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federal register

Monday
January 31, 1983

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Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 5017 of January 27, 1983.

National Day of Prayer, 1983

By the President of the United States of America

A Proclamation

Prayer is the mainspring of the American spirit, a fundamental tenet of our people since before the Republic was founded. A year before the Declaration of Independence, in 1775, the Continental Congress proclaimed the first National Day of Prayer as the initial positive action they asked of every colonist.

Two hundred years ago in 1783, the Treaty of Paris officially ended the long, weary Revolutionary War during which a National Day of Prayer had been proclaimed every spring for eight years. When peace came the National Day of Prayer was forgotten. For almost half a century, as the Nation grew in power and wealth, we put aside this deepest expression of American belief—our national dependence on the Providence of God.

It took the tragedy of the Civil War to restore a National Day of Prayer. As Abraham Lincoln said, "Intoxicated with unbroken success, we have become too self-sufficient to feel the necessity of redeeming and preserving grace, too proud to pray to the God that made us."

Revived as an annual observance by Congress in 1952, the National Day of Prayer has become a great unifying force for our citizens who come from all the great religions of the world. Prayer unites people. This common expression of reverence heals and brings us together as a Nation and we pray it may one day bring renewed respect for God to all the peoples of the world.

From General Washington's struggle at Valley Forge to the present, this Nation has fervently sought and received divine guidance as it pursued the course of history. This occasion provides our Nation with an opportunity to further recognize the source of our blessings, and to seek His help for the challenges we face today and in the future.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim Thursday, May 5, 1983, National Day of Prayer. I call upon every citizen of this great Nation to gather together on that day in homes and places of worship to pray, each after his or her own manner, for unity of the hearts of all mankind.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of Jan., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

Ronald Reagan

[FR Doc. 83-2753
Filed 1-28-83; 11:22 am]
Billing code 3195-01-M

Rules and Regulations

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GENERAL ACCOUNTING OFFICE

4 CFR Part 21

Bid Protest Procedures

Correction

In FR Doc. 83-1116 appearing on page 1931 in the issue of Monday, January 17, 1983, make the following correction:

On page 1931, third column, the authority citation shown for 4 CFR Part 21 should have read:

Authority: 31 U.S.C. 711. Interpret or apply 31 U.S.C. 3526 and 3529.

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 81-NM-85-AD; Amdt. 39-4554]

Airworthiness Directives; Avions Marcel Dassault-Breguet Aviation Model Falcon 20 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to the Avions Marcel Dassault-Breguet Aviation (AMD-BA) Model Falcon 20 series airplanes which requires a one-time inspection of the freon fire extinguisher bottles to determine that the cartridge is properly fitted in the percussion head. There have been reports of cracks in the glass of the pyrotechnic cartridges because the cartridge nuts were excessively tightened. Similar incidents occurred when wrong spacer washers were installed. Such extinguishers are incapable of performing their intended function and require an inspection to ensure properly matched system components.

DATE: Effective February 9, 1983.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to AMD-BA Representative, c/o F. J. C., Teterboro Airport, New Jersey 97608 or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The French Director General of Civil Aviation (DGAC) has classified Avions Marcel Dassault-Breguet Service Bulletin No. 657 as mandatory. This service bulletin requires an inspection of the freon fire extinguisher bottles installed in all AMD-BA Model Falcon 20 series airplanes. Extinguishers have been found with the glass of the pyrotechnic cartridges cracked or broken due to excessive tightening of the cartridge nuts. The same condition can occur when the wrong spacer washer is installed. Cracked or broken pyrotechnic cartridges would prevent the extinguishers from operating properly. The DGAC, which is the civil aviation authority for France, is requiring airplanes to be inspected in accordance with AMD-BA Service Bulletin No. 657.

These airplane models are manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, the FAA has determined that an AD is necessary which requires the inspection, repair, or replacement as specified by AMD-BA Service Bulletin No. 657.

Further, 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.

List of Subjects in 14 CFR Part 39

Aviation safety, aircraft.

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:

Avions Marcel Dassault-Breguet Aviation: Applies to all models of the AMD-BA Falcon 20 series airplanes certificated in all categories. The affected freon fire extinguishers were manufactured by Martin or ABG-SEMCA and are identified as follows: two extinguishers type 111-1555-324-12 for the aft compartment and nacelles and type 111-011-324-12 for the MICROTURBO APU if the airplane incorporates AMD-BA Service Bulletin 80, Revision 3, dated May 9, 1968; AMD-BA Service Bulletin 350, Revision 2, dated October 4, 1971; or AMD-BA Service Bulletin 556 dated September 15, 1977.

Compliance is required within the next 100 hours time in service after the effective date of this AD, unless already accomplished. To prevent the potential failure of the fire extinguisher to operate, accomplish the following:

1. Perform a one-time inspection and repair or replace, as necessary, the pyrotechnic cartridge of the fire extinguisher in accordance with paragraph 2, Accomplishment Instructions, of Avions Marcel Dassault-Breguet Aviation Service Bulletin No. 657 dated November 8, 1979.

2. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

This amendment becomes effective February 9, 1983.

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

Note.—The FAA has determined that this regulation is an emergency regulation that is

not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Wash., on January 20, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region

[FR Doc. 83-2323 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-109-AD; Amdt. 39-4558]

Airworthiness Directives; British Aerospace Aircraft Group Model HS 125 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to British Aerospace Aircraft Group Model H.S. 125 series airplanes which requires installation of static electricity suppression filters on the fuselage. Several incidents of loss of heating of both windshields due to static electricity interference have been reported. Also, two incidents were reported where both main generator systems were inadvertently disconnected due to static electricity. Either of these failures could lead to loss of the airplane.

DATE: Effective February 10, 1983.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace, Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041, or may be examined at the address shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority of the United Kingdom has classified British Aerospace Aircraft Group, Hatfield-Chester Division, 125 Series Aircraft Service Bulletin 24-230-(2790), Revision 3, as mandatory. Several incidents of loss of heating capability on both windshields were reported due to static electrical conditions encountered. Subsequent examination of the system showed fuses had been ruptured and supply change-over contactors damaged. Also, at least two incidents have occurred where both main generator systems inadvertently disconnected due to static electrical conditions. The generators could be restored when the aircraft passed beyond the region of charged air. Investigations showed the built-in generator control unit fault sensing circuit to be sensitive to static electricity.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since this condition is likely to exist or develop on airplances of this model registered in the United States, the FAA has determined that an AD is necessary which requires the installation of electrical filters to fuselage skin and modification of the generator control unit fault sensing.

