

(2) For a storage tank with an inner container, the predictable movement of the inner container and the outer shell in relation to each other.

(b) Storage tanks must be designed to provide adequate allowance for stress due to movement determined under paragraph (a) of this section, including provisions that—

(1) Backfill does not cause excessive stresses on the tank structure due to expansion of the storage tank during warmup;

(2) Insulation does not settle to a damaging degree or unsafe condition during thermal cycling; and

(3) Expansion bends and other expansion or contraction devices are adequate to prevent excessive stress on tank penetrations, especially during cooldown from ambient temperatures.

§193.2195 Penetrations.

(a) All penetrations in an LNG storage tank must be designed in accordance with API 620, including Appendix Q.

(b) The loadings on all penetrations must be determined by an analysis of all contributing forces, including those from tank thermal movements, connecting piping thermal movements, hydraulic forces, applicable wind and earthquake forces, and the forces resulting from settlement or movement of the tank foundation or pipe supports.

(c) All penetrations in an LNG storage tank below the design liquid level must be fitted with an internal shutoff valve which is designed and installed so that any failure of the nozzle penetrating the tank will be outside the tank.

(d) The requirements of paragraphs (a) and (c) of this section do not apply to shop fabricated tanks of 70,000 gallons or less capacity. All penetrations in such tanks must be designed and installed in accordance with the applicable provisions of Section VIII, Division 1 of the ASME Boiler and Pressure Vessel Code.

§ 193.2197 Internal design pressure.

(a) Each operator shall establish the internal design pressure at the top of each LNG storage tank, including a suitable margin above the maximum allowable working pressure.

(b) The internal design pressure of a storage tank may not be lower than the highest pressure in the vapor space resulting from each of the following events or combination thereof that predictably might occur, giving consideration to vapor handling equipment, relief devices in accordance with § 193.2429, and any other mitigating measures:

(1) Filling the tank with LNG including effects of increased vaporization rate due to superheat and sensible heat of the added liquid;

(2) Rollover.

(3) Fall in barometric pressure, using the worst combination of amount of fall and rate of fall which might predictably occur;

(4) Loss of effective insulation that may result from an adjacent fire, leak of liquid into the intertank space, or other predictable accident; and

(5) Flash vaporization resulting from pump recirculation.

§ 193.2199 External design pressure.

(a) Each operator shall establish the external design pressure at the top of each LNG storage tank, including a suitable margin below the minimum allowable working pressure.

(b) The external design pressure may not be higher than the lowest vapor pressure in the vapor space resulting from each of the following events or combinations thereof that predictably might occur, giving consideration to gas makeup systems, vacuum relief devices in accordance with § 193.2429, and any other mitigating measures.

(1) Withdrawing liquid from the tank;

(2) Withdrawing gas from the tank;

(3) Adding subcooled LNG to the tank; and

(4) Rise in barometric pressure, based on the worst combination of amount of rise and rate of rise which predictably might occur.

§ 193.2201 Internal temperature.

The liquid container of each LNG storage tank and all tank parts used in contact with LNG or its cold vapor shall be designed for the lowest bulk liquid temperature which can be attained in the LNG storage tank.

§ 193.2203 Foundation.

(a) Each LNG storage tank must have a stable foundation designed in accordance with generally accepted structural engineering practices.

(b) Each foundation must support design loading forces without detrimental settling that could impair the structural integrity of the tank.

§ 193.2205 Frost heave.

If the protection provided for LNG storage tank foundations from frost heave under § 193.2137(a) includes heating the foundation area—

(a) An instrumentation and alarm system must be provided to warn of malfunction of the heating system; and

(b) A means to correct the malfunction must be provided.

§ 193.2207 Insulation.

(a) Insulation on the outside of the outer shell of an LNG storage tank may not be used to maintain stored LNG at an operating temperature during normal operation.

(b) Insulation between an inner container and the outer shell of an LNG storage tank must—

(1) Be compatible with the contained liquid and its vapor;

(2) In its installed condition, be noncombustible; and

(3) Not significantly lose insulating properties by melting, settling, or other means due to a fire resulting from a spill that covers the floor of the impounding space around the tank.

§ 193.2209 Instrumentation for LNG storage tanks.

(a) Each LNG storage tank having a capacity over 70,000 gallons must be equipped with a sufficient number of sensing devices and personnel warning devices, as prescribed, which operate continuously while the tank is in operation to assure that each of the following conditions is not a potential hazard to the structural integrity or safety of the tank:

Condition	Instrumentation
(1) Amount of liquid in the tank.	Redundant liquid level gages and recorders with high level alarms, and a minimum of one independent high level alarm.
(2) Vapor pressure within the tank.	Redundant gages and recorders with high and low pressure alarms.
(3) Temperatures at representative critical points in the foundation.	Temperature indicating and recording devices with alarm.
(4) Temperature of contained liquid at various vertical intervals.	Temperature recorders.
(5) Abnormal temperature in tank structure.	Thermocouples located at representative critical points with recorders.
(6) Excessive relative movement of inner container and outer shell.	Linear and rotational movement indicators located between inner container and outer shell with recorders.

(b) LNG storage tanks with a capacity of 70,000 gallons or less must be equipped with the following:

(1) LNG liquid trycocks, when attended during the filling operation.

(2) Pressure gages and recorders with high pressure alarm.

(3) Differential pressure liquid level gage.

(c) Each storage tank must be designed as appropriate to provide for compliance with the inspection requirements of this part.

§ 193.2211 Metal storage tanks.

(a) Metal storage tanks with internal design pressures of not more than 15 psig must be designed and constructed in accordance with API Standard 620 and, where applicable, Appendix Q of that standard.

(b) Metal storage tanks with internal design pressures above 15 psig must be designed in accordance with the applicable division of Section VIII of the ASME Boiler and Pressure Vessel Code.

§ 193.2213 Concrete storage tanks.

Concrete storage tanks must be designed and constructed in accordance with Section 4–3 of NFPA–59A.

§ 193.2215 Thermal barriers.

Thermal barriers must be provided between piping and an outer shell when necessary to prevent the outer shell from being exposed during normal operation to temperatures lower than its design temperature.

§ 193.2217 Support system.

(a) Saddles and legs must be designed in accordance with generally accepted structural engineering practices, taking into account loads during transportation, erection loads, and thermal loads.

(b) Storage tank stress concentrations from support systems must be minimized by distribution of loads using pads, load rings, or other means.

(c) For a storage tank with an inner container, support systems must be designed to—

(1) Minimize thermal stresses imparted to the inner container and outer shell from expansion and contraction; and

(2) Sustain the maximum applicable loading from shipping and operating conditions.

(d) LNG storage tanks with an air space beneath the tank bottom or its foundation must be designed to withstand without loss of functional or structural integrity, the forces caused by the ignition of a combustible vapor cloud in this space.

§ 193.2219 Internal piping.

Piping connected to an inner container that is located in the space between the inner container and outer shell must be designed for not less than the pressure

rating of the inner container. The piping must contain expansion loops where necessary to protect against thermal and other secondary stresses created by operation of the tank. Bellows may not be used within the space between the inner container and outer shell.

§ 193.2221 Marking.

(a) Each operator shall install and maintain a name plate in an accessible place on each storage tank and mark it in accordance with the applicable code or standard incorporated by reference in §§ 193.2211 or 193.2213.

(b) Each penetration in a storage tank must be marked indicating the function of the penetration.

(c) Marking required by this section must not be obscured by frosting.

Design of Transfer Systems

§ 193.2223 General.

(a) Transfer systems must comply with the requirements of this subpart and other applicable requirements of this part.

(b) The design of transfer systems must provide for stress due to the frequency of thermal cycling and intermittent use to which the transfer system may be subjected.

(c) Slip type expansion joints are prohibited and packing-type joints may not be used in transfer systems for LNG or flammable refrigerants.

(d) A suitable means must be provided to precool the piping in a manner that prevents excessive stress prior to normal transfer of cold fluids.

(e) Stresses due to thermal and hydraulic shock in the piping system must be determined and accommodated by design to avoid damage to piping.

§ 193.2227 Backflow.

(a) Each transfer system must operate with a means to—

(1) Prevent backflow of liquid from a receiving container, tank car, or tank truck from causing a hazardous condition; and

(2) Maintain one-way flow where necessary for the integrity or safe operation of the LNG facility.

(b) The means provided under paragraph (a)(1) of this section must be located as close as practical to the point of connection of the transfer system and the receiving container, tank car, or tank truck.

§ 193.2229 Cargo transfer systems.

(a) Each cargo transfer system must have—

(1) A means of safely depressurizing and venting that system before disconnection;

(2) A means to provide for safe vapor displacement during transfer;

(3) Transfer piping, pumps, and compressors located or protected by suitable barriers so that they are safe from damage by tank car or tank truck movements;

(4) A signal light at each control location or remotely located pumps or compressors used for transfer which indicates whether the pump or compressor is off or in operation; and

(5) A means of communication between loading or unloading areas and other areas in which personnel are associated with the transfer operations.

(b) Hoses and arms for cargo transfer systems must be designed as follows—

(1) The design must accommodate operating pressures and temperatures encountered during the transfers;

(2) Hoses must have a bursting pressure of not less than five times the operating pressure.

(3) Arms must meet the requirements of ANSI B31.3.

(4) Adequate support must be provided, taking into account ice formation.

(5) Couplings must be designed for the frequency of any coupling or uncoupling.

§ 193.2231 Cargo transfer area.

The transfer area of a cargo transfer system must be designed—

(a) To accommodate tank cars and tank trucks without excessive maneuvering; and

(b) To permit tank trucks to enter or exit the transfer area without backing.

§ 193.2233 Shutoff valves.

(a) Shutoff valves on transfer systems must be located—

(1) On each liquid supply line, or common line to multiple supply lines, to a storage tank, or to a cargo transfer system;

(2) On each vapor or liquid return line from multiple return lines, used in a cargo transfer system;

(3) At the connection of a transfer system with a pipeline subject to Part 192 of this chapter; and

(4) To provide for proper operation and maintenance of each transfer system.

(b) Transfer system shutoff valves that are designated for operation in the emergency procedures must be manually operable at the valve and power operable at the valve and at a remote location at least 50 feet from the valve.

Subpart D—Construction

§ 193.2301 Scope.

This subpart prescribes requirements for the construction or installation of components.

§ 193.2303 Construction acceptance.

No person may place in service any component until it passes all applicable inspections and tests prescribed by this subpart.

§ 193.2305 Procedures.

(a) In performing construction, installation, inspection, or testing, an operator must follow written specifications, procedures, and drawings, as appropriate, that are consistent with this part, taking into account relevant mechanical, chemical, and thermal properties, component functions, and environmental effects that are involved.

(b) All procedures, including any field revisions, must be substantiated by testing or experience to produce a component that is reliable and complies with the design and installation requirements of this part.

§ 193.2307 Inspection.

(a) All construction, installation, and testing activities must be inspected as frequently as necessary in accordance with a written plan to assure that—

(1) Activities are in compliance with all applicable requirements of this subpart; and

(2) Components comply with the applicable material, design, fabrication, installation, and construction requirements of this part.

(b) In addition to the requirements of paragraph (a) of this section, the construction of concrete storage tanks must be inspected in accordance with ACI–311–75.

(c) Each operator shall have a quality assurance inspection program to verify that components comply with their design specifications and drawings, including any field design changes, before they are placed in service.

§ 193.2309 Inspection and testing methods

Except as otherwise provided by this subpart, each operator shall determine, commensurate with the hazard that would result from failure of the component concerned, the scope and nature of—

(a) Inspections and tests required by this subpart; and

(b) Inspection and testing procedures required by § 193.2305.

§ 193.2311 Cleanup.

After construction or installation, as the case may be, all components must be cleaned to remove all detrimental contaminants which could cause a hazard during operation, including the following:

(a) All flux residues used in brazing or soldering must be removed from the joints and the base metal to prevent corrosive solutions from being formed.

(b) All solvent type cleaners must be tested to ensure that they will not damage equipment integrity or reliability.

(c) Incompatible chemicals must be removed.

(d) All contaminants must be captured and disposed of in a manner that does not reduce the effectiveness of corrosion protection and monitoring provided as required by this part.

§ 193.2313 Pipe welding.

(a) Each operator shall provide the following for welding on pressurized piping for LNG and other hazardous fluids:

(1) Welding procedures and welders qualified in accordance with Section IX of the ASME Boiler and Pressure Vessel Code or API 1104, as applicable;

(2) When welding materials that are qualified by impact testing, welding procedures selected to minimize degradation of low temperature properties of the pipe material; and

(3) When welding attachments to pipe, procedures and techniques selected to minimize the danger of burn-throughs and stress intensification.

(b) Oxygen fuel gas welding is not permitted on flammable fluid piping with a service temperature below −20°C (−22°F).

(c) Marking materials for identifying welds on pipe must be compatible with the basic pipe material.

(d) Surfaces of components that are less than 6.35 mm (0.25 in.) thick may not be field die stamped.

(e) Where die stamping is permitted, any identification marks must be made with a die having blunt edges to minimize stress concentration.

§ 193.2315 Piping connections.

(a) Piping more than 2 inches nominal diameter must be joined by welding, except that—

(1) Threaded or flanged connections may be used where necessary for special connections, including connections for material transitions, instrument connections, testing, and maintenance;

(2) Copper piping in nonflammable service may be joined by silver brazing; and

(3) Material transitions may be made by any joining technique proven reliable under § 193.2305(b).

(b) If socket fittings are used, a clearance of 1.6 to 3.2 mm (0.063 to 0.126 in.) between the pipe end and the bottom of the socket recess must be provided and appropriate measurement reference marks made on the piping for the purpose of inspection.

(c) Threaded joints must be—

(1) Free of stress from external loading; and

(2) Seal welded, or sealed by other means which have been tested and proven reliable.

(d) Compression type couplings must meet the requirements of ANSI B31.3.

(e) Care shall be taken to ensure the tightness of all bolted connections. Spring washers or other such devices designed to compensate for the contraction and expansion of bolted connections during operating cycles shall be used where required.

(f) The selection of gasket material shall include the consideration of fire.

§ 193.2317 Retesting.

After testing required by this subpart is completed on a component to contain a hazardous fluid, the component must be retested whenever—

(a) Penetration welding other than tie-in welding is performed; or

(b) The structural integrity of the component is disturbed.

§ 193.2319 Strength tests.

(a) A strength test must be performed on each piping system and container to determine whether the component is capable of performing its design function, taking into account—

(1) The maximum allowable working pressure;

(2) The maximum weight of product which the component may contain or support;

(b) For piping, the test required by paragraph (a) of this section must include a pressure test conducted in accordance with Section 337 of ANSI B31.3, except that test pressures must be based on the design pressure. Carbon and low alloy steel piping must be pressure tested above their nil ductility transition temperature.

(c) All shells and internal parts of heat exchangers to which Section VIII, Division 1, or Division 2 of the ASME Boiler and Pressure Vessel Code, applies must be pressure tested, inspected, and stamped in accordance therewith.

§ 193.2321 Nondestructive tests.

(a) The following percentages of each day's circumferentially welded pipe joints for hazardous fluid piping, selected at random, must be nondestructively tested over the entire circumference to indicate any defects which could adversely affect the integrity of the weld or pipe:

Weld type	Cryogenic piping	Other	Test method
Butt weld more than 2 inches in nominal size.	100	30	Radiographic or ultrasonic.
Butt welds 2 inches or less in nominal size.	100	30	Radiographic, ultrasonic, liquid penetrant, or magnetic particle.
Fillet and socket welds.	100	30	Liquid penetrant or magnetic particle.

(b) Evaluation of weld tests and repair of defects must be in accordance with the requirements of ANSI B31.3 or API 1104, as applicable.

(c) Where longitudinally or spiral welded pipe is used in transfer systems, 100 percent of the seam weld must be examined by radiographic or ultrasonic inspection.

(d) The butt welds in metal shells of storage tanks with internal design pressure of not more than 15 psig must be radiographically tested in accordance with Section 0.7.6, API 620, Appendix Q, except that for hydraulic load bearing shells with curved surfaces that are subject to cryogenic temperatures, 100 percent of both longitudinal (or meridional) and circumferential or (or latitudinal) welds must be radiographically tested.

(e) The butt welds in metal shells of storage tanks with internal design pressure above 15 psig must be radiographically tested in accordance with Section IX of the ASME Boiler and Pressure Vessel Code, except that for hydraulic load bearing shells with curved surfaces that are subject to cryogenic temperatures, 100 percent of both longitudinal (or meridional) and circumferential (or latitudinal) welds must be radiographically tested.

§ 193.2323 Leak tests.

(a) Each container and piping system must be initially tested to assure that the component will contain the product for which it is designed without leakage.

(b) Shop fabricated containers and all flammable fluid piping must be leak tested to a minimum of the design pressure after installation but before placing it in service.

(c) For a storage tank with vacuum insulation, the inner container, outer shell, and all internal piping must be tested for vacuum leaks in accordance with an appropriate procedure.

§ 193.2325 Testing control systems.

Each control system must be tested before being placed in service to assure that it has been installed properly and will function as required by this part.

§ 193.2327 Storage tank tests.

(a) In addition to other applicable requirements of this subpart, storage tanks for cryogenic fluids with internal design pressures of not more than 15 psig must be tested in accordance with Sections Q8 and Q9 of API 620, Appendix Q, as applicable.

(b) Metal storage tanks for cryogenic fluids with internal design pressures above 15 psig must be tested in accordance with the applicable division of Section VIII of the ASME Boiler and Pressure Vessel Code.

(c) Reference measurements must be made with appropriate precise instruments to assure that the tank is gas tight and lateral and vertical movement of the storage tank does not exceed predetermined design tolerances.

§ 193.2329 Construction records.

For the service life of the component concerned, each operator shall retain appropriate records of the following:

(a) Specifications, procedures, and drawings prepared for compliance with § 193.2305; and

(b) Results of tests, inspections, and the quality assurance program required by this subpart.

Subpart E—Equipment

§ 193.2401 Scope.

This subpart prescribes requirements for the design, fabrication, and installation of vaporization equipment, liquefaction equipment, and control systems.

Vaporization Equipment

§ 193.2403 General.

Vaporizers must comply with the requirements of this subpart and the other applicable requirements of this part.

§ 193.2405 Vaporizer design.

(a) Vaporizers must be designed and fabricated in accordance with applicable provisions of Section VIII, Division 1 of the ASME Boiler and Pressure Vessel Code.

(b) Each vaporizer must be designed for the maximum allowable working pressure at least equal to the maximum discharge pressure of the pump or pressurized container system supplying it, whichever is greater.

§ 193.2407 Operational control.

(a) Vaporizers must be equipped with devices which monitor the inlet pressure of the LNG, the outlet temperature, and the pressure of the vaporized gas, and the inlet pressure of the heating medium fluids.

(b) Manifolded vaporizers must be equipped with:

(1) Two inlet valves in series to prevent LNG from entering an idle vaporizer; and

(2) A means to remove LNG or gas which accumulates between the valves.

§ 193.2409 Shutoff valves.

(a) A shutoff valve must be located on transfer piping supplying LNG to a vaporizer. The shutoff valve must be located at a sufficient distance from the vaporizer to minimize potential for damage from explosion or fire at the vaporizer. If the vaporizer is installed in a building, the shutoff valve must be located outside the building.

(b) A shutoff valve must be located on each outlet of a vaporizer.

(c) For vaporizers designed to use a flammable intermediate fluid, a shutoff valve must be located on the inlet and outlet line of the intermediate fluid piping system where they will be operable during a controllable emergency involving the vaporizer.

§ 193.2411 Relief devices.

The capacity of pressure relief devices required for vaporizers by § 193.2429 is governed by the following:

(a) For heated vaporizers, the capacity must be at least 110 percent of rated natural gas flow capacity without allowing the pressure to rise more than 10 percent above the vaporizer's maximum allowable working pressure.

(b) For ambient vaporizers, the capacity must be at least 150 percent of rated natural gas flow capacity without allowing the pressure to rise more than 10 percent above the vaporizer's maximum allowable working pressure.

§ 193.2413 Combustion air intakes.

(a) Combustion air intakes to vaporizers must be equipped with sensing devices to detect the induction of a flammable vapor.

(b) If a heated vaporizer or vaporizer heater is located in a building, the combustion air intake must be located outside the building.

Liquefaction Equipment

§ 193.2415 General.

Liquefaction equipment must comply with the requirements of this subpart and the other applicable requirements of this part.

§ 193.2417 Control of incoming gas.

A shutoff valve must be located on piping delivering natural gas to each liquefaction system.

§ 193.2419 Backflow.

Each multiple parallel piping system connected to liquefaction equipment must have devices to prevent backflow from causing a hazardous condition.

§ 193.2421 Cold boxes.

(a) Each cold box in a liquefaction system must be equipped with a means of monitoring or detecting, as appropriate, the concentration of natural gas in the insulation space.

(b) If the insulation space in a cold box is designed to operate with a gas rich atmosphere, additional natural gas must be introduced when the concentration of gas falls to 30 percent.

(c) If the insulation space of a cold box is designed to operate with a gas free atmosphere, additional air or inert gas, as appropriate, must be introduced when the concentration of gas is 25 percent of the lower flammable limit.

§ 193.2423 Air in gas.

Where incoming gas to liquefaction equipment contains air, each operator shall provide a means of preventing a flammable mixture from occurring under any operating condition.

Control Systems

§ 193.2427 General.

(a) Control systems must comply with the requirements of this subpart and other applicable requirements of this part.

(b) Each control system must be capable of performing its design function under normal operating conditions.

(c) Control systems must be designed and installed in a manner to permit maintenance, including inspection or testing, in accordance with this part.

(d) Local, remote, and redundant signal lines installed for control systems that can affect the operation of a component that does not fail safe must be routed separately or in separate underground conduits installed in accordance with NFPA–70.

§ 193.2429 Relief devices.

(a) Each component containing a hazardous fluid must be equipped with a system of automatic relief devices which will release the contained fluid at a rate sufficient to prevent pressures from exceeding 110 percent of the maximum allowable working pressure. In establishing relief capacity, each operator shall consider trapping of fluid between valves; the maximum rates of

boiloff and expansion of fluid which may occur during normal operation, particularly cooldown; and controllable emergencies.

(b) A component in which internal vacuum conditions can occur must be equipped with a system of relief devices or other control system to prevent development in the component of a vacuum that might create a hazardous condition. Introduction of gas into a component must not create a flammable mixture within the component.

(c) In addition to the control system required by paragraphs (a) and (b) of this section—

(1) Each LNG Storage tank must be equipped with relief devices to assure that design pressure and vacuum relief capacity is available during maintenance of the system; and

(2) A manual means must be provided to relieve pressure and vacuum in an emergency.

(d) Relief devices must be installed in a manner to minimize the possibility that release of fluid could—

(1) Cause an emergency; or

(2) Worsen a controllable emergency.

(e) The means for adjusting the setpoint pressure of all adjustable relief devices must be sealed.

(f) Relief devices which are installed to limit minimum or maximum pressure may not be used to handle boiloff and flash gases during normal operation.

§ 193.2431 Vents.

(a) Hazardous fluids may not be relieved into the atmosphere of a building or other confined space.

(b) Boiloff vents for hazardous fluids may not draw in air during operation.

§ 193.2433 Sensing devices.

(a) Each operator shall determine the appropriate location for and install sensing devices as necessary to—

(1) Monitor the operation of components to detect a malfunction which could cause a hazardous condition if permitted to continue; and

(2) Detect the presence of fire or combustible gas in areas determined in accordance with Section 500–4 of NFPA 70 to have a potential for the presence of flammable fluids.

(b) Buildings in which potentially hazardous quantities of flammable fluids are used or handled must be continuously monitored by gas sensing devices set to activate audible and visual alarms in the building and at the control center when the concentration of the fluid in air is not more than 25 percent of the lower flammable limit.

§ 193.2435 Warning devices.

Each operator shall install warning devices in the control center to warn of hazardous conditions detected by all sensing devices required by this part. Warnings must be given both audibly and visibly and must be designed to gain the attention of personnel. Warnings must indicate the location and nature of the existing or potential hazard.

§ 193.2437 Pump and compressor control.

(a) Each pump and compressor for hazardous fluids must be equipped with—

(1) A control system, operable locally and remotely, to shut down the pump or compressor in a controllable emergency;

(2) A signal light at the pump or compressor and the remote control location which indicates whether the pump or compressor is in operation or off;

(3) Adequate valving to ensure that the pump or compressor can be isolated for maintenance; and

(4) A check valve on each discharge line where pumps or compressors operate in parallel.

(b) Pumps or compressors in a cargo transfer system must have shutdown controls at the loading or unloading area and at the pump or compressor site.

§ 193.2439 Emergency shutdown control systems.

(a) Each transfer system, vaporizer, liquefaction system, and storage system tank must be equipped with an emergency shutdown control system. The control must automatically actuate the shutdown of the component (providing pressure relief as necessary) when any of the following occurs:

(1) Temperatures of the component exceed the limits determined under § 193.2105;

(2) Pressure outside the limits of the maximum and minimum design pressure;

(3) Liquid in receiving vessel reaches the design maximum liquid level;

(4) Gas concentrations in the area of the component exceed 40 percent of the lower flammable limit;

(5) A sudden excessive pressure change or other condition indicating a potentially dangerous condition; and

(6) Presence of fire in area of component.

(b) For cargo transfer systems where all transfer operations are continuously manned and visually supervised by qualified personnel, actuation of the emergency shutdown control system may be manual after devices warn of the events listed in paragraph (a) of this section.

(c) Except for components that operate unattended and are remote from the control center, a reasonable delay may be programmed in emergency shutdown control systems required by this section between warning and automated shutdown to provide for manual response.

(d) Each LNG plant must have a shutdown control system to shut down all operations of the plant safely. The system must be operable at—

(1) The control center; and

(2) In the case of a plant where LNG facilities other than the control center are designed to operate unattended at the site of these facilities.

§ 193.2441 Control center.

Each LNG plant must have a control center from which operations and warning devices are monitored as required by this part. A control center must have the following capabilities and characteristics—

(a) It must be located apart or protected from other LNG facilities so that it is operational during a controllable emergency.

(b) Each remotely actuated control system and each automatic shutdown control system required by this part must be operable from the control center.

(c) Each control center must have personnel in continuous attendance while any of the components under its control are in operation, unless the control is being performed from another control center which has personnel in continuous attendance.

(d) If more than one control center is located at an LNG Plant, each control center must have more than one means of communication with each other center.

(e) Each control center must have a means of communicating a warning of hazardous conditions to other locations within the plant frequented by personnel.

§ 193.2443 Fail-safe control.

Control systems for components must have a fail-safe design. A safe condition must be maintained until personnel take appropriate action either to reactivate the component served or to prevent a hazard from occurring.

§ 193.2445 Sources of power.

(a) Electrical control systems, means of communication, emergency lighting, and firefighting systems must have at least two sources of power which function so that failure of one source does not affect the capability of the other source.

(b) Where auxiliary generators are used as a second source of electrical power—

(1) They must be located apart or protected from components so that they are not unusable during a controllable emergency; and

(2) Fuel supply must be protected from hazards.

Subpart F [Reserved]

Subpart G [Reserved]

Subpart H—Personnel Qualifications and Training

§ 193.2701 Scope.

This subpart prescribes requirements for personnel qualifications and training.

§ 193.2703 Design and fabrication.

For the design and fabrication of components, each operator shall use—

(a) With respect to design, persons who have demonstrated competence by training or experience in the design of comparable components.

(b) With respect to fabrication, persons who have demonstrated competence by training or experience in the fabrication of comparable components.

§ 193.2705 Construction, installation, inspection, and testing.

(a) Supervisors and other personnel utilized for construction, installation, inspection, or testing must have demonstrated their capability to perform satisfactorily the assigned function by appropriate training in the methods and equipment to be used or related experience and accomplishments.

(b) Each operator must periodically determine whether inspectors performing duties under § 193.2307 are satisfactorily performing their assigned function.

Appendix A to Part 193—Incorporation by Reference

I. List of Organizations and Addresses

A. American Concrete Institute (ACI), P.O. Box 19150, Redford Station, Detroit, Michigan 48219.

B. American Gas Association (AGA), 1515 Wilson Boulevard, Arlington, Virginia 22209.

C. American National Standards Institute (ANSI), 1430 Broadway, New York, New York 10018.

D. American Petroleum Institute (API), 2101 L Street, NW., Washington, D.C. 20037.

E. American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47th Street, New York, New York 10017.

F. National Fire Protection Association (NFPA), 470 Atlantic Avenue, Boston, Massachusetts 02210.

G. International Conference of Building Officials, 5360 South Workman Hill Road, Whittier, California 90601.

II. Documents Incorporated by Reference

A. American Concrete Institute (ACI)

1. ACI Standard 311–75—Recommended Practice for Concrete Inspection, (1975 edition).

B. American Gas Association (AGA)

1. Evaluation of LNG Vapor Control Methods. (October 1974 edition).

C. American National Standards Institute (ANSI)

1. ANSI A 58.1 Building Code Requirements for Minimum Design Loads in Buildings and Other Structures.

D. American Petroleum Institute (API)

1. API 620-Recommended Rules for Design and Construction of Large, Welded, Low Pressure Storage Tanks (6th edition, July 1977).

2. API 1104 Standard for Welding Pipelines and Related Facilities (14 edition, 1977).

3. API 6D Specifications for Pipeline Valves (17 edition, 1977).

E. American Society of Mechanical Engineers (ASME)

1. ANSI B31.3 Chemical and Plant Petroleum Refinery Piping (1976 edition).

2. ASME Boiler and Pressure Vessel Code, Section 1 Power Boilers (1977 edition).

3. ASME Boiler and Pressure Vessel Code, Section 8 Division 1 (1977 edition).

4. ASME Boiler and Pressure Vessel Code, Section 8 Division 2, Alternative Rules (1977 edition).

5. ASME Boiler and Pressure Vessel Code, Section 9 Welding and Brazing Qualifications (1977 edition).

6. ASME Boiler and Pressure Vessel Code, Section 4 Heating Boilers.

7. ANSI B31.5 Refrigeration Piping (1974 edition).

8. ANSI B31.8 Gas Transmission and Distribution Piping Systems (1975 edition).

F. International Conference of Building Officials

1. UBC, Uniform Building Code (1979 edition).

G. National Fire Protection Association (NFPA)

1. NFPA No. 37 Stationary Combustion Engine and Gas Turbines (1979 edition).

2. NFPA No. 59A Storage and Handling of LNG (1979 edition).

3. NFPA No. 70 National Electric Code (1978 edition).

4. NFPA No. 30 Flammable Liquids.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 193

[Docket No. OPSO-46; Notice 5]

LNG Facilities: Federal Safety Standards

January 30, 1980.

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes establishment of a set of comprehensive safety standards governing operations (including security), maintenance, fire protection and corrosion control in liquefied natural gas (LNG) facilities used in the transportation of natural gas by pipeline in or affecting interstate or foreign commerce. Current safety standards do not adequately cover these topics. The new standards would provide safety primarily through development and implementation of written procedures, personnel training, and standardized tests and inspections.

DATE: Comments must be received by May 9, 1980. Late filed comments will be considered to the extent practicable.

ADDRESS: Send comments to Docket Branch, Room 8426, Department of Transportation, Materials Transportation Bureau, 400 7th Street, SW., Washington, D.C. 20590. Comments should identify the docket and notice number and be submitted in triplicate. They will be available to the public for review at the above location between 8:30 a.m. and 5:00 p.m. each working day.

FOR FURTHER INFORMATION CONTACT: Roy F. Williams, 202-426-2082.

SUPPLEMENTARY INFORMATION: In April 1977, MTB issued an Advanced Notice of Proposed Rulemaking (ANPRM) (42 FR 20776, April 21, 1977) inviting public participation at an early stage in the rulemaking process for adoption of new Federal safety standards in 49 CFR Part 193 governing the design, construction, operation, and maintenance of LNG facilities. Although that notice was not a proposal to amend the present standards in 49 CFR 192.12, it contained a comprehensive set of draft regulations which were intended to serve as a basis for public comment and participation in identification of LNG safety problems and the development of appropriate regulatory solutions to those problems, considering all reasonable alternatives. Subsequently, a correctional notice was published at 42 FR 24758; and a third notice (42 FR 42235, August 22, 1977) extended the comment period to December 1, 1977, and set forth a bibliography of resource information.

Based on the comments received on the ANPRM and other available information, MTB is proposing the adoption of a new Part 193 through two notices of proposed rulemaking (NPRM). The first notice, notice 4 in this proceeding (44 FR 8142, February 8, 1979), relates to subparts A through K of the ANPRM, and applies to the siting, design, and construction aspects of LNG facilities. The period for public comment on Notice 4 closed May 9, 1979.

This NPRM, notice 5 in the proceeding, relates to Subparts L through O of the ANPRM, and applies to operation and maintenance aspects of both new and existing LNG facilities. Much of the supplementary information included in Notice 4 explains the basis for proposing Part 193 and is equally applicable to this NPRM. This includes such considerations as LNG characteristics; the need for comprehensive new Federal LNG facility safety standards; and an explanation of the existing federal safety standards for LNG facilities contained in 49 CFR Part 192, which incorporate by reference the 1972 edition of the National Fire Protection Association Standard No. 59A. Also included in Notice 4 was a discussion of the report on the hazards of liquefied energy gases issued on July 31, 1978, by the General Accounting Office; the study by Arthur D. Little, Inc. to provide safety information of LNG facilities; and the memorandum of understanding (MOU) between MTB and the United States Coast Guard (USCG) regarding the safety regulatory responsibility on waterfront LNG facilities. A copy of Notice 4 can be obtained by writing to the address given in this notice.

In this NPRM, as in Notice 4, MTB has used the 1975 edition of the NFPA 59A Standards as a basis for some of the proposed regulations. In this case, except for Subpart N, covering Fire Protection, NFPA 59A (1975) has little equivalent material covering operations, maintenance or corrosion control. The following table shows the 59A derivation of standards proposed in this notice.

Derivation Table

Part 193	NFPA 59A (1975)
Subpart L:	
193.1101	
193.1103	
193.1105	45
193.1106	46
193.1107	
193.1109	92
193.1111	94
193.1113	
193.1115	103
193.1117	86
193.1121	
193.1123	
193.1124	
193.1124a	
193.1125	202
193.1127	
193.1130	
193.1131	
193.1133	
193.1134	
193.1135	
193.1139	45
193.1140	88
193.1141	
193.1143	
Subpart M:	
193.1201	
193.1203	
193.1205	
193.1206	
193.1206a	
193.1207	
193.1208	
193.1209	
193.1211	
193.1215	
193.1217	874
193.1219	
193.1221	
Subpart N:	
193.1301	900
193.1303	
193.1305	91, 921
193.1306	91
193.1306a	91
193.1306b	91
193.1306c	91
193.1306d	91
193.1308	92
193.1309	92
193.1310	92, 926
193.1310a	
193.1311	
193.1313	
Subpart O:	
193.1401	
193.1402	
193.1403	
193.1405	
193.1407	681
193.1409	680
193.1411	
193.1415	
193.1419	
193.1421	
193.1423	

The Subparts proposed by this notice provide a broad coverage of closely related standards for the operation and maintenance of an LNG facility, including security, fire protection, and corrosion control. Unlike Subparts A through K, which deal primarily with design and construction of new facilities and parts of existing facilities that are replaced, relocated or significantly altered, the Subparts included in this notice pertain fully to all LNG facilities. Interested persons can meaningfully comment on this body of proposed standards in most cases without regard for the standards proposed in Notice 4, except where necessary to refer to definitions of terms.

As a result of comments to Notice 4, that the definition of "critical

component" is not clear, is too abstract, and not unlike the definition of "component," MTB is deleting the use of the term. Therefore, the proposed rules specify the appropriate components in the text, or use the term "component" as defined in Notice 4.

To ensure that the new Part 193 does not result in costs to the private sector, consumers, or government that are above those necessary to provide an acceptable level of public safety, in the ANPRM, MTB encouraged interested persons to submit information on the annual and aggregate costs, benefits, and other anticipated impacts associated with each of the draft regulations and all alternatives which commenters might suggest thereto. The information received has enabled MTB to adequately consider the impact of this rulemaking proposal early in the developmental process. A Draft Evaluation of the impact is in the docket for this proceeding in accordance with the Departmental procedures for improving regulations. MTB has determined that a Regulatory Analysis is not required under those procedures.

Draft Evaluation Review

The Draft Evaluation, prepared by Booz-Allen and Hamilton, is an impact analysis of the costs and benefits of the alternative potential Federal regulations affecting the operation and maintenance of new and existing LNG facilities. These alternatives are:

- This Notice of Proposed Rulemaking.
- Standard 59A of the National Fire Protection Association (1975 edition).
- Recommendations made in the General Accounting Office Report EMD–78–28.
- The Advance Notice of Proposed Rulemaking issued by MTB on April 21, 1977.

For this impact analysis, the NFPA Standard 59A (1975 edition) was used as the baseline regulatory standard against which the incremental facility costs, safety benefits, employment effects, and effects on consumers of the other alternative LNG regulations were measured. Standard 59A was considered to be the baseline because it is the minimum standard that normally would be observed if the MTB does not adopt a different one. Impacts were measured for five representative facilities which included baseload, peakshaving, and satellite facilities. Projections of costs and benefits were then made for two levels of planned LNG facilities, a minimum of 117 (all existing plus 6 projected new facilities) and a maximum of 175 (all existing plus 64 projected new facilities) for the years 1980 through 1999.

The Draft Evaluation indicates that a wide range of benefits are associated with reducing or minimizing several types of potential LNG facility accidents. These benefits may range from saving several lives and injuries and preventing, or otherwise avoiding, about a million dollars in damage which would be incurred with a 10 cubic meter spill of LNG at a remotely located satellite facility, to saving several thousand lives and injuries, and preventing several billion dollars damage associated with minimizing the possibility of a catastrophic spill and ignition of a large LNG storage facility in a densely populated area.