Further, 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.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

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:

British Aerospace Aircraft Group: Applies to Model HS 125 series airplanes, serial numbers NA0201 to NA0299 and serial numbers 257001 to 257139, plus all airplanes retrofitted with Garrett TFE 731 engines, certificated in all categories. Compliance required as indicated, unless already accomplished. To prevent possible failure of windshield heat from external high voltage static charge conditions and to prevent potential generator tripping from electrical interference effects, accomplish the following:

1. Within the next 200 hours time in service or two months, whichever occurs first, after the effective date of this AD, perform the modifications specified in Part 2, Accomplishment Instructions, of British Aerospace Aircraft Group, Hatfield-Chester Division, 125 Service Bulletin 24-230-(2790), Revision 3, dated June 11, 1982.

2. For aircraft equipped with auxiliary power units other than the Garrett TFE 731, modify in a manner approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

3. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

This amendment becomes effective February 10, 1983.

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

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Seattle, Washington on January 21, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region

[FR Doc. 83-2320 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 83-CE-2-AD; Amendment 39-4553]

Airworthiness Directives; DeHavilland DHC-6 Models 1, 100, 200, and 300 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to DeHavilland DHC-6 Models 1, 100, 200, and 300 airplanes which requires retirement of certain life limited structural components. The manufacturer has identified certain structural components in the wing, wing carry through and attaching structure which are subject to fatigue failure. The retirement times established by this AD will prevent catastrophic failure.

DATES: Effective Date: February 4, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: DeHavilland Structural Components Service Life Limits Manual PSM 1-6-11, approved by Department of Transport (DOT) Canada, August 29, 1978, applicable to this AD may be obtained from DeHavilland Aircraft of Canada, Ltd., Downsview, Ontario, Canada MY31YK. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Vahan Barsamian, FAA, New York, Aircraft Certification Office, ANE-172, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, telephone (516) 791-6220.

SUPPLEMENTARY INFORMATION: The manufacturer has conducted a fatigue evaluation of the DeHavilland DHC-6 Series wing and associated structure and has identified certain structural components which must be service life limited to prevent catastrophic failures of these components. The affected components and their life limits are identified in DeHavilland Manual PSM 1-6-11, Revision 2, approved by DOT Canada August 29, 1978. This manual specifically addresses life limits for DHC-6 Series airplanes certificated under SFAR 23. The Canadian DOT issued Airworthiness Directive CF-82-24 on August 24, 1982, which makes the life limits of Manual PSM 1-6-11 applicable to all DeHavilland DHC-6 Series airplanes.

The FAA has determined that the affected components are identical on all DHC-6 Series airplanes regardless of certification basis and that the load spectrum for operation of SFAR 23 certificated DHC-6 Series airplanes is not significantly different from that of other DHC-6 Series airplanes certificated under CAR 3.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring retirement of the affected components in accordance with DeHavilland Manual PSM 1-6-11, Revision 2, on all DeHavilland DHC-6 Series airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

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 AD.

DeHavilland: Applies to DHC-6 Models 1, 100, 200 and 300 (all serial numbers) airplanes certificated in any category.

Compliance: Required on or before May 1, 1983, unless already accomplished. To prevent catastrophic failure of the wing, wing carry through and attaching structure, accomplish the following:

(a) Modify and replace the structural components listed in DeHavilland Structural Components Service Life Limits Manual PSM 1-6-11, Revision 2, approved by DOT Canada, August 29, 1978, in accordance with the respective schedules listed therein.

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

(c) An equivalent method of compliance with this AD may be used when approved by the Manager, New York Aircraft Certification Office, Federal Aviation Administration, ANE-170, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

This amendment becomes effective on February 4, 1983.

(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 regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

Issued in Kansas City, Missouri, on January 19, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-2521 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-SO-12-AD; Amdt. 39-4557]

Airworthiness Directives; EMBRAER Models EMB-110P1 and EMB-110P2 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, revision of existing airworthiness directive (AD).

SUMMARY: This amendment revises Airworthiness Directive (AD) 79-04-03, applicable to EMBRAER Models EMB-110P1 and EMB-110P2 airplanes. The FAA has determined various inspections required by AD 79-04-03 may be eliminated, other inspection frequencies altered, allowable landings increased prior to requiring certain inspections, and that life limits should be imposed on certain shock struts. The revised AD will make these updated requirements applicable to the affected airplanes.

DATE: Effective dates: February 7, 1983.

Compliance: As prescribed in the body of the AD.

ADDRESSES: EMBRAER Service Bulletin No. 110-32-018, dated June 8, 1978, applicable to this AD may be obtained from Empresa Brasileira de Aeronautica S/A (EMBRAER), P.O. Box 343-CEP, 12.200, Sao Jose Dos Campos, Sao Paulo, Brazil. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Charles L. Perry, ACE-120A, Aerospace Engineer, Airframe Branch, Atlanta Aircraft Certification Office, FAA, P.O. Box 20636, Atlanta, Georgia 30320, Telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: The FAA issued AD 79-04-03, Amendment 39-3411 as amended by 39-3623 (44 FR 9740), which requires inspection and replacement of landing gear components on EMBRAER Models EMB-110P1 and EMB-110P2 airplanes. After issuing Amendment 39-3623, the FAA has determined, based on fatigue testing, that various inspections may be eliminated, other inspection frequencies altered, minimum landings increased prior to requiring certain inspections, and life limits should be imposed. Therefore, the FAA is further revising Amendment 39-3623 by altering the inspection and replacement intervals applicable to Models EMB-110P1 and EMB-110P2 airplanes. For purposes of clarification, AD 79-04-03, as now revised, is being reissued in its entirety. Since this amendment is both clarifying and relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13), AD 79-04-03, Amendment 39-3411, as amended by 39-3623 (44 FR 9740), is hereby revised and reissued in its entirety to read as follows:

Empresa Brasileira de Aeronautica, S.A. (EMBRAER): Applies to Models EMB-110P1 and EMB-110P2 (all serial numbers) airplanes certificated in any category.

Compliance: Required as indicated unless already accomplished. To preclude failure of the oleo strut assemblies, accomplish the following as indicated below.

1. Inspect and replace oleo strut assemblies (P/N 15164 A, B, or C, and 15165 A, B, or C), on shock struts (P/N 14570 and 14575) which have 2,000 landings or more in accordance with the following:

a. Prior to the first flight of each day, using a 10-power magnifying glass, conduct a visual inspection of the shock struts of the main landing gear at the weld that joins the torque link-to-shock strut attachment. If cracks are found, prior to further flight, replace the component with a serviceable part.

b. Within the next 200 landings and each 200 landings thereafter, using a dye-penetrant method, per the Accomplishment Instructions in Embraer Service Bulletin 110-32-018 dated June 8, 1978, inspect the area outlined in 1.a above. If cracks are found, prior to further flight, replace the component with a seviceable part.

c. Retire from service shock struts (P/N 14570 and 14575) which have 3,000 landings or more.