Despite the very large savings that would result from preventing a major accident at an LNG facility, costly measures which reduce the likelihood of accidents are not justified by conventional theoretical cost benefit analysis because of the extremely low probability of a major accident occurring. The limited number of LNG facility accidents requires that probability estimates of accidents be based on theoretical analysis of factors which might lead to their occurrence. There is large inherent uncertainty associated with such estimates, and hence of cost-benefit values derived from them. In light of such uncertainties, prudence dictates an extra measure of caution where there is potential for a catastrophic accident. Such caution should be weighed along with other considerations when judging the need for safety measures that can reduce the likelihood of a catastrophic LNG accident, even when these measures may not be justified based on a theoretical risk analysis technique.

The Evaluation identifies 9 sections in this notice that compared to baseline costs, would meet or exceed a two part threshold cost for any representative facility of either: $50,000 in initial investment cost for any one out of 23 standard cost factors analyzed; or $6,000 in annual cost over 20 years. The 9 costly sections are: Section 193.1111, *Personnel safety;* § 193.1121, *Investigation of failures;* § 193.1123, *Security; procedures;* § 193.1131, *Security; lighting;* § 193.1215, *Control systems;* § 193.1219, *Inspecting storage tanks;* §§ 193.1307 and 193.1308, *Fire fighting plan and Fire control equipment* (both sections were included under Section 193.1307 in the Evaluation); § 193.1419, *Monitoring corrosion control;* and § 193.1423, *Reports and records* (§ 193.1423 (a) was included under § 193.1419 in the Evaluation).

According to the Draft Evaluation, over the next 20 years, the incremental costs (in 1979 dollars, discounted at 10 percent) of these 9 NPRM sections range from $60 million to $69 million for the minimum and maximum estimated level of facilities. The annualized cost over the 20-year period ranges from $7 million to $8 million per year. Total aggregate costs for compliance with all proposed sections would range from $7.8 to $9.2 million per year. The NPRM would increase the average annualized cost of operating a facility by an amount ranging from $53,000 to $67,000 (approximately 4 percent), dependent not only upon the above estimates of new facilities constructed over the next 20 years, but also upon the fact that 111 existing facilities would also be covered by the provisions.

These cost estimates are based on an operator's choosing to follow the baseline (NFPA 59A) Standards in operating, providing security for, and maintaining an LNG facility. However, as shown above in the derivation table, only 3 of the costly sections have bases in 59A, and overall the NFPA document provides little coverage in the areas of operation, security, and maintenance (including corrosion control). In addition, the bulk of commenters' suggestions on comparable provisions in the ANPRM were adopted in this notice, and comments did not indicate that serious controversy exists with regard to the 9 sections. On the basis of these factors, MTB welcomes comments on whether "self-imposed" industry practices exceed the 59A baseline, and when they do, what impact they have on the incremental costs shown by the Draft Evaluation.

The Evaluation concludes that each of the 9 costly sections would produce benefits if an accident occurs. Nevertheless, because the estimated probabilities of accidents occurring are very low, the Evaluation further concludes that none of the 9 costly sections has "expected safety benefits" that justify the incremental costs of the section.

Considering the uncertainties inherent in risk analysis, the cost of these additional safety measures is not extreme, and the potential for the possible loss of thousands of lives and billions of dollars of property damage in the event of a major accident, MTB believes that a cost/benefit conclusion based on risk assessment alone should not be the exclusive determinant of what is necessary for public safety.

Comments are solicited on the costs estimated to comply with the proposed requirements as estimated in the Evaluation. Commenters to these

proposed regulations should further point out those particular areas where different standards might be appropriate because of size of component or the extent of the operation of an LNG facility and its associated risk.

After a careful review of the benefits, the annualized costs, and the uncertainties in predicting accident risks, MTB believes that the benefits outweigh the costs and that these proposed nine sections are warranted as an investment in public safety.

As stated in Notice 4, over 4,000 pages of comments were received on the ANPRM from 135 different commenters. The general discussion of these comments is set out in Notice 4 and significant comments relating to Subparts L–O are discussed hereinafter.

Concurrent with this proceeding, the USCG is developing regulatioins for the storage and handling of hazardous materials, including LNG, at ports. On August 3, 1978, the USCG issued an Advance Notice of Proposed Rulemaking in the **Federal Register** (43 FR 34362) inviting public participation at the earliest stages in the development of regulations to provide standards for safety, security, and environmental protection in the transportation, transfer, handling, and storage of liquefied natural gas at waterfront facilities. The USCG intends for these regulations to become an integral part of its revised general waterfront facility regulations. The USCG published an Advance Notice of Proposed Rulemaking as General Waterfront Facilities Requirements (43 FR 15107) on April 10, 1978. MTB and USCG are coordinating their regulatory activities in this area to preclude problems involving overlapping jurisdiction in consonance with the MOU mentioned above and published in Notice 4.

The ANPRM issued by MTB included draft regulations relating to (1) fire prevention and fire protection equipment, systems and methods at all facilities and (2) security at all facilities. In accordance with the MTB/USCG MOU, these safety matters at a "waterfront LNG facility" will be subject to USCG rather than MTB regulation. A future USCG NPRM on General Waterfront Facilities Requirements will propose identical waterfront LNG facility fire prevention, fire protection, and security standards (except where differences are warranted because of waterfront facility characteristics) to the standards proposed in this notice. It will also be the USCG that will issue, under its appropriate authorities, final standards on these matters as they apply to "waterfront LNG facilities."

In order to properly make the industry aware of the MTB's and USCG rulemaking responsibility with respect to waterfront LNG facilities in accordance with the terms of the MTB/USCG MOU, MTB and USCG have coordinated in the reformulation of the proposed definition of "waterfront LNG facility" as defined in Notice 4 of the NPRM. The reformulated proposed definition is as follows and is submitted for comments in this notice: "Waterfront LNG facility" means an LNG facility with docks, wharves, piers, or other structures in, on, or immediately adjacent to the navigable waters of the United States or Puerto Rico and any shore area immediately adjacent to those waters to which vessels may be secured and at which LNG cargo operations may be conducted.

MTB and USCG have coordinated in developing a format that would be used by both agencies in the publication of regulations for waterfront facilities, including LNG facilities. Using this format for all of the regulations in Part 193 will make it easier for waterfront facility operators to use LNG regulations. The proposed format to be used by MTB, as well as by the USCG, in the issuance of the final regulations for LNG facilities will be the following:

Subpart A—General
Subpart B—Siting
Subpart C—Design
Subpart D—Construction
Subpart E—Equipment
Subpart F—Operations
Subpart G—Maintenance
Subpart H—Personnel Qualification & Training
Subpart I—Fire Protection
Subpart J—Security

This notice of proposed rulemaking, however, does not follow this format. Rather this NPRM follows the same format, section by section, as published in the ANPRM. In this way commenters to the ANPRM are able to more easily follow any revisions made by MTB to the draft regulations issued in the ANPRM.

The following portion of the preamble discusses the comments made to each particular section in the draft regulations in the ANPRM as well as any revisions to those draft regulations used in developing the standards proposed in this notice.

Subpart L—Operations

The safe operation of an LNG facility depends on the use of competent personnel; prompt and effective response to equipment malfunctions and emergencies; and security from unauthorized entry. This subpart would accomplish these goals by requiring the personnel at new and existing LNG facilities have appropriate experience and training and follow prescribed written procedures. Also, security measures, including procedures and personnel training, would have to be provided at new and existing facilities for protection against vandalism and sabotage.

Personnel Qualifications. The proposed § *193.1103* (titled "General" in the ANPRM) would require that all facility personnel who operate components must have demonstrated their abilities by experience and training. For new employees, on-the-job training would be permitted with close supervision in order to gain the required experience. The suggested requirement for personnel testing by operators under § *193.1103(a)(2)* of the ANPRM has been revised in light of comments so that an operator need not be the one to give the tests but need only verify that appropriate tests have been passed.

Operating Procedures. Section *193.1105* proposes that components be operated in accordance with written procedures, which must include steps necessary for inspection or testing, recognizing and responding to malfunctions and personnel errors, and purging combustible gases. Also, included in § *193.1105(a)(5) are vaporization procedures covered by §§ 193.711(b) and (c)* in the ANPRM. The procedures suggested by § *193.1105(a)(4)* of the ANPRM for purging are covered in more detail by the proposed § *193.1139.* Section *193.1105(a)(6)* covers operating procedures for the process of liquefaction. Section *193.1105(g)* would require the operator to submit the written operating procedures to the Director or State agency. Also, § *193.1105(c)* would allow the Director or State agency to amend the operating procedures if required.

Cooldown. Proposed procedures for lowering the temperature of components before introducing LNG (cooldown) are set forth in § *193.1106.* This subject was covered in the ANPRM by §§ *193.1105(a)(5)* and *193.1117(c)(5),* but is now set out separately because of its importance. Without proper cooldown, a component could be damaged by excessive stresses due to temperature change.

Monitoring Operations. MTB believes tha components of an LNG facility and buildings in which flammable fluids are handled should be monitored to detect malfunctions, failures, fires, hazardous leaks, and the presence of unauthorized personnel. Each of these items could have a significant effect on the safety of the facility, and monitoring would enable the operator to take prompt

remedial action. At a new facility, monitoring of components may be performed continuously from a control center by personnel observing warning alarms (see proposed § *193.921*) that are designed to activate before automatic shutdown occurs or remote shutdown controls are used. For existing facilities that may not be so equipped (i.e., with sensing devices, alarms, and automatic or remote shutdown devices), MTB is proposing under § *193.1107* as an alternative monitoring approach, that (1) each component be inspected or tested at least daily for signs of any abnormal operating condition, and (2) all system start-ups or shutdowns and all transfer operations be observed by operating personnel from the control room or at the transfer area. Monitoring for security purposes is covered by § *193.1133.*

Emergency Procedures. Section *193.1109* would require each operator to follow procedures for handling emergencies including fires. The written procedures would have to provide steps for handling the proposed items listed in § *193.1109(b).* Proposed requirements for procedures to provide for cooperation with and notification of public safety agencies (based on § *193.1309* of the ANPRM) are now covered by this section. A further discussion of coordination with public agencies is included hereafter regarding § *193.1123(g).*

Personnel Safety. Section *193.1111* would provide for personnel safety by requiring each operator to provide shelter for protection against thermal radiation and protective clothing and equipment needed as a safeguard against hazards associated with operation and maintenance activities. This latter proposal is intended to apply to those hazardous situations in which the safety of personnel has a direct bearing on the safe operation of an LNG facility. The suggested requirement in the ANPRM for provisions to immerse burned personnel in the shelter has been deleted. This appears to be a controversial subject in the medical profession, and could possibly induce traumatic shock. MTB agrees with commenters that, if appropriate, immersion should take place in a hospital, not as a first aid procedure at the facility. Section § *193.1111(c)* has been added to propose that first aid material be available at the shelter. Commenters questioned the feasibility of protecting personnel against thermal radiation in areas that are not accessible to a building, such as in a diked area. The proposal has been changed from that proposed in the ANPRM to require shelter only for those personnel who would have the highest exposure to risk. MTB solicits comments on the feasibility of having a portable water spray screen provide a thermal shelter in work areas such as a yard that are not accessible to a building. Such a device could consist of a sprinkler manifold or monitor nozzle connected to a water supply that could be manually operated to spray water up into the air in a manner that would serve as a barrier against thermal radiation. These water screens are used in various LNG facilities around the country.

The Draft Evaluation identifies § *193.1111* as a proposal with a major cost impact primarily because buildings may have to be constructed to provide shelter against thermal radiation. Most existing LNG facilities have buildings, such as control centers, parts buildings, and pump stations. Comments are requested on whether these buildings now provide, or could be retrofitted to provide, the necessary shelter. What would be the costs of retrofitting existing buildings in order to obtain the necessary thermal shelter?

Personnel, Performance, and Training. Under § *193.1113* an operator would have to carry out a program to ensure that operating personnel are capable of performing their duties. The title of § *193.1113* is changed from "Personnel participation" in the ANPRM to "Personnel performance" to better express the intent of this section.

Under § *193.1115,* each operator would have to provide a program for personnel training. The program would instruct personnel about the hazards of LNG, to carry out the operating, maintenance, and emergency procedures, and to give first aid.

Transfer Procedures. A number of clarifying changes have been made to § *193.1117* in the ANPRM covering procedures for transferring hazardous fluids from one container to another. Under Paragraph (a), each transfer of LNG or other hazardous fluid would have to be performed in accordance with written transfer procedures. Paragraphs (b) and (c) in the ANPRM are restated in a new paragraph (c) devoted solely to cargo transfer procedures.

As noted above, § *193.1117(c)(5)* of the ANPRM regarding cooldown has been incorporated in § *193.1106.* With respect to prevention of stratification, § *193.1117(c)(7)* of the ANPRM has been clarified in the proposed paragraph (b)(4) to state that it applies only to LNG bulk transfer. MTB agrees that top loading of tank cars and tank trucks is not applicable to LNG transfers, and thus, the reference to NFPA 77 in paragraph (d)(5) of the ANPRM is deleted. Section *193.1117(e)* the ANPRM, regarding marine vessel transfer, has been deleted, since in accordance with MTB's memorandum of understanding with the United States Coast Guard (see Notice 4), this type of transfer would not be subject to the proposed Part 193.

Section *193.1119* in the ANPRM, pertaining to protecting transfer operations, has been deleted, since paragraph (a) on ignition sources is covered in the proposed § *193.1305,* and paragraph (b) concerning traffic, is covered in the § *193.611(a)(3).*

Investigation of Failures. Under § *193.1121,* operators would be required to determine the cause of component failures and personnel errors that result in serious incidents, and then report the incident to MTB. The Draft Evaluation identifies § *193.1121* as a proposal with major costs impacts primarily because of the possible need for a consultant to determine the cause of component failures. In those instances that the expertise of a consultant is required, the benefits derived from the determinations of the cause of a component failure far outweigh the costs of a consultant's fees.

Commenters' suggestions to § *193.1121* in the ANPRM did not indicate any serious controversy over these proposed rules. However, some operators felt that investigating and determining the cause of each failure of such components would hinder the facility's ability to provide its intended service and also threaten the operational capability of the facility. MTB does not agree with these commenters because the determination of a component failure would assure action to prevent recurrence of such failures, as well as provide MTB information to disseminate to other operators in order for action to be taken at other facilities to preclude such failures.

Security

Because of the vulnerability of an LNG facility to willful damage, under §§ *193.1123* thru *193.1135,* MTB is proposing that each operator of a new or existing LNG facility take certain minimum security measures to protect its facility against potential vandalism and sabotage. These proposed rules incorporate a combination of performance standards and specific security requirements. Comments are requested on the needs of strengthening security measures to protect the LNG facility against terrorist attacks by incorporating other measures such as psychological screening, intrusion alarm systems, guard dogs, etc., in future rulemaking.

As indicated in Notice 4 of this proceeding, the format proposed for the final rules would include these proposed regulations in Subpart J called "Security." They are being proposed as operational requirements, as they were in the ANPRM, because MTB considers a sound security program essential to the safe operation of an LNG facility and for ease in comparison with the ANPRM.

The Draft Evaluation identifies § *193.1123, Security procedures,* as a proposal with major cost impacts due to the suggested requirements for operators to prepare and follow written procedures. MTB and USCG believe that these proposed rules are essential inorder to achieve the degree of security that must be maintained at the LNG facility in order to protect the public health and safety.

Procedures. Under the proposed § *193.1123,* each operator would have to prepare and follow written security procedures to safeguard its LNG facility against sabotage or vandalism. The procedures would have to cover personnel duties, relations with appropriate local law enforcement officials, and identification of persons at the facility. The term "appropriate local law enforcement officials" means law officials in the locality of the LNG facility who are responsible for law enforcement, such as Fire, Police, or Sheriff's Departments. In §§ *193.1123(a)(2), (a)(3),* and *(a)(5)(i)* of the ANPRM, it was suggested that the procedures include steps necessary for personnel to recognize a breach of security based on problems that may occur in the operation of components. These provisions have been deleted from this notice because it would be unreasonable to require a security check for every operational difficulty. MTB believes this aspect of security can be handled as well by requiring that the investigations of serious incidents under § *193.1121* include a check for any security breach and that personnel be trained to recognize security breaches (see §§ *193.1123(a)(4)* and *193.1124(a)).* An important provision not included in the ANPRM is § *193.1123(a)(6).* This section would require procedures for positive identification of all persons entering a facility and on the facility, including the use of picture badges for facility personnel. This proposed section is based on a recommendation by the General Accounting Office (GAO). GAO recommended that regulations requiring that security personnel be screened and trained to understand threat awareness, recognition of hazardous devices, special safety precautions, and preventative actions that can be taken to prevent unauthorized access to a facility.

Personnel training and qualifications. Sections *193.1124* and *193.1124a* cover the training and qualifications of personnel who are assigned security duties. These proposed sections were included in the ANPRM as § *193.1123(b).* Many security practices are already in place at many facilities throughout the country in order to protect the facility against vandalism or terrorism and to safeguard its employees and the public from possible harm. Comments are requested from LNG facility operators regarding costs to implement these proposed requirements.

Enclosures. Section *193.1125* proposes that certain components and areas of the LNG facility be surrounded by a protective enclosure. Either a single enclosure around the entire LNG facility or separate enclosures for each component would suffice to meet this proposed requirement. Protective enclosures would have to have at least two accesses located to minimize the escape distance in the event of emergency. Each access would be either locked or guarded. MTB also believes that such protective enclosures are already in place at most facilities throughout the country and the costs to comply with this requirement would be minimal. Comments are requested from LNG facility operators regarding costs to implement these proposed requirements. Section *193.1127* proposes a minimum standard for the design of enclosures, primarily that they be fences or walls topped by barbed wire.

Regarding the suggested requirement in § *193.1129(b)* of the ANPRM that each enclosure access be locked or guarded, several commenters suggested that the word "secured" be used instead of "locked." The word "locked" is retained in this notice, however, since MTB feels that "secured" would be an ambiguous standard for the security to be provided by an enclosure access.

Security communications. Under a new proposed § *193.1130,* a means must be provided for direct communications between security personnel and appropriate law enforcement officials and between security personnel and any control room and control stations. MTB and USCG believe that a direct communication system is required for effective communications during security and emergency operations. Communications can be by means of telephone or two-way radios.

Lighting. Under the proposed § *193.1131,* when security warning systems are not provided for security monitoring, the area around each item for which an enclosure is required and the protective enclosure must be illuminated with a minimum in service lighting intensity of 0.2 lux (2.2 ft.c) between sunset and sunrise for observation of those areas for security reasons. Lighting is important for early detection of trespassers during darkness when warning systems are not is use. Protecting the facility from intrusion that could result in vandalism or sabotage is very important because a determined effort to damage such a facility could cause a very serious and hazardous condition. Lighting is a very inexpensive method to prevent such intrusion from common vandalism. Nevertheless, it should be recognized that a determined intrusion by saboteurs or terrorists cannot be thwarted by lighting alone.

The Draft Evaluation identifies § *193.1131, Lighting,* as a proposal with major cost impacts primarily because of the need to provide additional lighting to inspect the condition of components to guard against trespass and to provide suitable lighting for television cameras that may be used under § *193.1131 Lighting.* Many existing facilities are now equipped with lighting. Comments are requested on the need to build more lights to comply with this proposed requirement.

Monitoring. Under the proposed § *193.1133,* areas inside each protective enclosure as listed in § *193.1125a* must be monitored for the presence of unauthorized persons by direct visual observation, based on a schedule included in the security procedures under § *193.1123,* or by a "security warning system" that continuously transmits data to an attended location. The term "security warning system" is proposed to be defined as a device used to detect an unauthorized entry utilizing either electrical, electromechanical, electrooptical, electronics, or similar means. For facilities with a total LNG storage capacity of less than 250,000 barrels, MTB is proposing that only the protective enclosure be continuously monitored because for facilities of this size, it would be easier to detect persons inside the plant.

Alternative power sources. Under the proposed § *193.1134,* an alternative source of power would have to be available for emergency use to run security warning systems and security lighting. This alternative power supply would have to meet the requirements of § *193.927,* proposed in Notice 4 of the ANPRM. Those proposed requirements were essentially that there must be two separate and redundant sources of electrical power which function so that

the failure of one source does not affect the capability of the other source.

Warning signs. MTB agrees with those commenters to the ANPRM who argued that most persons would not understand the warning given, if warning signs were erected at the boundary of an exclusion zone, as suggested by § *193.1135(a)* of the ANPRM. Thus, this provision is deleted in the NPRM. However, § *193.1135* would require signs along the enclosure to guard against trespass as suggested in the ANPRM. In addition, the signs would have to be luminescent or lighted so as to be visible at night from as far as 100 ft. away.

Operating Pressure. MTB agrees with those commenters to the ANPRM who argued that design requirements proposed to Part 193 adequately cover the maximum and minimum allowable pressure of components. Thus, this provision is deleted in the NPRM.

Purging. MTB has concluded that "Purging Principals and Practice," issued by the American Gas Association, provides detailed purging procedures that are appropriate for an LNG facility, as well as associated gas pipelines and equipment. Also, it is referenced in NFPA 59A. Accordingly, § *193.1139*, which addresses purging, has been revised to require that these practices be followed.

Communications. A new § *193.1140* is included in this notice that would require each operator to provide for communications at the LNG facility. This facility communication system is made up of a primary and an emergency verbal communication system. The primary is required for communications betwen the operators and their assigned work locations, and the emergency is required for communications, in the event of an emergency, for orderly shutdown of the facility. The primary and emergency system must be independent and physically separated from each other.

Operating Records. Commenters indicated that it would be too onerous and unnecessary to keep a daily record of the operation of each component as suggested in the ANPRM because under normal circumstances, operations do not vary from design limits. MTB agrees and in this notice § *193.1141* proposes that records be kept only for abnormal operating conditions.

Notice to Director

A new § *193.1143* is included in this notice that would require each operator to notify the Director or a relevant State agency that has submitted a current certification or agreement with respect to the facility under Section 5 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C.1674), 30 days, before installation of any component or any existing component that is replaced, relocated, or significantly altered. The purpose of the notice is to give MTB an opportunity to check for compliance with applicable requirements of Part 193 or to determine whether additional steps are needed to asure that the component is not hazardous to life or property. The Director or State agency will notify the operator with regard to any hazard or violation identified in the agency review. In the absence of any action by the Director or State agency, the operator may initiate operation. This proposed requirement would not prohibit the initial installation, testing, and operation of the component so long as proper notification is given. If adopted, it is anticipated that this section would be included in Subpart A—General in the final rules.

Subpart M—Maintenance

Under this subpart, each operator would be required to maintain the operational capability of LNG facility components. Maintenance activities, which include inspection, testing and repair of components, can have a significant impact on the safety of an LNG facility. A malfunction or failure of a component could spread to others, possibly resulting in an emergency. To reasonably prevent such occurrences, certain maintenance activities must be performed periodically. Time intervals are included in this Subpart where considered necessary.

Some commenters to Subpart M in the ANPRM argued that the suggested maintenance standards should not apply to those parts of an LNG facility whose failure or malfunction would not pose a hazard. This view point is consistent with the purposed Subpart M which is to keep each LNG facility in a safe operating condtion. It is reflected in Subpart M by use of the term "component," which is defined in Notice 4 of this proceeding to mean any part of an LNG facility which involves a hazardous fluid or some safety purpose.

General. As a general maintenance standard, MTB is proposing in § 193.1203(a) that each component in service be kept in a condtion that is "compatible with its operational or safety purpose" by repair, replacement or other means. This proposal combines the suggested requirements of §§ *193.1203(a)(2) and (b)* of the ANPRM. Paragraph (b) is intended to make it clear that Subpart M does not apply to components which are not in service. At the same time, under paragraph (c), components which Part 193 requires to be installed at an LNG facility could not permanently be taken out of service to avoid the maintenance requirements of Subpart M. Section *193.1203(a)(2)* of the ANPRM, which referred to certain conditions that proper maintenance must prevent, has been deleted, for as some commenters stated, these conditions essentially were covered by the performance suggested under § *193.1203(a)(2)*. Also, the suggested standards for repairs in § *193.1203(c) and (b)* of the ANPRM are covered by § *193.1211* of this notice.

Maintenance Procedures. Under §§ *193.1205(a) and (b)*, each operator would be required to "determine" (using scientific methods and engineering judgment as proposed by the definition of the term "determine" in Notice 4) what tests and inspections are necessary to meet the maintenance standards of Subpart M, and then prepare and follow written procedures to carry them out.

The provisions of §§ *193.1205(a)(1)–(5)* of the ANPRM are restated in other sections of the proposed Subpart M as discussed hereafter. As provided by paragraphs (c) and (d) of § 193.1205, the procedures and any changes to them would have to be filed with the Secretary (MTB) or, in the case of a facility that is subject to jurisdiction of a State agency under Sec. 5 of the Natural Gas Pipeline Safety Act of 1968 (NGPSA) (49 USC 1674), with that State Agency. These latter paragraphs were included as § *193.9* of the ANPRM, and are based on Sec. 11 of the NGPSA. Section 11 authorizes the Secretary or the relevant State agency to require that the procedures be revised if it finds that they are inadequate to achieve safe operation.

Obstructions. A new § *193.1206* is added to propose that the functioning of components not be obstructed by ice, contaminants, or other foreign matter. This new Section was included in the ANPRM as § *193.1205(a)(2)*. Examples of the problems which § *193.1206* are intended to correct are ice accumulations which restrain the movement of components like bellow joints or valves, plugged relief valve orifices, and incorrect instrument readings.

Support Systems. Section *193.1206(a)* is based on § 193.1205(a)(4) of the ANPRM. this section proposes that each component's support system, including foundation, whose failure could cause a significant hazard must be inspected for any detrimental change that could impair support.

Firefighting equipment. Section *193.1207* of the ANPRM regarding the maintenance of firefighting equipment is

expanded in this NPRM to cover the propose maintenance requirements for the additional automatic fire detection, foam-water, hydrants, and sprinkler systems when applicable. Also, the title is changed to "Fire control equipment" in order to be compatible with § 193.1308 of this NPRM.

Auxiliary power. A new § *193.1208* has been added to provide for monthly testing of auxiliary power sources. It is essential that such sources be operational when needed, and this can be assured by periodic testing. As suggested by § 193.1205(a)(5) of the ANPRM, the test would have to account for all equipment to be served by the power source in an emergency.

Purging. Section *193.1209* would require that isolated components be purged before maintenance activities are performed. The section has been revised from the ANPRM version to be consistent with the proposed purging requirement of § 193.1139.

Repairs. Under § *193.1211(a),* MTB is proposing that repair work on components be performed and tested as far as practicable in accordance with the construction requirements of Subpart K that were proposed in Notice 4 of this proceeding. In general, commenters did not object to a similar proposal included in §§ *193.1203* and *193.1211* of the ANPRM. Under paragraph (b), additional procedures would be required to provide safety for repairs made while a component is operating.

Contaminants. Section *193.1213* of the ANPRM, concerning removal of contaminants which impair the functioning of components, has been deleted as the subject is covered by §§ *193.1203(a), 193.1205,* and *193.1206.*

Control Systems. As a general standard for control systems, it is proposed in § *193.1215(a)* that they be properly adjusted and maintained to operate as designed. MTB does not agree with commenters that it is unnecessary to prescribe a time period for inspection and testing of control systems which are operating satisfactorily on a regular basis because regular operation might not include activities of sensing and alarm devices. Therefore, an annual inspection and test would be required under paragraph (d) for each control system that is normally in operation. Section *193.1215(b)* proposes that control systems be inspected and tested before use after being taken out of service for a month or more. Also, § *193.1215(c)* has been added, as suggested by several commenters, to provide for periodic inspection and testing of components which are in service but not normally operating, such as relief devices and automatic shutdown systems. It is imperative that such components be operational when needed. Some commenters objected to the suggested inspection and testing of control systems in the ANPRM "before returning to service after a shutdown of one month or more." Operators felt this would create a major maintenance problem if the plant were operated and shutdown three or four times a year. MTB agrees with these comments and feels it would be a burden for facility operators who are intentionally starting up and shutting down their liquefaction and vaporization train. Therefore, MTB has changed the proposed rules to allow for seasonal operation, such as occurs with liquefaction and vaporization. These proposed rules differ from the ANPRM, which called for inspection and testing of control systems before returning to service after a shutdown of one month or more.

The Draft Evaluation identifies § *193.1215* as a proposal with major cost impacts primarily because money will have to be expended for periodically testing equipment and instruments that have not been in use for periods indicated. Because the consequences of the failure of a control system would have a significant effect on the operation of an LNG facility, MTB considers testing these systems of primary importance.

Transfer hoses. As suggested in the ANPRM, § *193.1217(a)* would require that hoses used to transfer LNG or flammable refrigerants be tested annually to a pressure level at least as high as the maximum pump pressure or the relief valve setting. Under paragraph (b), hoses would have to be visually inspected before each use. Some commenters recommended that testing of transfer hoses be limited to the lesser of the maximum pump pressure or relief valve setting. However, § *193.1217* provides an option for the pressure to be used, and thus satisfies the intent of the recommendation.

Storage tanks. MTB believes that each LNG storage tank should be checked periodically for the presence of certain potentially hazardous operating conditions that could result from environmental or operational causes. Section *193.1219* sets forth the conditions and the inspections that would have to be performed to determine whether the conditions exist at a storage tank. In accordance with recommendations of some commenters, the conditions have been restated and the inspections have been revised from the way they were stated in the ANPRM. MTB agrees that inspections of the foundation, tank, and transfer lines at 3-month intervals are necessary only for the first year of service, for in that time conditions should be stabilized. Inspection for stratification is proposed at 3-month intervals and when "significant" additions of LNG are made; and temperature readings may be used as an inspection procedure. MTB believes that cold spots, which indicate possible inner tank leakage or other problems and are immediately visible, should be looked for at weekly intervals. In respect to adequacy of insulation (other than problems evidenced by cold spots), inspections using electronic devices would be required quarterly for the first year after a tank is placed in service and annually thereafter.

The Draft Evaluation identifies § *193.1219* as a proposal with major cost impacts primarily because significant sums of money will have to be expended for periodic inspection of tanks. The inspections proposed are very important to assure that the specified conditions are not a potential hazard to the tank. MTB has revised the periods of inspections to be more in conformance with comments to this section in the ANPRM, and MTB believes that the benefits associated with this proposal are justified.

Records. In light of many comments, the proposed recordkeeping requirement under § *193.1221* is changed from the ANPRM version to clarify that a log made available for inspection at each facility may be used to provide an adequate record of all maintenance activities.

Subpart N-Fire Protection

The purpose of this subpart is to ensure (1) that fires at new and existing LNG facilities are prevented to the maximum possible extent through proper planning and personnel training, and (2) that new and existing LNG facilities are properly equipped with firefighting equipment and systems. Under the proposed rules, written procedures would be required to prevent fires as far as possible or to protect components against damage from fires that might occur, and ongoing training programs would have to be established for LNG facility personnel who will carry out such procedures. In accordance with the emergency procedures proposed under § *193.1109,* operator activities would have to be performed in cooperation with appropriate law enforcement officials in the event of fire or other emergencies.

The title of the subpart has been changed to "Fire protection" from the term "Fire prevention" used in the

ANPRM. This was considered more appropriate by several commenters, is consistent with NFPA 59A, and has been agreed upon by MTB in coordination with the U.S. Coast Guard as part of the new format which will be used in the development of the final rules (see Notice 4).

Two commenters to § *193.1301* of the ANPRM felt that Subpart N should apply to existing LNG facilities only "as far as practical." MTB feel the danger of fire occurring at an LNG facility is so serious that fire prevention and protection standards should not differ regarding the operation of new and existing facilities. Also, the burden of compliance for existing facilities to meet the proposed requirements should not be onerous.

General. As a general standard, it is proposed in § *193.1303* that each operator minimize the occurrence of fires and their consequences by following sound fire protection engineering principles. The provision in the ANPRM regarding use of operation and maintenance techniques to minimize the potential for fires has been deleted as duplicative of the purposes of the operation and maintenance subparts proposed for Part 193. *Fire prevention.* The purpose of §§ *193.1305–193.1306d* is to prevent fires by identifying and controlling ignition sources and the release of flammable fluids. Under § *193.1305(a),* each operator would have to determine the areas within and outside the facility where flammable fluids may exist and the potential ignition sources. The suggestion in § *193.1305(a)(1)* of the ANPRM that operators consult with local fire department officials on causes of fires has been deleted, as the coordination with law enforcement officials in respect to firefighting and other emergencies is covered by § *193.1109.* Under § *193.1305(b),* operators would be required to prepare and follow fire prevention procedures to minimize leakage in areas where it may occur as described in Section *500–4* of the National Electrical Code. The procedures would also be used to control ignition sources identified under paragraph (a).

Because § *193.1139* has been revised to reference the AGA "Purging Principles and Practice," which covers the full purging procedures for taking components out of service, or returning them to service, the suggested § *193.1305(b)(6)* of the ANPRM regarding purging procedures has been deleted as redundant.

In the ANPRM, §§ *193.1305(b)(3)* thru *193.1305(b)(5)* pertained to procedures for smoking, open fires, welding, and combustible materials. MTB is proposing specific actions for controlling smoking, open fires, welding, and storage of flammable fluids under §§ *193.1306* thru *193.1306c.* Section *193.1305(b)(7)* of the ANPRM pertained to proposed restrictions of motor vehicles and is now covered under § *193.1306d, Motorized equipment.*

A number of commenters to § *193.1305(b)(7)* of the ANPRM recommended that a minimum distance be required between vehicles or other mobile equipment which could constitute a potential ignition source and processing equipment containing flammable fluids. MTB agrees and is proposing a 15m (49.2 ft.) requirement under § *193.1306d,* which is consistent with paragraph 911 of NFPA 59A. Section § *193,1306b* would require operators to post areas where smoking is permitted, and § *193,1306c* would require operators to post areas where smoking is prohibited. *Firefighting plan.* The suggested requirement in § *193.1307(b)* of the ANPRM for firefighting procedures is transferred to § *193.1109* of this notice, concerning emergency procedures. *Fire control equipment.* A new § *193.1308* is proposed based on the suggested requirements of Sections *193.1307(a), (c)–(g)* of the ANPRM concerning fire control equipment. This proposed section is intended to ensure that each operator has equipment and materials on hand to protect components against the damaging effects of exposure to a fire, by extinguishing small fires, preventing spills from igniting, and preventing a fire from spreading to a component. In the ANPRM, § *193.1307(c)(1)* suggested that operators provide portable or wheeled fire extinguishers suitable for gas fires, preferably of the dry chemical type. MTB agrees with commenters who felt that any extinguisher suitable for gas fires should be acceptable, and § *193.1308(b)(1)* is changed accordingly. In addition, paragraph (b)(1) is changed to provide that extinguishers be suitable for fires identified under § *193.1308(a),* not just gas fires. In addition to fire extinguishers, § *193.1308(b)(2)* would require that facilities with a capacity of 265m ^{3} (70,000 gal.) or more be equipped with a water supply and delivery system adequate to protect or cool components for the duration of any endangering fire, including control of unignited leaks and spills. It is intended that this water supply system be used for sprays, water curtains, or deluge systems. Added water supply would be needed for any foam system an operator may provide.

In the ANPRM, § *193.1307(d)* pertained to the general design of a water supply system. This section has been deleted in this notice since the general design requirements are covered by requirements for components in § *193.303,* by § *193.1303,* and to some extent by the proposed § *193.1308(b)* of the NPRM. Paragraph (d) of § *193.1308* would require each facility operator who may be endangered by exposure to fire to have protective clothing and equipment. Paragraphs (e) and (f) propose requirements for recognition, accessibility, and operating instructions of fire control equipment.

The Draft Evaluation identifies § *193.1308* as a proposal with major cost impacts because monies would be required to provide additional firewater storage. Nevertheless, MTB considers this a critical requirement to properly safeguard an LNG plant from an ignited or unignited LNG spill. The failure to properly control the hazards from such a spill could result in an even more catastrophic result. *Coordination with public agencies.* Suggested requirements governing coordination of an operator's fire prevention and protection and other emergency control activities with public safety agencies were set forth in the ANPRM under § *193.1309.* This section is deleted in this notice since proposed coordination responsibilities for emergencies have been appropriately included organizationally under § *193.1109* concerning emergency procedures.

Leak and fire detection. Section *193.1310* is an additional proposed rule not in the ANPRM that would require fixed flammable gas detection systems to monitor for the presence of flammable gases and vapors. Due to the expansion rate of LNG from its liquid to its gaseous state, MTB and USCG is proposing under § *193.1310(f)* that all enclosed buildings on an LNG facility be continuously monitored for the presence of flammable gases and vapors with a fixed flammable gas detection system that provides a visible or audible alarm outside the enclosed building in order to warn the operator of a hazardous condition inside the building. Section *193.1307(g)* of the ANPRM pertained to portable flammable gas indicators and is being proposed under § *193.1310(e).* Also, a new § *193.1310(a)* is being proposed to cover fire detection. Under this proposed requirement, fire detectors would continuously monitor for the presence of either flame, heat, or products of combustion. Sections *193.1310* and *193.1310a* would insure timely warning of a potentially hazardous condition and alert facility personnel. The proposed § *193.1310* is similar to the current requirements in

NFPA 59A which MTB believes would not result in significant costs. Section *193.1310a* is a new proposal that MTB believes would not have significant cost impacts because fire detection components are reasonable in cost. In addition, any LNG facilities already have fire detection systems. MTB specifically requests comments on these points.

Training. The vital function of training LNG facility personnel to carry out the fire prevention and protection plans of Subpart N would be covered by § *193.1311.* Under this section, each operator would have to provide and maintain an instructional program for all new and existing personnel. As breaches of security are included in the training proposed by § *193.1123,* reference to breaches of security in § *193.1311* of the ANPRM has been deleted.