2. Inspect and replace upper half-drag struts (P/N 14284 and 14334) without shot-peening treatment in accordance with the following:

a. Prior to the first flight of each day, using a 10-power magnifying glass, conduct a visual inspection of the external side of the upper region of the half-drag strut, near the hydraulic actuator joint. If cracks are found prior to further flight, replace the component.

b. Prior to further flight, unless already accomplished within the previous 200 landings, and each 200 landings thereafter, using a dye-penetrant method, per the Accomplishment Instructions in Embraer Service Bulletin 110-32-018 dated June 8, 1978, inspect the external and internal side of the half-drag strut (P/N 14284 and 14334). If cracks are found, prior to further flight, replace the failed component.

c. Within the next 100 landings after the effective date of this revision, replace any half-drag struts that have logged 18,750 landings or more.

3. Unless accomplished within the last 400 landings, inspect and replace upper half-drag strut (P/N 14284A and 14334A) which have shot-peening treatment in accordance with the following:

a. For components with 9,700 landings or more on the effective date of the AD, prior to further flight, and at each 400 landings thereafter, comply with paragraph 3.c. of this AD.

b. For components with less than 9,700 landings on the effective date of this AD, comply with paragraph 3.c. of this AD before the accumulation of 9,700 landings and at each 400 landings thereafter.

c. Inspect the external and internal side of the half-drag strut using a dye-penetrant method, per the Accomplishment Instructions in Embraer Service Bulletin 110-32-018 dated June 8, 1978. If cracks are found, prior to further flight, replace the failed component.

d. Within the next 100 landings after the effective date of this revision, replace any half-drag struts that have logged 18,750 landings or more.

4. On components on which landings are not recorded, one landing per flying hour may be used to determine the number of landings.

5. Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Manager, Atlanta Aircraft Certification Office, FAA, 1075 Inner Loop Road, College Park, Georgia 30337, may adjust the inspection compliance times specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

6. Airplanes on which cracks are found may be flown to a base for replacement of the failed components in accordance with FAR 21.197.

7. Compliance with the provisions of this AD may be accomplished in an equivalent manner, when approved by the Manager, Atlanta Aircraft Certification Office, FAA, 1075 Inner Loop Road, College Park, Georgia 30337.

EMBRAER Service Bulletin No. 110-32-018 pertains to the subject matter of this AD.

This amendment revises AD 79-04-03 (Amendment 39-3623).

This amendment becomes effective February 7, 1983.

(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 amendment involves revision of a regulation which is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), because its annual effect on the economy is approximately $5,000, and certifies that the rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act since it involves maintenance on only a few aircraft owned by small entities.

Issued in Kansas City, Missouri, on January 20, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-2522 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 82-NM-105-AD; Amdt. 39-4555]

Airworthiness Directives: Lockheed-California Co. Model L-1011-385 Series Airplane, Serial Numbers 1052 and Subsequent

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing Airworthiness Directive (AD) 81-26-51 applicable to Lockheed-California Co. Model L-1011-385 Series Airplanes, Serial Numbers 1052 and subsequent, requiring inspections for cracks in the fuselage station (FS) 1363 bulkhead, and repair and/or replacement of defective parts as necessary. This amendment establishes terminating action upon incorporation of a permanent modification to this structure.

DATE: Effective February 9, 1983. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESS: The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support

Contracts, Dept. 63–11, U–33, B–1. This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT:

Augusto Coo, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808, telephone (213) 548–2825.

SUPPLEMENTARY INFORMATION: On December 11, 1981, Telegraphic AD T81–26–51 was issued to all known operators of Lockheed-California Co. Model L–1011–385 airplanes, serial numbers 1052 and subsequent, effective upon receipt, requiring inspection for cracks in FS 1363 bulkhead and repair and/or replacement as necessary to prevent sudden decompression of the airplane. Subsequently, on February 16, 1982, AD 81–26–51 was amended (Amendment 39–4328, 47 FR 8557) to include an alternative inspection and a repetitive inspection requirement, but inadvertently omitted the initial inspection threshold. After issuing Amendment 39–4328, the FAA evaluated substantiating data for a permanent modification to the structure at FS 1363 bulkhead and determined that incorporation of this modification eliminates the need for the periodic inspections required by the amendment. Therefore, AD 81–26–51 is further amended to include the omitted initial inspection threshold and to include a terminating modification, which is described in the Accomplishment Instructions of Lockheed-California L–1011 Service Bulletin 093–53–207, dated January 26, 1982.

Since this amendment relieves a restriction, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

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 revising AD 81–26–51, amendment 39–4328 (47 FR 8557, March 1, 1982), to read as follows:

Lockheed-California Company: Applies to Lockheed Model L–1011–385 series airplanes, serial numbers 1052 and subsequent, certificated in all categories.

Compliance is required as indicated, unless previously accomplished.

To detect cracks in the Fuselage Station (FS) 1363 bulkhead lower caps, fuselage skin, adjacent web, and web horizontal stiffeners; and to prevent failure and possible sudden decompression of the airplane, accomplish the following:

A. *Compliance Schedule:*

1. Compliance is required within 300 landings after the effective date of this AD amendment for the inspection specified in paragraph C. below on all aircraft having accumulated 10,000 or more landings as of the effective date of this AD amendment. Previously accomplished inspections per paragraph B. below, or per Accomplishment Instructions, Section 2, of Lockheed L–1011 Service Bulletin 093–53–208, Revision 1, dated December 23, 1981, satisfy this initial inspection requirement.

2. Aircraft having accumulated less than 10,000 landings as of the effective date of this AD amendment must have an initial inspection as specified in paragraph C. below prior to accumulating 10,300 landings.

3. Repetitive inspections in accordance with paragraph C. below are required on all affected aircraft until the permanent modification specified in Section 2, Accomplishment Instructions, of Lockheed L–1011 Service Bulletin 093–53–207, Rev. 1, dated October 12, 1982 is accomplished, which terminates the repetitive inspections required by this AD.

(a) If the initial inspection was accomplished in accordance with paragraph B. below, within an additional 300 landings after the initial inspection, or within 100 landings after the effective date of this amendment, whichever is later, inspect internally at intervals not to exceed 2000 landings and externally at intervals not to exceed 1000 landings thereafter in accordance with paragraph C. below.

(b) If the initial inspection was accomplished in accordance with the Accomplishment Instructions, Section 2, of Lockheed L–1011 Service Bulletin 093–53–208, Revision 1, dated December 23, 1981, within an additional 1000 landings after the initial inspection, or within 300 landings after the effective date of the amendment, whichever is later, inspect internally at intervals not to exceed 2000 landings and externally at intervals not to exceed 1000 landings thereafter in accordance with paragraph C. below.

(c) The 2000 landings internal inspection intervals may be increased to 4000 landings if the external support angle (P/N 1561639) is also inspected in accordance with Section 2, Accomplishment Instructions, of Lockheed L–1011 Service Bulletin 093–53–209, dated October 27, 1981, and no damage is found.