Records. Records to show that the training has been provided to, and completed by, personnel would be required by § *193.1313.* The ANPRM suggested that these records provide evidence that personnel have satisfactorily attained proficiency goals. Since many commenters indicated that such a conclusion would be highly subjective and open to broad interpretation, this suggested requirement has been deleted. There were also a number of objections to the suggested requirement in § *193.1313(b)* of the ANPRM for maintaining records of personnel for 3 years after they have left a facility. MTB needs records for enforcement reasons. Therefore, MTB is proposing in this NPRM that records must be maintained for 1 year after personnel are no longer assigned duties at the LNG facility instead of the 3 years.

Subpart O—Corrosion Control

This subpart would insure that the integrity and reliability of components in new and existing LNG facilities are not adversely affected by external, internal, or atmospheric corrosion. Unless corrosion is controlled, certain corrosive conditions can cause leaks or malfunctions in metallic components and consequent hazardous conditions. The primary methods available for corrosion control include material selection, coating, and cathodic protection.

Because operators of existing LNG facilities may need some time to bring the facilities into compliance with Subpart O, MTB proposes that 1 year's lead time be allowed for this purpose after the final rules are issued.

The Draft Evaluation identifies § *193.1419* as a proposal with major cost impacts primarily because major costs would be incurred to provide means for monitoring corrosion protection systems at the intervals indicated. Based on MTB pipeline failure data, corrosion has historically been the cause of approximately half of all pipeline leaks. The hazards due to a corrosion leak at an LNG facility are as significant as similar leaks on pipeline systems. Monitoring of corrosion protection is already required for certain LNG facilities as part of facility maintenance under 49 CFR *192.12(a)* and *192.451.* Section *193.1419* is proposing to expand these same requirements to cover the remaining facilities. Comments are requested on the additional cost to implement the additional corrosion monitoring. Also, the Draft Evaluation bases its high cost estimate on the assumption that in many cases LNG storage tanks will have to be taken out of service for compliance with § *193.1419.* Comments are requested on whether new tanks can be designed to avoid this outcome and whether cathodic protection on existing tanks can be monitored without taking the tank out of service.

General. As a general requirement, MTB is proposing in Section *193.1402* that each metallic component in an LNG facility be protected from corrosion if its integrity and reliability could be adversely affected by corrosion during its intended service life. This proposal recognizes that in certain circumstances the corrosivity of a component's environment or the fluid it carries may not warrant protective measures.

Procedures. Each operator would be required by § *193.1403* to prepare and follow written procedures for determining which components in a facility must be protected from corrosion under § 193.1402, and for meeting the requirements of Subpart O in providing that protection. In accordance with the proposed definition of "determine" (Notice 4), under this section each operator would have to conduct a corrosion investigation, following the written procedures, to ascertain whether it is reasonable to assume that components will be adversely affected by corrosive environments or fluids during their lifetime. This section would also establish qualifications for personnel who are to be in charge of carrying out the procedures.

Overview. It was suggested in § *193.1403* of the ANPRM that a qualified person described in § *193.1403* review from a corrosion control viewpoint all materials used in the construction, replacement, or repair of an LNG facility to insure they would not imperil the safety or reliability of the facility. MTB agrees with the many commenters who felt this review would be unnecessary in many cases of replacement or repair where no change in the original material specifications is involved. As a result, § *193.1405(b)* has been added, defining the conditions where such a review would be required in the case of replacement, repair or significant alteration. The proposed conditions are where changes in the original material specifications are involved or where failure or significant deterioration of the original material has taken place because of corrosion.

Atmospheric corrosion. If, as provided by § *193.1402,* a component's integrity or reliability could be adversely affected by atmospheric corrosion, it would have to be protected in accordance with § *193.1407* by proper material selection or by applying a protective coating or jacketing over the outside of the exposed metal component.

External corrosion. Any component that could be adversely affected by external (or electrochemical) corrosion would have to be protected under the proposed § *193.1409* by proper material selection or by coating and cathodic protection.

The ANPRM suggested a similar requirement for metal reinforcing material, but the majority of the commenters objected to the need for protecting reinforcing materials for a number of reasons: It would not be practical to electrically interconnect all parts of a reinforcing grid so that it would be protected as a single unit; the protection level in existing piping systems could be adversely affected; such corrosion control methodology is not adequately developed; the need for and effectiveness of such protection has not been demonstrated; and such protection could adversely affect the bonding of concrete to reinforcing metal. Also, many commenters stated that experience shows there have not been any corrosion problems with reinforcing materials in LNG facilities. In view of these comments, MTB has reconsidered the need to protect metal reinforcing material in concrete structures in LNG facilities, and has determined that a proposed rule as suggested in the ANPRM cannot be justified on the basis of available information.

With regard to the cathodic protection system proposed under § *193.1409(a)(2)(ii),* it was suggested in the ANPRM that such a system be placed in operation immediately after installation of a component. Many commenters pointed out that this was not consistent with the corrosion control requirements of 49 CFR Part 192, where

it has been recognized that immediate effective operation is not practical. This notice proposes that cathodic protection systems be placed in operation within one year after installation of a new component or, in the case of an existing component, within one year after § § *193.1409* is issued as a final rule.

Internal corrosion. Section 193.1411 proposes that each component subject to internal corrosion that would adversely affect the integrity or reliability of the component be protected by an inhibitor, coating, or other means unless internal corrosion is controlled by proper material selection.

Environmentally induced cracking. In the ANPRM, § *193.1413* suggested that all components be protected from environmentally induced cracking. Based on a further review of available information, MTB deleted this section from the NPRM because at present environmentally induced cracking has not been identified as a problem in components contained in LNG facilities. Proposed reporting requirements in § *193.1423(a)* should provide further information on the subject and show whether a need exists for future rulemaking.

Interference currents. Sections 193.1415 (a) and (b) are directed toward protecting metal components from corrosion caused by stray earth currents that may enter and leave a component. Cathodic protection rectifiers, electrical generators, or other sources may provide these currents. *Section 193.1415(c)* of the ANPRM suggested that each impressed power source have filters to prevent unintended interference with control networks. Commenters stated that § *193.1415(c)* was not related to corrosion control. Although paragraph (c) is not intended to control corrosion, the interference problem derives in some cases from currents that are normally related to corrosion control equipment. Therefore, the proposed standard for protection is included in Subpart O. The paragraph has been revised to be more performance oriented, eliminating the requirement for the use of filters as the only means of minimizing interference.

Contaminants. Section *193.1417* of the ANPRM, which dealt with contaminants, has been deleted, as most of the section was either redundant or has been combined with the proposed requirements of Section *193.1015,* relating to cleanup after construction, and Section *193.1017,* relating to the pipe welding (see Notice 4).

Monitoring. Section *193.1419* of the ANPRM concerning monitoring of corrosion protection has been revised so as to make it more consistent with similar requirements in 49 CFR Part 192 for gas pipelines. As recommended by many commenters, the proposed inspection or test periods have been made identical with those in Part 192. *Section 193.1419(b)* has been added to cover rectifiers and impressed current power sources. This had been omitted in the ANPRM. In the ANPRM, § *193.1419(c)* related to both external and atmospheric corrosion protection, and it has been divided into separate paragraphs (a) and (d) for clarity in this notice, recognizing that external corrosion protection is monitored by test, whereas atmospheric corrosion protection is evaluated by inspection. Paragraphs (d) and (e) of the ANPRM concerning internal corrosion are restated in the proposed § *193.1419(e).* Under paragraph (e), coupons or probes used for monitoring internal corrosion would have to be located where internal corrosion is "most likely to occur." It is recognized that any monitoring of the internal corrosion protection in cryogenic systems would be difficult during the periods a facility is in operation. The calendar year period, not exceeding 15 months, as proposed, should provide sufficient flexibility to permit such monitoring during facility shutdowns.

In the ANPRM, § *193.1419(g)* suggested that the Director be advised of all corrosion caused failures occurring before the component's normal service life that are not reported individually under 49 CFR Part 191. This has been revised and restated in § *193.1423(a)* to specifically include environmentally induced types of corrosion. MTB does not agree that the number of reports would be massive and would serve no useful purpose in the interest of safety, since a large number of corrosion failures are not anticipated at LNG facilities.

Paragraph (h) in the ANPRM has been deleted as the problem of contaminants in cleaning solutions is covered by the proposed § *193.1015.*

Also, paragraph (i) has been deleted because the suggested requirement for obtaining corrosion rate data was too indefinite and the other proposed requirements of §§ *193.1419 and 193.1421* cover the subjects of inspecting for and correcting inadequate corrosion protection.

Remedial measures. If an operator learns through the activities conducted under § *193.1419,* or otherwise, that an applied corrosion protection method is ineffective, or could not be expected to preserve the integrity or reliability of the protected component for its service life, then Section *193.1421* would require that prompt remedial action be taken.

Records. As suggested in the ANPRM under Section *193.1423,* each operator would have to maintain a record of its cathodically protected components and of each investigation made to show the effectiveness of corrosion control or that corrosion control is not needed.

The Draft Evaluation identifies § *193.423* as a proposal with major cost impacts because of the additional sums of money that will be required for maintenance of corrosion control records. Because of the history of leaks due to corrosion, MTB believes that keeping records of the corrosion leaks and location of cathodically protected components is of sufficient importance to require such data. This data will be of significant value in evaluating trends in corrosion leaks and implementing corrective measures to mitigate such problems.

In consideration of the foregoing, MTB proposes to amend Title 49 of the Code of Federal Regulations as follows:

1. Part 193 is proposed to be amended by adding new Subparts L–O to read as set forth below.

2. The Appendix to Part 193 is proposed to be amended by adding the new material to be incorporated by reference which is set forth below.

(Sec. 3 Pub. L. 90–481, 82 Stat. 721 (49 U.S.C 1672); 49 CFR 1.53, Appendix A of Part 1, and Appendix A of Part 106)

Issued in Washington, D.C. on January 30, 1980.

Cesar De Leon,

Associate Director for Pipeline Safety Regulations, Materials Transportation Bureau.

PART 193—LIQUEFIED NATURAL GAS FACILITIES: FEDERAL SAFETY STANDARDS

* * * * *

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Appendix A to Part 193—Incorporation by Reference.

I. List of organizations and addresses.

II. Documents incorporated by reference.

Authority: 49 U.S.C. 1671 et seq.; 49 CFR 1.53, Appendix A of Part 1, and Appendix A of Part 106.

Subpart L—Operations

§ 193.1101 Scope.

This subpart prescribes requirements for the operation of LNG facilities except that it does not apply to security at waterfront LNG facilities.

§ 193.1103 Personnel qualifications.

(a) Each operator shall utilize for operating and maintaining components only those personnel who have demonstrated their capability to perform their assigned functions by—

(1) Work related experience in operations and maintenance of an LNG facility or of a compatible facility such as an air separation or propane plant and successful completion of the training required by §§ 193.1115 and 193.1311; and

(2) Performance or a qualification test relevant to the assigned function.

(b) A person who does not have the experience required by paragraph (a)(1) of this section may operate a component when accompanied by a supervisor who has the experience.

§ 193.1105 Operating Procedures.

(a) Each operator shall follow a manual of written procedures to assure safety in normal operation and in responding to an abnormal operating condition. The procedures must be available at the LNG facility and include provisions for—

(1) Conducting any inspections or tests of components and buildings required by § 193.1107;

(2) Startup and shutdown including for initial startup, performance testing to demonstrate that components will operate satisfactorily in service;

(3) Recognizing and responding to component malfunctions and personnel error, including taking action if—

(i) Pressure or temperature is outside limits; or

(ii) A component malfactions because of contaminants;

(4) Purging and inerting components according to the requirements of § 193.1139;

(5) In the case of vaporizers,

(i) Minimizing thermal shock during the initiation of vaporization; and

(ii) Maintaining the rate of vaporization so that the temperature and pressure of the resultant gas are within the design limits of the vaporizer; and

(6) In the case of liquefaction, maintaining correct flow, temperature, and pressure within the design limits for facility turbines and compressors, for facility purification and regeneration equipment, and for heat exchangers, expanders and compressors located inside of the facility cold box.

(b) Before (effective date) or 60 days before an LNG facility is initially placed in operation, whichever is later, the procedures prepared under paragraph (a) of this section must be filed with the Director or with a State agency that has submitted a current certification or agreement with respect to the facility under Section 5 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1674). In addition, each change to the procedures must be filed within 20 days after the change is made.

(c) The Director or State agency may require the operator to amend the manual of operating procedures if it does not assure safety in operation.

(d) Procedures and changes filed with the Director must be sent to the Director, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

§ 193.1106 Cooldown.

(a) Each operator shall include in the manual of operating procedures under § 193.1105 written procedures for the cooldown of each component that is subjected to cryogenic temperatures.

(b) The procedures must assure that—

(1) Cooldown is limited to a rate and distribution pattern that keeps thermal stresses within design limits during the cooldown period, paying particular attention to the performance of expansion and contraction devices; and

(2) After cooldown stabilization is reached, all flange gaskets and seals are inspected for leaks.

§ 193.1107 Monitoring operations.

(a) Each component in operation or building that is subject to or otherwise in compliance with the applicable requirements of this part regarding the installation of sensing, warning, and remote or automatic control devices must be monitored from a control center. Monitoring must be accomplished by continuously watching or listening for warning alarms, such as gas, temperature, pressure, vacuum, and flow alarms.

(b) Other components in operation and other buildings in which a potentially hazardous quantity of flammable fluid is handled must be monitored by—

(1) Conducting an inspection or test at least daily for signs of any abnormal operating conditions or failure; and

(2) In the case of components, directly observing all startups, shutdowns, and transfer operations.

§ 193.1109 Emergency procedures.

(a) Each operator shall determine the types and places of emergencies other than fires that may reasonably be expected to occur at an LNG facility due to operating malfunctions, structural collapse, personnel error, forces of nature, and activities adjacent to the facility.

(b) To adequately handle each type of emergency identified under paragraph (a) of this section and each fire emergency identified under § 193.1308(a), each operator shall follow a manual of written procedures. The manual must be available at the LNG facility and provide for the following:

(1) Responding to controllable emergencies, including notifying personnel and using equipment appropriate for handling the emergency.

(2) Recognizing an uncontrollable emergency and taking actions to minimize harm to the public and personnel, including early notification of local law enforcement officials of the emergency and possible evacuation of the public in the vicinity of the LNG facility.

(3) An emergency evacuation plan, which sets forth the steps required to protect the public in the event of catastrophic failure of the LNG tank.

(4) Cooperating with appropriate local law enforcement officials in handling evacuations, emergencies and keeping these officials advised of—

(i) The LNG facility fire control equipment, its location, and quantity of units located throughout the facility;

(ii) Potential hazards at the facility, including fires;

(iii) Communication and emergency control capabilities at the LNG facility; and

(iv) The status of each emergency.

(c) Before (effective date) or 60 days before an LNG facility is initially placed in operation, whichever is later, the procedures prepared under paragraph (b) of this section must be filed with the Director or with a State agency that has submitted a current certification or agreement with respect to the facility under Section 5 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1674). In addition, each change to the procedures must be filed within 20 days after the change is made.

(d) The Director may require the operator to amend the manual of emergency procedures if it does not provide for adequate handling of emergencies.

(e) Procedures and changes filed with the Director must be sent to the Director, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

§ 193.1111 Personnel safety.

(a) Each operator shall identify the potential hazards involved in operating and maintenance activities that affect the proper performance of those activities and provide suitable protective clothing and equipment necessary for the safety of personnel while they are conducting the activities.

(b) All personnel who are normally on duty at a fixed location, such as a building or yard, where they could be harmed by thermal radiation from a burning pool of impounded liquid must be provided a shelter at that location from the harmful effects of radiation.

(c) Each LNG facility, including each building used as a shelter, must be equipped with suitable first aid material, the location of which is clearly marked and readily available to personnel.

§ 193.1113 Personnel performance.

Each operator shall provide and conduct a written program to ensure that operating personnel are mentally and physically capable while carrying out their assigned functions.

§ 193.1115 Personnel training.

(a) Each operator shall conduct a written initial training program to instruct—

(1) All permanent maintenance, operating, and supervisory personnel—

(i) About the characteristics and hazards of LNG and other flammable fluids used or handled at the facility, including, with regard to LNG, low temperatures, flammability of mixtures with air, odorless vapor, boiloff characteristics, and reaction to water and water spray;

(ii) About the hazards identified under § 193.1111(a); and

(iii) To carry out aspects of the operating and maintenance procedures under §§ 193.1105 and 193.1205 that relate to their assigned functions;

(2) All personnel—

(i) To carry out the emergency procedures under § 193.1109 that relate to their assigned functions; and

(ii) To give first aid;

(3) All operating and supervisory personnel—

(i) To understand detailed instructions on the facility operations, including controls, functions, and operating procedures; and

(ii) To understand the LNG transfer procedures provided under § 193.1117; and

(4) All supervisory personnel in the operation of all systems within the LNG facility.

(b) A written program of continuing instruction must be conducted at intervals of not more than two years to keep all personnel current on the knowledge and skills they gained in the program of initial instruction.

(c) Personnel training records must be maintained for one year after personnel are no longer assigned duties at the LNG facility.

§ 193.1117 Transfer procedures.

(a) Each transfer of LNG or other hazardous fluid must be conducted in accordance with a manual of written procedures to provide for safe transfers.

(b) The transfer procedures must include provisions for personnel to:

(1) Before transfer, verify that the transfer system is ready for use, with connections and controls in proper positions, including if the system could contain a combustible mixture, verifying that it has been adequately purged in accordance with AGA "Purging Principles and Practice."

(2) Before transfer, verify that each receiving container or tank vehicle does not contain any substance that would be incompatible with the incoming fluid and that there is sufficient capacity available to receive the amount of fluid to be transferred;

(3) Before transfer, verify the maximum filling volume of each receiving container or tank vehicle to ensure that expansion of the incoming fluid due to warming will not result in overfilling or overpressure;

(4) Before making a bulk transfer of LNG into a partially filled (excluding cooldown heel) container, determine any differences in temperature or specific gravity between the LNG being transferred and the LNG already in the container and, if necessary, provide a means to prevent stratification;

(5) Verify that the transfer operations are proceeding within design conditions and that overpressure or overfilling does not occur by monitoring applicable flow rates, liquid levels, vapor returns, pressures and any other significant data.

(6) Manually terminate the flow before overfilling or overpressure occurs; and

(7) Deactivate cargo transfer systems in a safe manner by depressurizing, venting, and disconnecting lines and conducting any other appropriate operations.

(c) In addition to the requirements of paragraph (b) of this section, the procedures for cargo transfer must be located at the transfer area and include provisions for personnel to:

(1) Be in constant attendance during all cargo transfer operations;

(2) Before transfer, verify that tank trucks are positioned so that they need not exit the transfer area by backing;

(3) Prohibit the backing of tank trucks in the transfer area;

(4) Before transfer, verify that—

(i) Each tank car or tank truck complies with applicable regulations governing its use;

(ii) All transfer hoses have been visually inspected for damage and defects;

(iii) Each tank truck is properly immobilized with chock wheels, and electrically grounded; and

(iv) Each tank truck engine is shut off unless it is required for transfer operations; and

(5) Prevent a tank truck engine that is off during transfer operations from being restarted until the transfer lines have been disconnected and any released vapors have dissipated;

(6) Prevent loading LNG into a tank car or tank truck that is not in exclusive LNG service or that does not contain a positive pressure if it is in exclusive LNG service, until after the oxygen content in the tank is tested and if it exceeds 2 percent by volume, purged in accordance with AGA "Purging Principles and Practice";

(7) Verify that all transfer lines have been disconnected and equipment cleared before the tank car or tank truck is moved from the transfer position; and

(8) Verify that transfers into a pipeline system will not exceed the pressure or temperature limits of the system.