B. *Accomplishment Instructions—Option 1:*

1. Remove both main landing gear fairing panels 195B, left hand side and 196B right hand side, or remove splash panels, Lockheed L–1011 P/N 1541920–101 and –102, and

2. Perform a close visual inspection for cracks in Fuselage Station 1363 bulkhead, left hand side. Inspect from the main landing gear wheel well, paying particular attention to web and horizontal stiffeners at bulkhead cap, above and below water line 140.

3. Perform a close visual inspection for cracks in fuselage skin between Fuselage Stations 1363 and 1403, left hand side, paying particular attention to the area between Stringers 44 and 46.

4. Perform a close visual inspection for cracks in Fuselage Station 1363 bulkhead, right hand side. Inspect from the main landing gear wheel well, paying particular attention to the web and horizontal stiffeners at the bulkhead cap, above and below water line 140.

5. Perform a close visual inspection for cracks in the fuselage skin between Fuselage Stations 1363 and 1403, right hand side, paying particular attention to the area between Stringers 20 and 22.

Or, in lieu of B.1./thru B.5.

6. Inspect for cracks in FS 1363 bulkhead cap and surrounding areas in accordance with the inspection procedure called out in Section 2, Accomplishment Instructions, of Lockheed Service Bulletin 093–53–206, Revision 1, dated October 19, 1981, or Accomplishment Instructions, Section 4 or 5 of Lockheed L–1011 Service Bulletin 093–53–A212, dated December 7, 1981.

C. *Accomplishment Instructions—Option 2:*

Inspect for cracks in FS 1363 bulkhead cap and surrounding areas in accordance with the inspection procedures specified in section 2, Accomplishment Instructions, of Lockheed L–1011 Service Bulletin 093–53–208, Revision 2, dated August 17, 1982.

D. If cracks are found in the lower cap, adjacent web, fuselage skin, or web stiffeners, they must be repaired before further flight in a manner approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

E. If cracks are found only in the Lockheed P/N 1518531–121 reinforcing strap and not repaired, reinspect externally in accordance with Paragraph C. above at intervals not to exceed 500 landings until a repair or permanent modification is incorporated in a manner approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

F. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the inspection requirements of this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63–11, U–33, B–1. These documents also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Los

Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective February 9, 1983.

(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) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves an amendment that is relieving in nature and does not impose any additional burden on any person. Therefore: (1) it is not major under Executive Order 12291 (46 FR 13193; February 19, 1981); and (2) it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation. I certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because it is relieving in nature, and because it involves few, if any, small entities.

Issued in Seattle, Wash., on January 20, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 83-2322 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AGL-29]

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The nature of this Federal action is to correct the currently published Duluth, Minnesota, transition area by deleting all reference to designated airspace 1200' above the surface. The intended effect of this action is to ensure accuracy of the charted transition area and of the published definition.

DATES: Effective date—February 28, 1983. Comments must be received on or before March 2, 1983.

ADDRESSES: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 82-AGL-29, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The currently defined and published transition area for Duluth, Minnesota, incorrectly references designated airspace 1200' above the surface. Since all airspace for the state of Minnesota is currently designated at 1200' above the surface, the additional reference to 1200' airspace is redundant. This action deletes the unnecessary defined airspace.

Aeronautical maps and charts will continue to reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Request for Comments on the Rule

Although this action is in the form of a final rule, which deletes a portion of the currently defined Duluth, Minnesota, transition area to correctly describe the area, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to correct the currently defined and published Duluth, Minnesota, transition area.

Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70-3 dated January 29, 1982.

Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is contrary to the public interest and that good cause exists for making this amendment effective in less than 30 days after its publication in the Federal Register.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., February 28, 1983, as follows:

Duluth, Minnesota

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Duluth International Airport (latitude 46°50'30" N., longitude 92°11'25" W.); within a 17.5-mile radius of the Duluth International Airport, extending from the Duluth VOR 262° radial clockwise to the Duluth VOR 058° radial; within 4½ miles north and 9½ miles south of Duluth localizer west course, extending from 4 miles east to 18½ miles west of the OM; and within 4½ miles east and 9½ miles west of the Duluth VORTAC 023° radial, extending from the 17.5-mile radius area to 28 miles northeast of the VORTAC.

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

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

Issued in Des Plaines, Illinois on January 13, 1983.

Paul K. Bohr,

Director, Great Lakes Region.

[FR Doc. 83-2325 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AAL-9]

Proposed Alteration of Control Zone and Transition Area, Point Barrow, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the Point Barrow, AK, Control Zone and Transition Area. The northeast extention of the control zone is deleted and the dimensions of the 700-foot transition area are changed. This action is necessary due to the decommissioning of the Point Barrow, AK, Nondirectional Beacon (NDB) and the need to provide adequate controlled airspace to contain IFR departures.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Bill Hill, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On December 2, 1982 (47 FR 54308), the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Point Barrow, AK, Control Zone and Transition Area. The Point Barrow NDB was removed from service which eliminated the need for the northeast control zone extension. The 700-foot transition area was redefined in the proposal to correct a deficiency in the existing configuration. The transition area will now properly contain IFR departures. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections to the proposal were received. Except for editorial changes, these amendments are the same as those proposed in the notice. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Advisory Circular AC 70-3A dated January 3, 1983.

The Rule

These amendments to Part 71 of the Federal Aviation Regulations alter the configuration of the Point Barrow, AK, Control Zone and Transition Area.

List of Subjects in 14 CFR Part 71

Control Zones, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) are amended effective 0901 G.m.t., April 14, 1983, as follows:

§ 71.171 Point Barrow, AK [Amended]

By deleting the words "within 3 miles each side of the Point Barrow RBN (PTR) 051° bearing extending from the 5-mile radius zone to 10 miles northeast of the RBN (PTR);"

§ 71.181 Point Barrow, AK [Amended]

By deleting the words "3 miles each side of the Browerville RBN (NMT) 155° bearing, extending from the control zone to 10 miles south of the RBN;" and substituting for them the words "an 8.5-mile radius of the Barrow VORTAC, extending clockwise from the 101° radial to the 215° radial;"

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

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

Issued in Washington, D.C., on January 25, 1983.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83-2524 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 82-AAL-11]

Proposed Alteration of Alaskan High Altitude Route and Establishment of Alaskan High Altitude Reporting Point

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action realigns Alaskan High Altitude Route (Jet Route No. 511) west of the Dillingham, AK, VORTAC and establishes an Alaskan High Altitude Reporting Point. This action is taken to provide a more orderly transition from ICAO North Pacific Composite Route R91 to the Anchorage, AK, area.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Bill Hill, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On December 2, 1982 (47 FR 54309), the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to realign Alaskan High Altitude Route (J-511) and establish a high altitude reporting point in conjunction with the realignment. Since the establishment of the Composite Route System in the North Pacific on March 18, 1982, the air traffic control system has encountered some difficulties with aircraft exiting R91 and G44 converging over King Salmon, AK, in a nonradar environment. This restructuring will provide for a more orderly transition, better utilization of airspace, reduction of ATC restrictions on users, and reduction of total mileage for aircraft transitioning from R91 to Anchorage, AK. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections to the proposal were received. Except for editorial changes, these amendments are the same as those proposed in the notice. Sections 71.213 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Advisory Circular AC 70-3A dated January 3, 1983.