(d) Before (effective date) or 60 days before an LNG facility is initially placed in operation, whichever is later, the procedures prepared under this section must be filed with the Director or with a State agency that has submitted a current certification or agreement with respect to the facility under Section 5 of the Natural Gas Pipeline Safety Act of 1968 [49 U.S.C. 1674]. In addition, each change to the procedures must be filed within 20 days after the change is made.

(e) The Director may require the operator to amend the manual of transfer procedures if it does not provide safety in conducting transfers of LNG or other hazardous fluids.

(f) Procedures and changes filed with the Director must be sent to the Director, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

§ 193.1121 Investigation of failures.

(a) Each operator shall determine the cause of each operational error or failure or malfunction of a component which results in—

(1) Death or injury requiring hospitalization; or

(2) Property damage exceeding $10,000.00.

(b) As a result of such investigations, each operator shall take appropriate action to minimize recurrence of the incident, and except for an incident reported in a leak report under Part 191 of this chapter, report the incident and action taken in writing to the Director within 30 days.

(c) If the Director or relevant State agency under Section 5 of the Natural Gas Pipeline Safety Act of 1968 [49 U.S.C. 1674] investigates an incident, the operator involved shall make available all relevant information and provide reasonable assistance in conducting the investigation. No component involved in the incident may be moved from its location or otherwise altered until approval is obtained from the Director or State agency.

§ 193.1123 Security; procedures.

(a) Each operator shall prepare and follow a manual of written procedures to provide security for each LNG facility. The procedures must be available at the facility and include at least:

(1) A description and schedule of security inspection and patrols performed in accordance with § 193.1133;

(2) A list of security personnel positions utilized at the LNG facility;

(3) A brief description of the duties associated with each security personnel position;

(4) Instructions for actions to be taken, including notification of other facility personnel and appropriate law enforcement officials in the event of a potential or actual emergency or breach of security;

(5) Methods for determining which persons are allowed access to the LNG facility;

(6) Positive identification of all persons entering the facility and on the facility, including the use of picture badges for facility personnel; and

(7) Continual liaison with appropriate local law enforcement officials to keep them informed about current security procedures under this section.

(b) The Director may require the operator to amend the manual of security procedures if it does not adequately provide for security of the facility.

§ 193.1124 Security; personnel training.

(a) Personnel responsible for maintaining security at an LNG facility must be trained in accordance with a written program of initial instruction to:

(1) Recognize breaches of security;

(2) Carry out the security procedures under § 193.1123 that relate to their assigned duties;

(3) Be familiar with basic facility operations and all emergency procedures of the LNG facility; and

(4) Recognize conditions where security assistance is needed.

(b) A written program of continuing instruction must be conducted at intervals of not more than two years to keep all personnel current on the knowledge and skills they gained in the program of initial instruction.

(c) Training records must be maintained for one year after personnel are no longer assigned duties at the LNG facility.

§ 193.1124a Security; personnel qualifications.

Each operator shall ensure that security personnel are qualified to perform their assigned duties by:

(a) Successful completion of training required under § 193.1124 and;

(b) Being physically and mentally capable of performing those duties.

§ 193.1125 Security; protective enclosures.

(a) Each of the following items must be surrounded by a protective enclosure:

(1) Storage tanks;

(2) Impounding systems;

(3) Vapor barriers;

(4) Cargo transfer systems;

(5) Process, liquefaction, and vaporization equipment;

(6) Control room and stations;

(7) Control systems;

(8) Fire control equipment;

(9) Security communications systems; and

(10) Alternative power sources.

(b) Ground elevations outside a protective enclosure must be graded in a manner that does not impair the effectiveness of the enclosure.

(c) Protective enclosures may not be located near features outside of the facility such as trees, poles, or buildings, which could be used to breach the enclosure.

(d) At least two accesses must be provided in each protective enclosure and be located to minimize the escape distance in the event of emergency.

(e) Each access must be locked unless it is continuously guarded. During normal operations, an access may be unlocked only by persons designated in writing by the operator. During an emergency, a means must be readily available to all facility personnel within the protective enclosure to open each access.

§ 193.1127 Security; protective enclosure construction.

(a) Each protective enclosure must have sufficient strength and configuration to obstruct unauthorized access to the components being enclosed.

(b) Protective enclosures must be fences, or walls constructed as follows:

(1) Fences must be chainlink security fences constructed of No. 11 American wire gauge or heavier metal wire.

(2) Walls must be vertical and constructed of stone, brick, cinder block, concrete, steel or comparable materials.

(3) Protective enclosures must be topped by three or more strands of barbed wire or similar material on brackets angled outward between 30° and 45° from the vertical, with a height of at least 2.4 m (8 ft.) including approximately one foot of barbed topping.

(4) Openings in or under protective enclosures must be secured by grates,

doors or covers of construction and fastening of sufficient strength such that the integrity of the protective enclosure is not reduced by any opening.

193.1130 Security; communications.

A means must be provided for direct communications between:

(a) The LNG security personnel and appropriate law enforcement officials; and

(b) All security personnel and all control rooms and control stations.

§ 193.1131 Security; lighting.

Where security warning systems are not provided for security monitoring, the area around each item listed under § 193.1125(a) and each protective enclosure must be illuminated with a minimum in service lighting intensity of 0.2 lux (2.2 ftc) between sunset and sunrise.

§ 193.1133 Security; monitoring.

Each protective enclosure and the area around each item listed in § 193.1125(a) must be monitored for the presence of unauthorized persons. Monitoring must be done by direct visual observation based on the schedule included in the security procedures under § 193.1123 or by security warning systems that continuously transmit data to an attended location. At an LNG facility with less than 40,000 m^3 (250,000 bbl) of storage capacity, only the protective enclosure must be monitored.

§ 193.1134 Security; alternative power sources.

An alternative source of power that meets the requirements of § 193.927 must be provided for security lighting and security warning systems.

§ 193.1135 Security; warning signs.

(a) Warning signs must be conspicuously placed along each protective enclosure at intervals so that at least one sign is recognizable at night from a distance of 30 m (100 ft.) from any way that could reasonably be used to approach the enclosure.

(b) Signs must be marked with at least the following on a background of sharply contrasting color:

The words "NO TREASPASSING," or words of comparable meaning.

§ 193.1139 Purging.

Components that could accumulate significant amounts of conbustible mixtures must be purged in accordance with the provisions of the AGA "Purging Principles and Practice" after being taken out of service and before being returned to service.

§ 193.1140 Communication systems.

(a) Each LNG facility must have a primary communication system that provides for verbal communications between all operating personnel at their work stations in the LNG facility.

(b) Each LNG facility must have an emergency communication system that provides for verbal communications between all persons and locations necessary for the orderly shutdown of operating equipment and the operation of safety equipment in time of emergency. The emergency communication system must be independent of and physically separated from the primary communication system and the security communication system under § 193.1130.

(c) Each communication system required by this part must have an auxiliary source of power.

§ 193.1141 Operating records.

(a) Each operator shall maintain a record describing each abnormal operation of each component and the corrective action taken and keep a log of the results of each inspection and test required by this subpart.

(b) Records must be kept for a period of not less than 5 years.

§ 193.1143 Notice of intent to operate.

(a) Except as provided in paragraph (b) of this section, no person may operate a new LNG facility or an existing component that is replaced, relocated, or significantly altered unless written notice of intent to operate is provided the Secretary or a relevant State agency in the case of an LNG facility that is subject to jurisdiction of that State agency under Section 5 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1674). The notice must describe the LNG facility or component, its function, and state the location and date of intended operation.

(b) Notice must be sent to the Director, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It must be received 30 days before installation or alteration begins, except that for components added, replaced, relocated, or significantly altered in an emergency or to correct an abnormal operation, notice may be received as soon as practicable after the component is placed in operation.

Subpart M—Maintenance

§ 193.1201 Scope.

This subpart prescribes requirements for maintaining LNG facilities.

§ 193.1203 General.

(a) Each component in service, including its support system, must be maintained in a condition that is compatible with its operational or safety purpose by repair, replacement, or other means.

(b) An operator may not place, return, or continue in service any component which is not maintained in accordance with this subpart.

(c) Each component taken out of service for maintenance must be identified in the log book kept under § 193.1221.

(d) If a safety device is taken out of service for maintenance, the part of the LNG facility being served by the device must be taken out of service unless the same safety function is provided by an alternate means.

(e) Each component taken out of service for maintenance that could be inadvertently operated must have a tag attached to the controls bearing the words "do not operate" or words of comparable meaning.

§ 193.1205 Maintenance procedures.

(a) Each operator shall determine and perform, consistent with generally accepted engineering practices, the periodic inspections or tests needed to meet the applicable requirements of this subpart and to verify that components meet the maintenance standards prescribed by this subpart.

(b) Each operator shall follow a manual of written procedures for the maintenance of each component. The procedures must include—

(1) The details of the inspections or tests determined under paragraph (a) of this section and their frequency of performance; and

(2) A description of other actions necessary to maintain the LNG facility in accordance with the requirements of this subpart.

(c) Before (effective date) or 60 days before an LNG facility is initially placed in operation, whichever is later, the procedures prepared under paragraph (b) of this section must be filed with the Director or with a State agency that has submitted a current certification or agreement with respect to the facility under Section 5 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1674). In addition, each change to the procedures must be filed within 20 days after the change is made.

(d) The Director may require the operator to amend the manual of maintenance procedures if it does not assure that components are maintained in a safe condition.

(e) Procedures and changes filed with the Director must be sent to the Director,

Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590.

§ 193.1206 Foreign material.

(a) The functioning of a component must not be obstructed by foreign material, contaminants, or ice.

(b) LNG facility grounds must be free from rubbish, debris, and other material which present a fire hazard. Grass areas on the facility must be maintained in a manner that does not present a fire hazard.

§ 193.1206a Support systems.

Each support system or foundation of a component whose failure could reasonably be expected to cause a hazard must be inspected for any detrimental change that could impair support.

§ 193.1207 Fire control equipment.

(a) All fire control equipment must be maintained in a ready condition for operational use.

(b) When inspection and maintenance are required on fire control equipment, it shall be in accordance with:

(1) Portable fire extinguishers must be inspected and maintained in accordance with manufacturers' recommendations and Chapter 5 of NFPA Standard 10.

(2) Automatic fire detectors must be inspected and maintained in accordance with manufacturers' recommendations and Chapter 8 of NFPA Standard 72E.

(3) Foam-water sprinkler and spray systems must be inspected and maintained in accordance with manufacturers' recommendations and Chapter 7 of NFPA Standard 16.

(4) Hydrants must be inspected and maintained in accordance with manufacturers' recommendations and Chapter 4 of NFPA Standard 24.

(c) Access routes for the movement of fire control equipment must be maintained to provide for use in all weather conditions.

§ 193.1208 Auxiliary power sources.

Each auxiliary power source must be tested monthly to check its operational capability and capacity in an emergency. The test must take into account the power needed to start up and simultaneously operate equipment that would be served by that power source in an emergency.

§ 193.1209 Isolating and purging.

Components which are isolated for maintenance must be purged in accordance with AGA "Purging Principles and Practice" before personnel begin maintenance activities. If the component or maintenance activity provides an ignition source, a techique in addition to isolation valves, such as removing spool pieces or valves and blank flanging the piping, must be used to ensure that the work area is free of flammable fluids.

§ 193.1211 Repairs.

(a) Repair work on components must be performed and tested in a manner which—

(1) As far as practicable, complies with the applicable requirements of Subpart K of this part; and

(2) Assures the integrity and operational safety of the component being repaired.

(b) For repairs made while a component is operating, each operator shall include in the maintenance procedures under § 193.1205 appropriate precautions to maintain the safety of the LNG facility and personnel during repair activities.

§ 193.1215 Control systems.

(a) Each control system must be properly adjusted and operate as designed.

(b) If a control system is out of service for 30 days or more, it must be inspected and tested for operational capability before returning it to service.

(c) Control systems in service, but not normally in operation (such as relief valve and automatic shutdown devices) must be inspected and tested once each calendar year, but with intervals not exceeding 15 months, with the following exceptions:

(1) Control systems used seasonally, such as for liquefaction or vaporization, must be inspected and tested before use each season.

(2) Control systems that are intended for fire protection must be inspected and tested at regular intervals not to exceed 6 months.

(d) Control systems that normally in operation, such as required by a base load system, must be inspected and tested once each calendar year but with intervals not exceeding 15 months.

(e) Relief valves must be inspected and tested for verification of the valve seat lifting and reseating pressures.

§ 193.1217 Testing transfer hoses.

Hoses used in LNG or flammable refrigerant transfer systems must be—

(a) Tested once each calendar year, but with intervals not exceeding 15 months, to the maximum pump pressure or relief valve setting; and

(b) Visually inspected for damage or defects before each use.

§ 193.1219 Inspecting storage tanks.

Each LNG storage tank in operation must be inspected, as prescribed, to assure that each of the following conditions is not a potential hazard to the structural integrity or safety of the tank:

Condition	Inspection
(1) Foundation, tank, and transfer line movement.	At 3-month intervals for first year of service, thereafter at least annually, but at intervals not exceeding 15 months, and within 1 week after a major meteorological or geophysical disturbance, using reference monuments and surveying instruments.
(2) Stratification	Before and after each significant addition of LNG to the tank and at least at 3-month intervals using appropriate analyzers or temperature readings.
(3) Cold Spots	Weekly visual inspection.
(4) Adquacy of insulation.	At 3-month intervals for first year of service, thereafter at least annually, but at intervals not exceeding 15 months, using thermocouples, infrared scanners or similar devices.
(5) Frost heave	For LNG storage tanks that have temperature controlled ground heaters, monitor temperature weekly during the first year of service, thereafter at least monthly, using electronic temperature controller with an audible alarm located at an attended location.

NOTE.—Where the required cold spots and insulation inspections are impractical to perform, the tank boiloff gas may be monitored for any increases in boiloff rate that could be caused by cold spots or inadequate insulation.

§ 193.1221 Maintenance records.

Each operator shall keep a log at each LNG facility of the date and type of each maintenance activity performed on each component to meet the requirements of this subpart, including periodic tests and inspections, for a period of not less than 5 years.

Subpart N—Fire Protection

§ 193.1301 Scope.

This subpart prescribes requirements for fire prevention and fire control at LNG facilities other than waterfront LNG facilities.

§ 193.1303 General.

Each operator shall use sound fire protection engineering principles to minimize the occurrence and consequences of fires.

§ 193.1305 Fire prevention plan.

(a) Each operator shall determine—

(1) Those potential sources of ignition located inside and outside the LNG facility which could cause fires that affect the safety of the facility; and

(2) Those areas, as described in Section 500–4 of NFPA–70, where the potential exists for the presence of flammable fluids in an LNG facility. Determinations made under this paragraph must be kept current.

(b) With respect to the areas determined under paragraph (a)(2) of this section, each operator shall prepare

and follow a manual of written procedures for normal operations to minimize—

(1) The leakage or release of flammable fluids; and

(2) The possibility of flammable fluids being ignited by sources identified under paragraph (a)(1) of this section.

§ 193.1306 Smoking.

(a) Smoking is prohibited at an LNG facility in areas identified under § 193.1305(a)(2). Smoking is permitted only in each location that the operator designates as a smoking area.

(b) The facility operator shall display in prominent places, in each smoking area designated under paragraph (a) of this section signs marked with the words "smoking permitted".

(c) the facility operator shall display in prominent locations where smoking is prohibited, signs marked with the words "NO SMOKING".

§ 193.1306a Open fires.

Open fires are prohibited at LNG facilities.

§ 193.1306b. Hotwork.

Welding, flame cutting and similar operations are prohibited except at times and places that the operator designates in writing as safe and when constantly supervised in accordance with NFPA–51B.

§ 193.1306c Storage of flammable fluids.

Storage of flammable fluids is prohibited in areas where ignition sources are present.

§ 193.1306d Motorized equipment.

Use of motor vehicles and other motorized equipment which constitute potential ignition sources is prohibited in an impounding space, in areas within 15 m (49.2 ft) of a storage tank, and in areas within 15 m (49.2 ft) of processing equipment containing a flammable fluid except—

(a) At times the operator designates in writing as safe; and

(b) When the motorized equipment is constantly attended.

§ 193.1308 Fire control equipment.

(a) Each operator shall determine the types and sizes of potential fires within and outside each LNG facility that could affect the safety of the facility and the foreseeable consequences of these fires, including the failure of components or buildings due to heat exposure.

(b) Each operator shall provide fire control equipment and supplies to protect or cool components that could fail due to heat exposure from fires determined under paragraph (a) of this section and either worsen an emergency or endanger persons or property located outside the facility. Protection or cooling must be provided for as long as the heat exposure exists. The fire control equipment and supplies must include the following:

(1) Portable fire extinguishers suitable for the types of fires identified under paragraph (a) of this section which meet the requirements of NFPA–10 (Ed. 1978); and

(2) If the total inventory of LNG is 265 m^3 (70,000 gal.) or more, a water supply and associated delivery equipment.

(c) Each operator shall determine the type, size, quantity and location of the fire control equipment and supplies required under paragraph (b) of this section.

(d) Each operator shall provide each facility person who may be endangered by exposure to fire or the products of combustion in performing fire control duties protective clothing and equipment, including if necessary a self-contained breathing apparatus.

(e) Portable fire control equipment, protective clothing and equipment for personnel use, controls for fixed fire control equipment, and fire control supplies must be conspicuously located, marked for easy recognition, and readily available for use.

(f) Fire control equipment must have operating instructions. The instructions must be attached to portable equipment and placed at the location of controls for fixed equipment.

§ 193.1310 Gas detection.

(a) All areas determined under § 193.1305(a)(2) must be continuously monitored for the presence of flammable gases and vapors with fixed flammable gas detection systems.

(b) Each fixed flammable gas detection system must be provide with audible and visible alarms located at an attended control room or control station, and an audible alarm in the area of gas detection.

(c) Flammable gas detection alarms must be set to activate at not more than 25 percent of the lower flammable limit of the gas or vapor being monitored.

(d) Gas detection equipment must be installed so that it can be readily tested as required by this part.

(e) A minimum of two portable flammable gas detectors capable of measuring 0–100 percent by volume must be available at the LNG facility for use at all times.

(f) All enclosed buildings located on an LNG facility must be continuously monitored for the presence of flammable gases and vapors with a fixed flammable gas detection system that provides a visible or audible alarm outside the enclosed building.

(g) Operational control venting of natural gas/vapor which could produce a hazardous gas atmosphere must be directed to a flare stack or heat exchanger in order to raise its temperature to at least 37.70C (100°F).

(h) Emergency venting of natural gas/vapor which could produce a hazardous gas atmosphere must be accomplished under the visual watch of an operator with a portable gas detector.

§ 193.1310a Fire detection.

(a) Fire detectors that continuously monitor for the presence of either flame, heat or products of combustion must be provided in the areas determined under § 193.1305(a)(2) and all other areas that are used for the storage of flammable or combustible material.

(b) Each fire detection system must be provided with audible and visible alarms located at an attended control room or control station, and an audible alarm in the area of fire detection.

§ 193.1311 Training.

(a) All permanent maintenance operation and supervisory personnel must be trained, in accordance with a written program of initial instruction to:

(1) Know and follow the fire prevention procedures under § 193.1305(b) and the requirements of §§ 193.1306—193.1306d that relate to their job assignments;

(2) Know the potential causes and areas of fire determined under § 193.1305(a);

(3) Know the types, sizes, and predictable consequences of fire determined under § 193.1308(a); and

(4) Know and be able to perform their assigned fire control duties according to the procedures established under § 193.1109 and by proper use of equipment provided under § 193.1308.

(b) A written program of continuing instruction must be conducted at intervals of not more than two years to keep personnel current on the knowledge and skills they gained in the instruction under paragraph (a) of the section.

§ 193.1313 Records.

(a) Each operator shall maintain a system of records which—

(1) Provide evidence that the training programs required by § 193.1311 have been implemented; and

(2) Provide evidence that personnel have undergone and satisfactorily completed the required training programs.

(b) Records must be maintained for one year afte personnel are no longer assigned duties at the LNG facility.

Subpart O—Corrosion Control

§ 193.1401 Scope.

This subpart prescribes requirements for controlling corrosion of metallic components in new and existing LNG facilities.

§ 193.1402 General.

Each metallic component whose integrity or reliability could be adversely affected by external, internal, or atmospheric corrosion during its intended service life must be protected from corrosion in accordance with this subpart.

§ 193.1403 Procedures.

(a) Each operator shall prepare and follow written corrosion control procedures to—

(1) Determine which components are subject to § 193.1402; and

(2) Meet the other applicable requirements of this subpart.

(b) Corrosion control procedures, including those for the design, installation, operation, and maintenance of cathodic protection systems, must be carried out by, or under the direction of, a person qualified by experience and training in corrosion control technology.

§ 193.1405 Corrosion control overview.

(a) Subject to paragraph (b) of this section, components may not be constructed, repaired, replaced, or significantly altered until a person qualified under § 193.1403(b) reviews the applicable design drawings and material specifications from a corrosion control viewpoint and determines that the materials involved will not imperial the safety or reliability of the LNG facility.

(b) The repair, replacement, or significant alteration of components must be reviewed only if the action to be taken—

(1) Involves a change in the original materials specified;

(2) Is due to a failure caused by corrosion; or

(3) Is occasioned by inspection revealing a significant deterioration of the component due to corrosion.

§ 193.1407 Atmospheric corrosion control.

Each exposed component to which § 193.1402 applies must be protected from atmospheric corrosion by—

(a) Material that has been designed and selected to resist the corrosive atmosphere involved; or

(b) Suitable coating or jacketing.

§ 193.1409 External corrosion control.

(a) Each buried or submerged component to which § 193.1402 applies must be protected from external corrosion by—

(1) Material that has been designed and selected to resist the corrosive environment involved; or

(2) The following means:

(i) An external protective coating designed and installed to prevent corrosion attack and to meet the requirements of § 192.461 of this chapter; and

(ii) A cathodic protection system designed to protect components in their entirety in accordance with the requirements of § 192.463 of this chapter and placed in operation before (1 year after issue date) or within 1 year after the component is constructed or installed.

(b) Where cathodic protection is applied, components that are electrically interconnected must be protected as a unit.

§ 193.1411 Internal corrosion control.

Each component to which § 193.1402 applies that is subject to internal corrosive attack must be protected from internal corrosion by—

(a) Material that has been designed and selected to resist the corrosive fluid involved; or

(b) Suitable coating, inhibitor, or other means.

§ 193.1415 Interference currents.

(a) Each LNG facility that is subject to electrical current interference must have in effect a continuing program to minimize the detrimental effects of currents.

(b) Each cathodic protection system must be designed and installed so as to minimize any adverse effects it might cause to adjacent metal components.

(c) Each impressed current power source must be installed and maintained to prevent adverse interference with communications and control systems.

§ 193.1419 Monitoring corrosion control.

Corrosion protection provided as required by this subpart must be periodically monitored to give early recognition of ineffective corrosion protection, including the following, as applicable:

(a) Each buried or submerged component under cathodic protection must be tested at least once each calendar year, but at intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of § 192.463 of this Chapter.

(b) Each cathodic protection rectifier or other impressed current power source must be inspected at least 6 times each calendar year, but at intervals not exceeding 2½ months, to ensure that it is operating properly.

(c) Each reverse current switch, each diode, and each interference bond whose failure would jeopardize component protection must be electrically checked for proper performance at least 6 times each calendar year, but at intervals not exceeding 2½ months. Each other interference bond must be checked at least once each calendar year, but with intervals not exceeding 15 months.

(d) Each component that is protected from atmospheric corrosion must be inspected at intervals not exceeding 3 years for onshore components and 1 year for offshore components.

(e) If a component is protected from internal corrosion, monitoring devices designed to detect internal corrosion, such as coupons or probes, must be located where corrosion is most likely to occur. Internal corrosion control monitoring devices must be checked two times each calendar year, but at intervals not exceeding 7½ months in noncryogenic systems, and at least once each calendar year, but at intervals not exceeding 15 months in cryogenic systems.

§ 193.1421 Remedial measures.

Prompt corrective or remedial action must be taken whenever an operator learns by inspection or otherwise that atmospheric, external, or internal corrosion is not controlled as required by this subpart.

§ 193.1423 Reports and records.

(a) Except for a failure reported in a leak report under Part 191 of this chapter, each component failure caused by corrosion, including corrosion fatigue, stress corrosion cracking, hydrogen embrittlement, and hydrogen stress cracking, which occurs before the end of the component's intended service life must be reported in writing to the Director within 30 days after the failure.

(b) Each operator shall maintain records or maps to show the location of cathodically protected components, neighboring structures bonded to the cathodic protection system, and corrosion protection equipment.

(c) Each of the following records must be retained for as long as the LNG facility remains in service:

(1) Each record or map required by paragraph (a) of this section.

(2) Records of each test, survey, or inspection required by this subpart, in sufficient detail to demonstrate the

adequacy of corrosion control measures or that a corrosive condition could not adversely affect the integrity or reliability of a component during its intended service life.

Appendix A to Part 193—Incorporation by Reference

I. List of Organizations and Addresses

A. American Gas Association (AGA), 1515 Wilson Boulevard, Arlington, Virginia 22209.

B. National Fire Protection Association (NFPA), 470 Atlantic Avenue, Boston, Massachusetts 02210.

II. Documents Incorporated by Reference

A. American Gas Association (AGA)

1. AGA Purging Principles and Practices

B. National Fire Protection Association (NFPA)

1. NFPA No. 10 Portable Fire Extinguishers, 1978 edition.

2. NFPA No. 59A Storage and Handling of LNG, 1979 edition.

3. NFPA No. 70 National Electric Code, 1978 edition.

4. NFPA No. 30 Flammable Liquids.

5. NFPA No. 16 Foam-Water Sprinkler and Spray Systems, 1974 ed.

6. NFPA No. 24 Outside Protection, 1977 edition.

7. NFPA No. 72E Automatic Fire Detectors, 1978 edition.

[FR Doc. 3718 Filed 2-6-80; 3:13 pm]

BILLING CODE 4910-60-M

federal register

Monday
February 11, 1980

Part III

Department of the Interior

Bureau of Indian Affairs

Education Contracts Under Johnson-O'Malley Act

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 273

Education Contracts Under Johnson-O'Malley Act

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is publishing a final rule on the distribution of supplemental funds under the Johnson-O'Malley Act. Public Law 95–561 section 1102(a) required the Secretary of the Interior to develop and publish alternative methods for the equitable distribution of supplemental program funds. This action is to announce that formula #7 has been selected to distribute funds as a result of the run-off vote of the tribes and Alaskan villages.

EFFECTIVE DATE: February 11, 1980.

FOR FURTHER INFORMATION CONTACT: Rick C. Lavis, Deputy Assistant Secretary, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240, (202) 343–7163.

SUPPLEMENTARY INFORMATION: The authority to issue regulations has been redelegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

A proposed rule was published in the **Federal Register**, 44 FR 13042, on Friday, March 9, 1979. Following the publication, hearings were held in Anchorage, Alaska; Minneapolis, Minnesota; Ft. Hall, Idaho; Albuquerque, New Mexico; Sulphur, Oklahoma; San Diego, California; and Nashville, Tennessee. Written comments were received from March 9, 1979, through May 11, 1979. Over 170 comments and testimonies were received through this process.

As a result of the field hearings, testimonies, and written comments, twenty-eight additional formulas were recommended. Based upon those recommendations and preliminary survey of program costs, the Task Force selected eight formulas for the first tribal voting process. The twenty-eight recommended formulas and the comments on the original proposed formulas were used to develop the eight formulas which included: one formula from the original list; a new formula recommeded from the field; and a special weighing factor for small programs.

The vote count was tabulated in the first ballot and no formula received a 51% majority of the votes that were cast. It was therefore determined that a run-off ballot should be conducted between the two formulas that received the most votes. The two formulas were Option 1 and Option 7.

Public Law 95–561, Section 1102(b) requires that the formula which receives 51 percent of the votes by tribes and Alaskan villages be published in the **Federal Register**. Each tribe and Alaskan village, as defined in 25 CFR Part 273.2(g), was allowed one vote. The voting results were tabulated and the count was as follows: Formula 1 received 108 votes of the 281 ballots received (38 percent of ballots cast); Formula 7 received 153 votes (54 percent of the ballots cast); and 20 ballots were determined to be invalid. The distribution formula selected by vote is thus Formula 7.

Task Force members assisted in the development of the originally proposed formulas, conducted the field hearings, reviewed all written comments and testimony, compiled the list of formulas for ballot, counted the votes, and certified the voting on the runoff ballot.

Since this amendment offers an equitable distribution formula of supplemental funds under the Johnson-O'Malley Act, the 30-day deferred effective date is dispensed with under the exception provided in subsection (d)(3) of 5 U.S.C. 553 (1970). Accordingly, these regulations will become effective upon the date of publication in the **Federal Register** (February 11, 1980).

The primary authors of this document from Task Force Two are chairpersons Maxine Edmo, Bureau of Indian Affairs, Fort Hall, Idaho, telephone number (280) 237–0405 and Benny Atencio, Santa Domingo Pueblo, Santa Domingo, New Mexico, telephone number (505) 465–2240.

The Department of Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Pursuant to the provisions of Public Law 95–561 the following changes are made to 25 CFR Part 273.

1. The authority citation is amended to read:

Authority: 25 U.S.C. 452–456; sec. 202, Pub. L. 93–638, 88 Stat. 2203, and Pub. L. 95–561, sec. 1102 (a) and (b), unless otherwise noted.

2. Section 273.31, Distribution Formula is revised to read as follows:

§ 273.31 Distribution formula.

(a) Funds shall be distributed to eligible contractors based upon the number of eligible Indian students to be served times twenty-five (25%) percent of the higher of the state or national average per pupil operating cost. Notwithstanding any other provisions of the law, federal funds appropriated for the purpose shall be allotted pro rata in accordance with the distribution method outlined in this formula.

(b) The Assistant Secretary may make exceptions to the provisions of paragraph (a) of this section based on the special cultural, linguistic, social or educational needs of the communities involved including the actual cost of education in the community only after consultation with all tribes who may be affected by such exceptions.

Dated: February 5, 1980.

Rick C. Lavis,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 80-4280 Filed 2-8-80; 8:45 am]

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Monday
February 11, 1980

Part IV

Department of Transportation

Urban Mass Transportation Administration

Bus Rehabilitation Program Policy and Procedures

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Part 640

[Docket No. 80-A]

Bus Rehabilitation Program Policy and Procedures

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Proposed Policy and Guidelines.

SUMMARY: The Urban Mass Transportation Administration (UMTA) is proposing a policy to give Federal grants to aid in bus rehabilitation projects of mass transit systems. Guidelines to assist in the determination of appropriate eligible bus rehabilitation costs are also being proposed. The purpose of the policy and guidelines is to provide a national funding basis for the bus rehabilitation program and to ensure the prudent use and maximum effectiveness of Federal and local dollars for bus rehabilitation.

DATES: Comments must be received on or before March 27, 1980.

ADDRESS: Comments must be submitted to UMTA Docket No. 80–A, 400 7th Street SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination in room 9320 at the above address between 8:30 a.m. and 5:00 p.m., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed, stamped postcard is included with each comment.

FOR FURTHER INFORMATION CONTACT: Charlotte Adams, Office of Program Analysis, (202) 472–6997.

SUPPLEMENTARY INFORMATION: All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. Comments received after the expiration of the comment period will be considered to the extent feasible.

The Administration has determined that this regulation is not a significant regulation under the criteria in the DOT Order for Improving Government Regulations (44 FR 11042, February 26, 1979).

A draft Regulatory Evaluation has been prepared for this proposal and has been placed in the public docket, and is available at the address listed above.

Discussion of Proposal and Background

The increasing cost of new buses has led to numerous requests for UMTA to fund the rehabilitation of older buses. This option appears to offer, in some cases, a flexible and cost effective approach to expand bus capacity at this important time.

The value of this approach is evidenced by the fact that some operators have found it productive to undertake bus rehabilitation with 100 percent local funding. In conjunction with local bus stockpiling and fuel shortage contingency plans, bus rehabilitation may offer the opportunity for low-cost preparedness for increased capacity needs in the uncertain years to come. Thus, prudent bus rehabilitation can increase the responsiveness of the transit industry to community needs.

UMTA is proposing to participate in bus rehabilitation projects of 100 buses or 20 percent of the applicant's bus fleet, whichever is less because of the unknown impact on existing bus procurements, especially those affecting smaller transit operations. During the period of this rulemaking, UMTA will consider grants for bus rehabilitation programs on a case-by-case basis utilizing the intent of the proposed regulations as guidance. In an attempt to provide a national funding basis for the bus rehabilitation program, and to ensure the prudent use and maximum effectiveness of Federal and local dollars for bus rehabilitation, UMTA is proposing funding guidelines to assist in the determination of appropriate eligible bus rehabilitation costs. UMTA's initial experience with bus rehabilitation suggests that the capital costs of rehabilitating a bus should not exceed between 50 and 60 percent of the capital cost of a new bus over a twelve year life in order to ensure a worthwhile return on local and Federal investments. While there is no simple procedure with which to judge the worthiness of the bus rehabilitation alternative because of the unique characteristics of each transit operator's needs, the funding guidelines are intended to increase the probability that a worthwhile investment is being made. For example, the 12 year old average amortized cost of a new $105,000 bus would be $8,750. The rehabilitation of a 12 year old bus for 5 years of extended service life should not exceed 60 percent of $8,750 ($5,250) multiplied by 5 years, totalling $26,250. UMTA's share of this total would be $21,000, or 80 percent of $26,250.

In addition, UMTA proposes that a bus' service life be extended to 17 years from the date of the bus' original entry into service but that the rehabilitated life should not be less than 5 years. This, too, is based upon UMTA's intent to prescribe eligibility criteria that will promote and produce cost effective projects. UMTA also proposes that, as a general rule, buses proposed for rehabilitation be at least 12 years old. This general position is made based upon bus manufacturers guidelines and UMTA's experience that buses properly maintained will last from 12 to 15 years before requiring rehabilitation and UMTA's desire that rehabilitation work not substitute for a good local bus maintenance program. However we recognize that extraordinary circumstances may justify a rehabilitation effort for vehicles less than 12 years old, and UMTA will evaluate such efforts on a case by case basis.

This proposed policy is applicable to the following funds administered by UMTA—Discretionary Grant Funds (Section 3); Formula Grant Funds (Section 5); Interstate Transfer funds; and Federal-Aid Urban System funds.

In the interest of making all transit operators, bus manufacturers, and the general public aware of the issues which must be considered in the Federal decision to participate in the bus rehabilitation program on a long term basis, UMTA has decided to issue this statement of proposed policy and solicit comments. UMTA wishes to ensure that transit operators consider bus rehabilitation as an alternative to new bus purchases but realizes that there are many unknown impacts of such a program at the present time. For example, UMTA does not wish the bus rehabilitation program to substitute for or interfere with routine bus maintenance, and will attempt to administer these programs in order to ensure adequate attention to both activities. Additionally, it is not clear what impact, if any, the policy will have on bus manufacturers and suppliers. UMTA's long term policy on bus rehabilitation will depend upon an assessment of the following considerations. Comments on the following factors are specifically requested:

a. The impact of the proposed policy on new bus procurements.

b. The bus rehabilitation capabilities of operators and/or contractors.

c. The life cycle cost of, and unit costs for, rehabilitated buses.

d. The effects of diverse climatic conditions on a national bus rehabilitation program.

e. The ridership attractiveness and operating cost of a rehabilitated bus compared to a new bus.

f. The aggregate cost-effectiveness trade offs between purchasing new buses and rehabilitating older buses.

g. The effects of the bus rehabilitation program upon routine bus maintenance activities.

UMTA believes that transit operators' experience in bus rehabilitation work deserves close attention. In considering the future of Federal participation in, and requirements for the bus rehabilitation program, UMTA wishes to utilize the experience gained by operators through their implementation of this program. Close scrutiny of, and information relating to, the implementation of the bus rehabilitation program considering the following factors are specifically requested by UMTA:

a. Should UMTA require the consideration of bus rehabilitation in lieu of requests for bus replacements or merely encourage it?

b. What is the process that transit operators use to determine whether they have in-house capability to perform bus rehabilitation or whether outside sources must be procured? Is such a locally determined procedure adequate to ensure timely bus rehabilitation work as well as adequate and ongoing routine bus maintenance?

c. How could UMTA ensure that bus rehabilitation is not interfering with or being used as a substitute for routine bus maintenance? Should UMTA require routine bus maintenance and how could UMTA enforce such a requirement? What documentation could UMTA require or what analyses could UMTA perform to ensure the performance of effective routine bus maintenance? What measures could be used? What measures are used locally to ensure adequate bus maintenance? UMTA will evaluate the responses to these questions and its experience to date in order to analyze the need for procedures and technical guidance for routine bus maintenance.

d. What kind of impact on new bus procurements does an extensive rehabilitation program have?

In consideration of the foregoing, it is proposed that a new Part 640 be added to Title 49 of the Code of Federal Regulations to read as follows:

PART 640—BUS REHABILITATION PROGRAM

Sec.
640.1 Policy.
640.3 Applicability.
640.5 Guidelines.
640.7 Eligibility Criteria.
640.9 Funding Determination.
640.11 Project Requirements.

Authority: 49 U.S.C. 1602 and 1604; 23 U.S.C. 103 and 142; 49 CFR 1.51

§ 640.1 Policy.

The Urban Mass Transportation Administration will participate in the rehabilitation of urban transit buses, subject to the conditions stated in this Part, in order to provide a limited and definitive framework within which to explore the many unknown impacts of an ongoing bus rehabilitation program.

§ 640.3 Applicability.