The Rule

These amendments to Parts 71 and 75 of the Federal Aviation Regulations realign Alaskan High Altitude Jet Route No. 511 west of the Dillingham, AK, VORTAC and establish an Alaskan High Altitude Reporting Point on the new segment of the realigned jet route.

List of Subjects in 14 CFR Parts 71 and 75

Alaskan high altitude reporting points, Jet routes.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, § 71.213 and § 75.100 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75), are amended, effective 0901 G.m.t., April 14, 1983, as follows:

§ 71.213

By adding a new reporting point as follows:
ENCOR: lat. 57°28' N., long. 162°30' W. (Dillingham, AK 235° radial 155 DME)

§ 75.100 Jet Route No. 511 [Amended]

By deleting the words "From Cape Newenham, AK, NDB via Dillingham, AK;" and substituting the words "From the boundary of the Anchorage Oceanic CTA/FIR (lat. 57°28' N., long. 162°30' W.) via Dillingham, AK;"

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

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

Issued in Washington, D.C., on January 25 1983.

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 83-2523 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 221

[Reg. ER-1322, Amdt. No. 64; Docket 37444]

Tariffs; International Cargo Rate Flexibility Policy

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: For the reasons explained in PS-109 (International Cargo Rate Flexibility Policy), issued simultaneously, the Civil Aeronautics Board is eliminating the requirement of economic justifications for tariff filings stating international cargo rates within the zones of flexibility established in 14 CFR 399.41. Rates within the zones are also made eligible for Special Tariff Permission, subject to notice requirements. The action is taken on the Board's own initiative in response to an opinion of some members of Congress to allow air carriers to respond more quickly to changing costs and competitive opportunities.

DATES:

Adopted: January 12, 1983.

Effective: February 27, 1983.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Myers or Joanne Yancey Hitchcock, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5205 or 673-5442, respectively.

List of Subjects in 14 CFR Part 221

Air rates and fares, Credit, Explosives, Freight, Handicapped.

The Civil Aeronautics Board amends 14 CFR Part 221, *Tariffs*, as follows:

1. The authority for Part 221 is:

Authority: Secs. 102, 204, 401, 402, 403, 404, 411, 416, 1001, 1002, Pub. L. 85-726, as amended, 72 Stat. 740, 743, 754, 757, 758, 760, 769, 771, 788; 49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1374, 1381, 1386, 1481, 1482.

2. Section 221.165(d)(4) is revised to read:

§ 221.165 Explanation and data supporting tariff changes and new matter in tariff publications.

* * * * *

(d) Exceptions:

* * * * *

(4) The requirement for data and/or information in paragraph (b) of this section shall not apply to—

(i) Fares for scheduled passenger service that are within a statutory or Board-established zone of fare flexibility; and

(ii) Rates for cargo service in foreign air transportation that are within the rate flexibility zones set forth in § 399.41 of this chapter, except as specifically required by the Board.

3. Section 221.190(b)(5) is revised to apply to cargo rates as well as passenger fares, so that it reads:

§ 221.190 Grounds for approving or denying special tariff permission applications.

* * * * *

(b) * * *

(5) The fact that a passenger fare or cargo rate is within a statutory or Board-established zone of fare or rate flexibility constitutes grounds for approving an application for Special Tariff Permission to file a tariff stating that fare or rate, and any rules affecting it only, on less than statutory notice. The Board's policy on approving such applications is set forth in § 399.35 of this chapter.

* * * * *

4. Section 221.191(f) is revised to apply to cargo rate matters, as follows:

§ 221.191 How to prepare and file applications for special tariff permission.

* * * * *

(f) *Form of notice.* When notice of filing of a Special Tariff Permission application affecting passenger fares is required by paragraph (e) of this section, the carrier shall, when it files the application, give immediate telegraphic notice or other notice approved by the Chief of the Tariffs Division, Bureau of International Aviation, to all certificated and foreign route carriers authorized to provide nonstop or one-stop service in the markets involved, and to civic parties that would be substantially affected. When notice of an application affecting cargo rates is required by paragraph (e) of this section, the carrier shall give the notice as described in the previous sentence to readily identifiable representatives of affected shippers. The application shall include a list of the parties notified.

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2684 Filed 1-28-83; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 326

[Reg. PR-256; Amdt. No. 1]

Procedures for Bumping Subsidized Air Carriers From Eligible Points; Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved the reporting requirements contained in new Part 326 of the Board's Procedural Regulations, "Procedures for Bumping Subsidized Air Carriers from Eligible Points." This approval has been granted through March 31, 1985. OMB approval is required under the Paperwork Reduction Act of 1980.

DATES: Adopted: January 26, 1983.

Effective January 18, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-6042.

PART 326—[AMENDED]

Accordingly, the Civil Aeronautics Board amends Part 326 of its procedural Regulations (14 CFR 326) by adding a note at the end of the table of contents to Part 326 to read:

Note.—The reporting requirements contained in §§ 326.3 and 326.4 have been approved by the Office of Management and Budget under number 3024–0063.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2818 Filed 1-28-83; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Part 399

[Reg. PS–109; Policy Statements Amdt. No. 85; Docket 37444]

Statements of General Policy; International Cargo Rate Flexibility Policy

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB adopts a policy of not suspending international cargo rate changes within a specified zone, except in extraordinary circumstances. The zone will be adjusted periodically to take account of actual operating cost changes. The action is taken on the Board's own initiative to allow carriers to respond more quickly to changing costs and competitive opportunities.

DATES: Adopted: January 12, 1983. Effective: February 27, 1983.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Myers or Joanne Yancey Hitchcock, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673–5205 or 673–5442, respectively.