(a) The bus rehabilitation program applies to standard transit buses that are 35 feet and over.

(b) UMTA will consider funding the rehabilitation of other vehicles, using the requirements of this Part to the extent feasible, on a case-by-case basis.

(c) The guidelines in § 640.5 apply to all bus rehabilitation proposals. However, UMTA will consider the merit of each proposal for funding of bus rehabilitation, and will review proposals on a case-by-case basis if the proposal varies substantially from the guidelines.

§ 640.5 Guidelines.

(a) Buses must be selected for a rehabilitation project in lots based on a common feature that gives reasonable assurance tht they are part of an identifiable group with roughly similar rehabilitation needs (e.g., date of entering service, mileage, visible signs of corrosion).

(b) As a general rule, each bus to be rehabilitated should be at least 12 years old. If a prospective grantee believes that extraordinary conditions or circumstances warrant a proposal to rehabilitate buses that are less than 12 years old, UMTA will review the specific circumstances of such a project on a case-by-case basis, and, in addition to requiring a sound program for the rehabilitation work, will pay particular attention to the grantee's program from routine bus maintenance.

(c) The rehabilitation of a bus is intended to extend its service life to at least seventeen years from the date of the bus' original entry into service, but in no case should the "rehabilitated life" of a bus last less than five years. The extended life of a twelve year old bus should be five years, a fourteen year old bus would have its life extended to nineteen years, an eighteen year old bus would have its life extended to twenty-three years. The extent of UMTA's participation is based upon the number of years a bus' service life is prolonged.

(d) The cost of improvement may not normally exceed sixty percent (60%) of the average annual amortized value of a new bus (based on a twelve year life), multiplied by the number of years the bus life is extended. This formula does not include the retrofit of accessibility features for the handicapped or other improvements which add components to the bus' original specifications (e.g., air conditioning). The addition of new equipment, except accessibility features for the handicapped, should be minimized in keeping with the idea of rehabilitation rather than new capital procurement.

(e) Bus rehabilitation activities may be performed with grantee inhouse capability or such capability may be procured from outside sources, in which case UMTA's normal bid procedures must be followed. However, UMTA expects that bus rehabilitation work will normally be performed by outside resources. A grantee's inhouse capability should be utilized to perform routine bus maintenance. Bus rehabilitation may not be a substitute for routine bus maintenance, and must not in any way interfere with bus maintenance activities.

(f) Bid documents for rehabilitation must require rehabilitation to a performance level commensurate with the bus' original condition, within the limits of readily available parts, and provide a balance between cosmetic and mechanical rehabilitation. Contracts for work must include at least a six month warranty on parts and labor.

(g) Grantees shall have an inspector at the site where bus rehabilitation work is carried out. The inspector will be responsible for final determination of the extent of rehabilitation work to be done. The inspector is also responsible for monitoring the actual rehabilitation work and ensuring that the operator's interests are protected. If the rehabilitation work is done through a contract, the transit property shall have the right to inspect the contractor's project records.

(h) Each rehabilitated bus shall conform to the requirements of 49 CFR 27.67(c) regarding the addition of handicapped accessibility features to renovated vehicles. Such vehicles must, to the extent structurally feasible, be equipped with these features.

§ 640.7 Eligibility criteria.

(a) It is not UMTA's intent that the bus rehabilitation substitute for maintenance activities eligible through UMTA's operating assistance program. UMTA's operating assistance program is the primary source of funds in support of regular operational maintenance.

(b) The need to rehabilitate a bus *is to be determined first on the basis of substantial deterioration of minor structural components.* This determination must be made prior to the approval of supplementary or mechanical improvements. However, buses that exceed 15 years of service life may qualify solely on the basis of major mechanical deterioration.

(c) Applicants must assure UMTA that—

(1) rehabilitation work will be done according to a predetermined timely schedule;

(2) rehabilitated buses will be maintained in good operating condition;

(3) rehabilitated buses will be used in mass transit service through the extended life of the bus as determined by the formula specified in Section 640.5; and

(4) they will undertake bus rehabilitation as a separate and distinct activity from their routine bus maintenance programs.

(d) The assurance required by paragraph (c) will be added to UMTA's standard assurances and may be incorporated into the grant agreement.

(e) If the applicant violates the terms of the assurance or the grant agreement, UMTA may suspend all payments under the bus rehabilitation project or require that the grantee dispose of the property.

(f) The following items are eligible for assistance under the bus rehabilitation program:

(1) Structural Improvements:

(i) Stepwells.

(ii) Wheelwells.

(iii) Minor structural components.

(iv) Exterior panels.

(v) Window sashes.

(vi) Doors.

(vii) Flooring.

(viii) Accessibility features for the handicapped.

(2) Supplementary Improvements:

(i) Seats.

(ii) Electrical wiring.

(iii) Lighting.

(iv) Duct Work.

(v) Signs.

(vi) Control Panels.

(vii) Steering wheel.

(viii) Windows.

(ix) Diver's seat.

(x) Interior sidings.

(xi) Accessibility features for the handicapped.

(3) Mechanical Improvements:

(i) Engine.

(ii) Air compressor.

(iii) Transmission and drive train.

(iv) AC Compressor.

(v) Brake drums.

§ 650.9 Funding determination.

(a) Bus rehabilitation projects are eligible for UMTA capital funds on an 80% Federal/20% local share funding basis.

(b) Amortized project costs over the extended life of a rehabilitated bus may not normally exceed 60% of the 12 year average annual amortized costs of a new bus. This means that bus rehabilitation costs should be averaged over the number of years the bus' life is prolonged. If this average exceeds 60% of the cost of a new bus averaged over 12 years, UMTA may decide not to participate in the excess costs.

(c) UMTA will participate in the additional costs of retrofitting handicapped accessibility features on rehabilitated buses.

(d) Costs associated with the inspector required by § 640.5(h) are eligible projects costs for UMTA funding through the bus rehabilitation program.

§ 650.11 Project requirements.

Grants made under the bus rehabilitation program are subject to all UMTA requirements for capital projects.

(49 U.S.C 1602 and 1604; 23 U.S.C 103 and 142; 49 CFR 1.51)

Dated: February 6, 1980.

Theodore C. Lutz,

Administrator, Urban Mass Transportation Administration.

[FR Doc. 80-4435 Filed 02-08-80; 8:45 am]

BILLING CODE 4910-57-M

federal register

Monday
February 11, 1980

Part V

Environmental Protection Agency

Pesticides and Toxic Substances; Availability of Funds for Cooperative Agreements With States

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-280003; FRL 1410-5]

Pesticides and Toxic Substances; Availability of Funds for Cooperative Agreements With States

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of funds for cooperative agreements with States.

SUMMARY: EPA announces the availability of funds for a limited number of toxic substances control cooperative agreements during fiscal year 1980. Such funds will be awarded to States for the establishment and operation of projects leading to the prevention or elimination within the States of unreasonable risks to health or the environment which are associated with a chemical substance or mixture and with respect to which the Administrator is unable or is not likely to take action for their prevention or elimination under the Toxic Substances Control Act (TSCA).

EFFECTIVE DATE: February 11, 1980.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office (TS-799), Office of Pesticides and Toxic Substances, EPA, 401 M Street, S.W., Washington, D.C. 20460. In Washington, D.C., phone: (202) 554-1404. The toll-free telephone number is 800-424-9065.

SUPPLEMENTARY INFORMATION: Applicants will be eligible for funding only if a priority need is demonstrated, as determined under Office of Pesticides and Toxic Substances guidelines (see below). Eligibility for funding will, in part, be based upon: the seriousness of the human health effects in a State which are associated with chemical substances or mixtures, including cancer, birth defects, and gene mutations; the extent of the exposure in a State of human beings and the environment to chemical substances and mixtures; and the extent to which chemical substances and mixtures are manufactured, processed, distributed, used, and disposed of in a State. Other factors, such as long-term impact, tranferability to other States, likelihood of project success, and potential benefit compared to cost will also be considered.

These cooperative agreements will be subject to the provisions of EPA's general grant regulations (40 CFR Part 30) and to special conditions to be set forth in each agreement signed by the Governor of a State or his duly authorized representative and EPA. Federal assistance will be awarded only once under the present TSCA authorization to each approved applicant. A total of approximately $1.25 million is expected to be available in fiscal year 1980 to fund these cooperative agreements. The State's matching contribution must be at least 25 percent of the total cost of the program.

Information regarding application submission, evaluation criteria, and other pertinent requirements are contained in the document "Office of Pesticides and Toxic Substances Guidelines for State Agencies To Use in Submitting Applications for Financial Assistance for State Toxic Substances Control Projects," set forth below. Applications must be submitted to the Environmental Protection Agency, Grants Administration Division (PM-216), Washington, D.C. 20460, by May 12, 1980 in order to be considered eligible for award. A copy of the application should be sent to the appropriate EPA Regional Office.

Dated: January 30, 1980.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

OFFICE OF PESTICIDES AND TOXIC SUBSTANCES

Guidelines for State Agencies To Use in Submitting Applications for Financial Assistance for State Toxic Substances Control Projects

I. Purpose

The Office of Pesticides and Toxic Substances (OPTS), under authority of TSCA, will implement a program of financial assistance to states during fiscal year 1980 (FY 80) in the form of cooperative agreements to enable selected States to develop and implement projects to prevent or eliminate unreasonable environmental and health hazards posed by toxic substances. These unreasonable hazards must be of a kind which EPA is unable or not likely to control under TSCA.

II. Eligibility

To be eligible for award of funds under the toxic substances control cooperative agreement program, a State must meet the following criteria (listed in order of importance).

A. *Need.* An applicant must establish a priority "need" based upon evidence of the occurrence or likely occurrence of serious human health effects, including cancer, birth defects, or gene mutation, which are known to be or suspected of being associated with human exposure to chemical substances or mixtures arising from the manufacture, processing, distribution, use and disposal of such substances or mixtures in the State.

Because of the imprecise nature of the data, it is not possible to rank States numerically. Instead, group categories will be established on the basis of apparent need. States demonstrating the greatest need will be given highest priority; those whose demonstrated need is somewhat less will be given a lower priority.

B. *Legislative authority.* A State must have enacted enabling legislation that empowers it to conduct specific activities proposed for the cooperative agreement. In some cases, such legislation may specifically address itself to control of toxic substances. In other cases, legislation may be phrased in more general terms, dealing, for example, with the preservation of public health. The application should, in any event, cite the relevant provisions in State law and regulation.

C. *Program in place.* State organizations or legislation needed to achieve the intended results should exist and be functioning. The application must identify the agency or agencies of the State which will establish or operate, or both, the project(s) for which the application is submitted.

D. *Actions proposed and priorities.* The application must describe in detail the actions proposed to be taken under such project(s), in accordance with these guidelines, and must state the priority for each action. The likelihood of success in implementing the project along proposed lines and the project's potential benefit compared to cost must be demonstrated.

E. *Long-term impact.* The application must establish the potential for long-term beneficial impact on human health and the environment of developing and implementing a toxic substances control program. If a State can demonstrate a potential for transferability of its techniques and approaches to other States, this will be given additional favorable consideration. "Transferability" here denotes the possibility that other States could utilize for their own benefit innovative and/or effective techniques and approaches for better controlling potential hazards to human health and the environment developed as a result of a cooperative agreement between a State and EPA.

F. *Project coordination.* The application must contain satisfactory assurances that such projects will be coordinated with other projects of the State government for environmental for

environmental and public health protection.

G. *Public Participation.* Applicants are encouraged to involve the public in proposal development, EPA-funded activities, and strategic and regulatory decision-making.

H. *OMB Circular A-95.* Applicants must comply with all applicable requirements of Office of Management and Budget (OMB) Circular No. A-95 under 40 CFR 30.305.

I. *Reports.* The application must provide for preparing a comprehensive annual progress report which evaluates the progress of the project.

III. Program Activities Included in a Toxic Substances Control Cooperative Agreement

The applicant must demonstrate his plans for solving or alleviating human health and environmental problems associated with toxic substances and mixtures and with respect to which the Administrator is unable or unlikely to take action under TSCA. For example, if exposure to a chemical substance is limited to a particular geographic area, or if action at the State level is more appropriate than Federal action, EPA would be less likely to act. If a question arises with an applicant as to whether EPA is likely to take action against such problems, the applicant should contact OPTS as indicated below for advice.

Cooperative agreement funds shall not be used for pay for clean-up costs or for compensation in payment of damages suffered as a result of a toxic substances problem. Rather, applicants should stress the development of innovative and/or effective techniques for control of toxic substances, as well as new sources of information on problems caused by toxic substances and steps which might be taken to solve or alleviate them. In reviewing applications for cooperative agreements, EPA will, as indicated above, be examining the potential transferability to other States of the techniques and approaches to be developed as a result of the agreements.

Applications must include a statement, signed by the Governor or his duly authorized representative, concerning State plans for continuation of the program activities beyond the period of Federal funding. No additional funding in support of this program beyond fiscal year 1980 will be made available to States without new congressional authorization.

Cooperative agreement program funds may be used to pay salaries and other benefits for persons gathering data, making rules, monitoring, performing analyses, or managing functions related to cooperative agreement activities, and to reimburse personnel travel and per diem expenses that are directly atttributable to the performance of such activities. Program funds may also be used for such costs as purchasing supplies and equipment, including laboratory equipment for monitoring and testing purposes, when these supplies and equipment are an integral part of the funded project. The application should specify the amounts and purposes of the above costs to be charged to the project. In order to provide additional guidance, listed below are brief summaries of awards made to date.

1. Maryland: $230,935 to develop a toxic substances registry. The project will expand Maryland's existing inventory to a more comprehensive registry of toxic substances by physical site and quantity, providing information on manufacture, consumption, and disposal.

2. Michigan: $504,500 to develop a Critical Materials Program. The project will identify potential toxic substances problems through analysis of data available in Michigan's Critical Materials Reports, Air Priority Chemicals Reports, and other sources of information.

3. New Jersey: $453,947 to (a) develop a Toxic Substances Investigation and Integration Unit, and (b) expand a current project to monitor volatile organic compounds in air. The former project will create a unit charged with identifying, investigating, and resolving toxic substances problems, and with integrating problem-solving activities across divisional and agency lines. The latter program is to complement a present program for air monitoring for toxic substances with analyses of air samples for a broad spectrum of volatile organics.

4. New York: $348,000 to develop a program to identify, characterize, and plan for the management of toxic substances problems. The project will determine optimum procedures for locating sources of toxic substances contamination, defining the nature and extent of the problem, and developing management techniques that will integrate State and local governments' responsibilities in a manner consistent with Federal programs.

5. Wisconsin: $202,847 to study health problems related to formaldehyde vapors emanating from mobile home construction materials. The project will identify, through epidemiological studies, health problems related to formaldehyde vapors emanating from mobile home construction materials. Wisconsin's effort will complement a Massachusetts study of problems related to formaldehyde vapors from insulation materials.

For further guidance and for assistance in proposal development, States are encouraged to contact their EPA Regional Toxic Substances Coordinator. (listed below)

Mr. Robert Dangel, Toxic Substances Coordinator, EPA Region I, Pesticide Branch, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (617) 223-0585.

Mr. Wolfgang Brandner, Toxic Substances Coordinator, EPA Region VII, Pesticide Branch, 324 East 11th Street, Kansas City, Missouri 64106 (816) 374-3036.

Mr. Mike Bonchonsky, Toxic Substances Coordinator, EPA Region II, 26 Federal Plaza, New York, New York 10007 (212) 264-4296.

Mr. Chuck Sapp, Toxic Substances Coordinator, EPA Region III, Pesticide Branch, Curtis Building, 6th & Walnut Street, Philadelphia, Pennsylvania 19106 (215) 597-4058.

Mr. Ralph Jennings, Toxic Substances Coordinator, EPA Region IV, Pesticide Branch, 345 Courtland Street, NE, Atlanta, Georgia 30308 (404) 881-3864.

Mr. Karl Bremer, Toxic Substances Coordinator, EPA Region V, Pesticide Branch, 230 South Dearborn Street, Room 1165, Chicago, Illinois 60604 (312) 353-2291.

Mr. Dean Gillam, Toxic Substances Coordinator, EPA Region VIII, Pesticide Branch, 1860 Lincoln Street, Denver, Colorado 80295 (303) 837-3926.

Mr. Kirby Narcisse, Toxic Substances Coordinator, EPA Region IX, Pesticide Branch, 215 Fremont Street, San Francisco, California 94105 (415) 556-4606.

Mr. Jim Everts, Toxic Substances Coordinator, EPA Region X, Pesticide Branch, 1200 6th Avenue, Seattle, Washington 98101 (206) 442-1090.

Dr. Norman Dyer, Chief, Pesticides and Hazardous Materials, EPA Region VI, Pesticide Branch, First International Building, 1201 Elm Street, Dallas, Texas 75207 (214) 767-2734.

IV. Program Period

In planning their project(s), applicants should bear in mind that cooperative agreement funds do not have to be disbursed in their entirety within fiscal year 1980. However, EPA expects that all such funds will be disbursed within a three-year period following award of the cooperative agreement, with the understanding that the awards will not be repeated under the present TSCA authorization.

V. Cost Sharing

The States shall provide at least 25 percent of the approved project costs. The State's share may be reflected in allowable direct or indirect costs.

VI. Submissions of Applications

Applications for Federal assistance may be submitted by State agency(ies) responsible for State activities in the toxic substances control area. States interested in receiving toxic substances control cooperative agreements should submit EPA Form 5700–33, Application for Federal Assistance, to the Environmental Protection Agency, Grants Administration Division (PM–216), 401 M Street SW., Washington, D.C. 20460, by May 12, 1980 in order to be considered eligible for award. The application should be entitled "Toxic Substances Cooperative Agreement". A copy of the application should be sent to the appropriate EPA Regional Office. States submitting applications after this date may jeopardize their chances of receiving toxic substances control cooperative agreement funds.

VII. EPA Actions on Applications

A review panel will be constituted at EPA Headquarters with Regional Office representation. This panel will initially review all applications submitted by May 12, 1980, and will make a final recommendation as to which States will receive awards within 120 days following the submission deadline; the final decision by the Assistant Administrator for Pesticides and Toxic Substances will be made within 30 days following receipt of the panel's recommendations. It is anticipated that the number of cooperative agreements to be funded under this program will be between 3 and 5. Except in unusual circumstances, the amount of each cooperative agreement is expected to be between $50,000 and $500,000. Funding will be based strictly on merit as determined in accordance with the eligibility criteria as set forth above. Awards will be transmitted to States within 45 days following final determination.

The awards will be made by EPA Headquarters. However, the Regional Administrator or his designee will serve as Project Officer for the administration of the cooperative agreement and will be responsible for overseeing State performance. Further information concerning toxic substances control cooperative agreements may be obtained by contracting the appropriate EPA Regional Office or the Office of Pesticides and Toxic Substances (PTS–793), EPA, 401 M Street, SW., Washington, D.C. 20460. The OPTS contact is Bob Janney, telephone 202–426–1800.

[FR Doc. 80–4321 Filed 2–8–80; 8:45 am]
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Federal Register

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INFORMATION AND ASSISTANCE

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
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

REMINDERS

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THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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