SUPPLEMENTARY INFORMATION: The Board proposed in PSDR–65 (45 FR 3595, January 18, 1980), to adopt a policy permitting U.S. and foreign air carriers greater flexibility in changing cargo rates in international air transportation. This proceeding was initiated in response to the opinion of some members of Congress that carriers should have a measure of price flexibility for cargo transportation as well as for passenger service. In November 1979, the Aviation Subcommittee of the House of Representatives held hearings on H.R. 5882, a bill that would have declared reasonable any rate within 5 percent above or 50 percent below those in effect on October 1, 1979. This "zone of reasonableness" was to be periodically adjusted for operating cost increases. The plan envisioned in H.R. 5882 was modeled on similar "zone of reasonableness" and "cost pass-through" provisions that Congress adopted for domestic passenger fares in Pub. L. 95–504 (The Airline Deregulation Act of 1978) and for international passenger fares in Pub. L. 96–192 (The International Air Transportaion Competition Act of 1979). The Board testified in support of cargo rate flexibility in principle, but noted that the cargo rate structure was considerably more complex than the passenger rate structure. The Board therefore suggested that before Congress enacted permanent legislation that would be difficult to change with experience,the Board should be allowed to adopt by rulemaking an interim cargo rate flexibility policy, allowing more time to evaluate ideas (including legislation proposals) for a permanent international cargo rate policy. This suggestion led to PSDR–65.

PSDR–65 proposed to establish a standard cargo rate level in each international market at the general commidity rate (GCR) level in effect on October 1, 1979. Rate reductions below this level, or increases up to 5 percent above it, would not ordinarily be reviewed by the Board for economic reasonableness. The standard level would be adjusted periodically for cost changes. Under this scheme, the range of upward flexibility for specific commodity rates (SCR's) would be greater than for GCR's since most SCR's are substantially below the GCR level. A separate standard rate level with similar flexibility features was proposed for container shipment rates, with comments requested on whether a separate ceiling was needed. The air cargo rate structure and the characteristics of GCR's, SCR's, container rates, and other classifications were described in more detail in PSDR–65.

PSDR–65 provided for "extraordinary circumstances" in which the flexibility policy would not apply. A tariff within the flexibility zone could be suspended in response to unreasonable regulatory action against U.S. air carriers by a foreign government, or upon a showing of immediate and irreparable harm to the public supported by a strong showing of probable unreasonableness. On the latter grounds, the opponent of a new rate within the zone would bear the burden of convincingly showing the requisite circumstances.

Comments

The Board received written comments from several parties and held oral argument on the proposal. Comments were filed by Air Transport Association (ATA), Congressman Norman Y. Mineta, DHL Corp., Flying Tiger Line, Fourteen Electronic Shippers (jointly), International Airforwarder and Agents Association (IAAA), International Air Transport Association (IATA), ICI Americas, Pan American World Airways, Puget Sound Traffic Association, Seaboard World Airlines, State of Hawaii, Transamerica Airlines, and Trans World Airlines.

PSDR–65 was supported by four individual carriers and two carrier trade associations, ATA and IATA. They felt that the proposal did not go far enough in providing rate flexibility, and argued for total deregulation. If total deregulation were rejected, most of them asked for 15 percent upward price flexibility. They recommended that the flexibility ceiling be based on the highest-rated (smallest size) GCR weightbreak in each market, instead of being staggered along with each weightbreak as proposed in PSDR–65. This approach, which would result in more than 15 percent upward flexibility for higher weightbreaks, was urged on the basis of its administrative simplicity and an expectation that competitive forces would prevent the higher weightbreak rates from climbing to the ceiling. The carriers also asked that the standard foreign rate level be based on rates in effect on April 1, 1980, including those filed before that date and subsequently approved. The carriers felt that April 1 rates were more reasonable with respect to contemporaneous costs than were October 1, 1979, rates. Transamerica diverged somewhat from the other carriers in advocating upward flexibility of 10 or 20 percent. Seaboard suggested a downward limit of 10 percent on rate decreases. Transamerica argued that container rates should not be subject to a separate ceiling.

IATA, joined by Flying Tiger, urged that the policy also apply to IATA rate agreements establishing rates within the flexibility zone. IATA asserted that there would be no need to review rates within a range that the Board had already found presumptively reasonable simply because those rates had been agreed upon by the carriers.

Several users of air cargo services opposed the zone of flexibility proposed in PSDR–65. They did not oppose downward rate flexibility and most agreed that carriers are entitled to reasonable cost-related increases, but they felt that increases should come only through across-the-board surcharges for demonstrated cost changes.

Most of the opponents attacked the Board's central assumption that there is

strong enough competition in international cargo markets to assure that rates will be set at reasonable levels within the flexibility zone without Board review. The attack focused primarily on competition in the Pacific. The Electronic Shippers argued that Flying Tiger's and Japan Air Lines' combined market share of over 60 percent gave them an entrenched position that other carriers could not effectively challenge. They contended that foreign government restrictions on entry, large start-up costs, high cost or unavailability of suitable aircraft and ground facilities, and fuel supply problems would prevent other carriers from providing strong competition to Tiger and JAL.

The State of Hawaii argued that adequate competition was lacking between Hawaii and Japan, because cargo traffic was not heavy enough to justify freighter or charter flights and the Japanese government restricted the passenger flights on which belly traffic was carried. Hawaii expressed concern that SCR's for papaya shipments, which depended on air transportation, would rise and be used to cross-subsidize GCR's.

IAAA and the Electronic Shippers argued that alternatives to direct freighter service, such as passenger flight belly space, connecting flights, charters, and surface transportation, were not suitable for their needs and could not be viewed as competitive factors. They cited space limitations, restrictions on carriage of hazardous materials on passenger flights, and inconvenient scheduling as undesirable aspects of combination belly service. Connecting flights were said to carry the risk of misrouted shipments, and cargo charters were reportedly rare and involved difficulties obtaining foreign landing rights.

Several comments challenged the Board's legal authority to declare all rates within a specific zone reasonable without investigating (in evidentiary hearings) whether such rates were justified by costs. Primarily, they viewed the large range of upward rate flexibility that PSDR-65 proposed for SCR's as unreasonable. The Electronic Shippers noted that, under the Board proposal, electronics SCR's could be increased as much as 49 percent without Board review. The shippers argued that their goods were entitled to lower rates than general commodities because greater density, easier handling and other favorable characteristics produced lower transportation costs. They contended that the Board has a statutory duty to insure that cargo rates are cost-related, which it would be abdicating by its flexibility policy. DHL noted that the average cargo rate was far below the GCR level, since the bulk of the traffic travels under SCR's. Thus, they also maintained that allowing SCR's to rise to the GCR level without findings based on evidentiary hearings would be unreasonable.

Puget Sound Traffic Association argued that the practice of "common rating"—by which transpacific carriers charge identical rates for the same shipment from all West Coast gateways—resulted in plainly unreasonable rates, since mileage differences necessarily produce different costs. Puget Sound suggested that the Board investigate the reasonableness of all common rates before using them as the basis for a zone of flexibility.

IAAA argued that a separate ceiling for container rates was necessary to protect air freight forwarders from being forced out of business by air carriers. They claimed that forwarders must, as a practical matter, use containers to keep shipments from getting lost or split. Since they solicit traffic from shippers and consolidate it into large shipments, they compete with air carriers for cargo traffic. The IAAA expressed concern that, without a separate ceiling, carriers would raise container rates to drive forwarders out of business.

Further Comments

After holding oral argument on the proposed rule, the Board instructed the staff at a public meeting to draft a final rule including the following features: (1) For GCR's, rate flexibility up to 15, 10, and 5 percent above the standard foreign rate level in the Atlantic, Pacific, and Latin America regions, respectively; (2) for SCR's in the Atlantic, flexibility up to the GCR limit; and (3) for existing SCR's in the Pacific and Latin America, separate, lower ceilings that would be raised annually by 10 percentage points until the GCR ceilings were reached. An April 22, 1981, memorandum from agency staff recommended that the Board instead set 20 and 15 percent as the upper limits for GCR's in the Atlantic and Pacific, respectively. The memorandum also recommended that the Board not establish any separate ceilings for SCR's in the Pacific and Latin America, so that in all markets SCR's could be set at any level up the GCR limit, as originally proposed in PSDR-65.

In response to a petition from the Electronics Shippers, the Board released the staff memorandum and reopened the comment period by PSDR-65C (46 FR 34347, July 1, 1981). Comments were filed by the ATA, the Electronic Shippers, Flying Tiger, and Pan American. The comments essentially restated arguments for and against cargo rate flexibility that had been made in the earlier comments. ATA and the carriers supported the staff recommendation and urged even greater rate flexibility. The Electronics Shippers opposed it, arguing that the memorandum and, for that matter, the original proposal, had little or no factual basis.

After considering all the comments, the Board has decided to adopt a final rule establishing international cargo rate flexibility zones as set forth below.

Scope of the Policy

Under the traditional rate approval mechanism, as prescribed by section 221.160 of the Board's regulations, a carrier must file a proposed change in a foreign cargo rate with the Board at least 60 days before the planned effective date of the change, unless otherwise provided in a bilateral agreement. Within that time, the Board decides what adverse action to take (if any), consistent with its statutory authority and the provisions of the governing bilateral agreement. Generally, the Board must decide whether there are grounds for instituting an investigation of the lawfulness, including the economic reasonableness, of the proposed rate. If it does so, the Board may in its discretion suspend the proposed rate pursuant to statutory and bilateral procedures, preventing it from going into effect pending the investigation, or it may allow the tariff to become effective subject to prospective corrective action at the completion of the investigation.

If a new rate is within the flexibility zone, it would not be suspended (except in extraordinary circumstances) but it may be investigated for economic reasonableness in a hearing. Thus, this policy will not finally determine whether any rate within the zone is reasonable, as some of the commenters were concerned that it might. But it will allow carriers to introduce new rates within the zone quickly and with virtual certainty that they will remain in effect pending possible review for economic reasonableness.

Under the traditional approval procedures, carriers must submit an "economic justification" along with every rate change, to help the Board determine whether the new rate ought to be suspended and/or investigated. We are discontinuing that requirement for rates within the flexibility zone. We have decided that opponents of rate

changes should have the burden of showing reasonable grounds for investigating, or extraordinary circumstances for suspending, a new rate within the zone. However, we retain power to require carriers to submit economic justifications on an *ad hoc* basis where opponents show substantial likelihood of harm to their interests or other evidence that a new rate may be unreasonable. Such *ad hoc* justifications may be required where crucial information can only be provided by the carrier. We believe it will be more efficient to require justifications on a case-by-case basis than to require them for all proposals, including the many that will be noncontroversial.

New rates that are above the flexibility ceiling will require justification and will not be assured the same expeditious treatment or assurance against suspension as those below it. But the fact that they are above the suspend-free ceiling does not mean that we will be predisposed to suspend them. They will receive prompt attention, and we intend to continue our generally flexible approach to cargo pricing even outside the suspend-free zone, if adequate justification is presented.

Need for Flexibility

A policy of rate flexibility is needed because the harm caused by maintaining the *status quo* pending possible investigation often outweighs the benefits under current competitive and inflationary conditions. Rate proposals must generally be filed 2 months before their effective date, and the Board may suspend them for up to 1 additional year. Thus, a carrier may have to wait as long as 14 months from the time it files a proposed rate change until it can be made effective. While such delays are bearable as long as prices and market conditions are relatively stable, they act as a drain on revenues during periods of persistent inflation and economic uncertainty. If carriers cannot increase rates quickly enough to keep pace with costs, their only alternative to losing money is to cut service. By the same token, today's fluctuating economic conditions put a premium on the ability to decrease rates quickly to take into account changing supply and demand conditions.

Uncertainty about whether new rates will be suspended is likely to discourage experimentation with innovative pricing and service offerings. For instance, a carrier may be reluctant to establish a new low SCR if it is uncertain whether it could raise or discontinue the rate in the future. Inhibitions on carriers' abilities to adjust their rate structure as traffic flows and other business conditions change may induce carriers to leave existing markets or hesitate to enter new ones. By making our suspension policy explicit and allowing implementation of rate changes in less than 60 days, we expect to encourage greater innovation and better service for international cargo transportation.

In general, we believe more flexibility is warranted under current conditions. As international conditions become more dynamic and fast-paced, carriers need more freedom to restructure their rates quickly to maintain efficiency and initiative. We view reductions in scheduled cargo service, the withdrawal of transpacific freighter service by Pan American and Continental, and the suspension of combination service by Braniff prior to its shutdown, as a sign of inadequate rate levels encouraging competitors to withdraw from markets rather than adapting to changing economic circumstances. Shippers and air freight forwarders, on the other hand, have become increasingly sophisticated in using high volume discounts and opportunities for consolidation. Their combination of business expertise and control of substantial quantities of traffic reduces their need for government protection. Thus, it seems that the danger in stifling competitive development in the industry by continuing regulatory delays and uncertainties is greater than the risk of harm to shippers from greater price flexibility.

Competition

The fundamental underpinning of a suspend-free zone is that sufficient competition exists to discipline market behavior. Our basic approach is to set the boundaries of a zone depending on the degree of competition, actual and potential, that we see in geographic areas. The more competition, the wider the zone.

The degree of competition between carriers has been discussed in this proceeding in terms of three geographical regions: the Atlantic (operations via the Atlantic Ocean), the Pacific (operations via the Pacific), and the Western Hemisphere (operations within the Western Hemisphere). These are the regions established for reporting purposes in 14 CFR Part 241, Section 21(g). The State of Hawaii commented on the special competitive conditions in the Hawaii-Japan market, which we treat separately.

Competition is substantial across the Atlantic. At least thirty-eight carriers now provide scheduled service between the United States and Europe, where most of the major cargo markets are found. Twelve operate freighter service, and seven provide main deck combination capacity. Substantial belly capacity is available on passenger flights, most of which are with wide-body aircraft. Trucking connects many points on each continent that might not receive direct air service. The United States has negotiated bilateral agreements permitting greater entry and pricing opportunities with Belgium, Finland, Germany, Israel, Jordan, the Netherlands, Rumania, and Syria, and in general foreign government policies in Europe allow a growing amount of cargo competition.

We find competition across the Pacific to be significant, even though not as intense as over the Atlantic. For one thing, there are fewer national flag carriers in the North/Central Pacific area than in Europe. As explained below, however, we reject the Electronic Shippers' argument that Flying Tiger and Japan Air Lines operate a rigid "duopoly" in transpacific cargo service which prohibits effective cargo price competition throughout the Pacific. There are at least three other carriers that offer all-cargo services across the North/Central Pacific. Direct or connecting freighter service is provided by at least two carriers, and usually more, between the major Asian points (including Tokyo, Seoul, Taipei, Hong Kong, and Singapore) and the U.S. (both West Coast and New York). Passenger flights provide additional capacity in these as in all other markets. Although cargo charter flights are currently rare, this is likely due to the level of scheduled rates used by major shippers. If those rates were raised substantially above the costs of chartering, we see no reason why charters could not be a feasible competitive option. The United States has concluded bilateral agreements providing greater entry and pricing flexibility with Australia, Korea, New Zealand, the Philippines, Singapore, Taiwan, and Thailand, and even more recently, a charter agreement with Japan and an agreement with China that allows all-cargo service.

We reject arguments by the Electronic Shippers and IAAA that alternatives to direct freighter service, such as partial, joint and whole charters, combination belly service, multistop and connecting flights, and even joint surface/air transportation, are inadequate for shippers' needs and should not be considered competitive factors. We recognize that freighter service is preferred by many shippers, but we are not persuaded that the differences are so great that the alternatives are unworkable or uncompetitive. Different

services need not be perfect substitutes to exercise price constraints. It does not appear that belly capacity is unusable for most cargo shipments. The Electronic Shippers indicated that some their shipments are too large to fit in the belly, but Flying Tiger noted that the average electronics shipment tendered is 1171 pounds, easily accommodated in current combination aircraft and, indeed, in one rather small belly container. The Electronic Shippers also claimed that certain hazardous chemicals cannot be carried on passenger aircraft in sizable quantities, but it appears that such chemicals do not comprise a substantial portion of their shipments. Passenger baggage imposes no serious constraints on combination belly capacity, since wide-body aircraft bellies are much larger than is needed for normal baggage. And, it would seem that alleged scheduling inconveniences of passenger flights are insignificant in most major international markets, in light of current frequencies and the fact that the peak hours for passenger flights over such long distances are not much different than for cargo flights, in contrast to the situation in domesitc markets. In short, the Electronic Shippers and IAAA have not shown that belly service is inconvenient for any more than a small proportion of their traffic. Similarly, we do not see why multistop flights, connecting flights, charter services, or surface transportation (in some regions), while less preferred, are not viable alternatives for shippers.

The Electronic Shippers alleged that the scarcity and expense of suitable aircraft and ground facilities posed substantial barriers to entry for new carriers. We find these arguments unconvincing. As of the end of 1981, there were 123 Boeing 747's and DC–10's capable of carrying main-deck freight in operation world-wide. Many smaller aircraft are also suitable for cargo operations. Many of these aircraft belong to transpacific carriers. Moreover, even though the price tag of new wide-body cargo aircraft is high, used freighters and wide-body passenger aircraft that can be modified are available at more reasonable prices, and we do not believe that all-cargo equipment is beyond the means of most airlines. Where purchase is infeasible, aircraft can be leased.

Ground-facilities restrictions such as fuel shortages, cargo handling restrictions and limitations on cargo landing slots may hamper cargo operations in some markets and can seriously affect the competitive posture of a particular carrier. Some such restrictions may require governmental consultations to ameliorate. However, similar restrictions also affect passenger operations, and there is no evidence that they have impeded competition in passenger markets so seriously as to make the discretionary passenger fare flexibility extended by the Board under IATCA infeasible or unworkable. Indeed, as we have reviewed the state of competition in passenger markets since the establishment of the initial SFFL's, we have expanded the upward degree of flexibility available in several world areas. Our experience indicates that carrriers can and do enter new markets as well as compete vigorously on an area basis, providing the public with feasible service options where significant passenger or shipper needs are being unmet. We have no basis to conclude that the restrictions cited by the shippers are so pervasive as to prevent meaningful price competition in Pacific markets or to make an international cargo rate flexibility policy unworkable.

As mentioned before, the Electronic Shippers argued that Flying Tiger and Japan Air Lines were an entrenched duopoly whose large market shares (and in the case of Flying Tiger, feed-in traffic from domestic operations) created an effective barrier to entry by other carriers. We recognize their large market shares, but disagree that other carriers would thereby be prevented from engaging in rate competition and reducing those market shares if Flying Tiger and JAL increased their rates. A large market share alone does not prevent new carriers from entering a market and offering better prices or service. We doubt that carrier loyalty will significantly inhibit sophisticated business shippers from using a new, lower-priced service in a market, especially if the new service is by an experienced and well-known carrier such as one of those currently holding Pacific authority.

We recognize at the same time that regulatory barriers to entry exist in some international markets and that certain governments may pursue strategies to protect the position of established carriers. But the existence of a perfectly competitive market is not a prerequisite to adoption of our suspension policy. We are satisfied on the basis of our experience that restrictive policies have not succeeded in insulating carriers such as Japan Air Lines and Flying Tiger from the competitive pressures of non-IATA carriers and potential new entry.

Indeed, there is every reason to conclude that active price competition exists in the Pacific market. When the comment period was reopened, Flying Tiger pointed out that significant reductions had occurred in westbound high-weightbreak GCR rates to Korea and Southeast Asia, and that it had also introduced an incentive commission program for agents. The Electronics Shippers responded that these rate reductions, which had expiry dates, were for a short period only, and that rates would inevitably rise once Flying Tiger and JAL had "taught a lesson" not to engage in price competition to carriers like Korean Air Lines and Singapore Airlines. The facts do not support this thesis. A recent review of rates in these markets shows that the expiry dates of some of those reductions were extended, that generally GCR's and SCR's have not borne sharp increases since their lapse, and that there is no evidence that the move inhibited the pricing and marketing strategie of Flying Tiger's and JAL's competitiors. Tiger recently raised its commission level on shipments from Korea to the United States to remain competitive and maintain its market share. There is no doubt that the smaller Asian carriers are aggressive competitors.

The Electronic Shippers argued in their initial comments that start-up costs for transpacific operations were so huge that no carrier would be able to mount a challenge to Tiger and JAL. They cited "start-up losses" as the reason for cutbacks in transpacific cargo service by Braniff and Continental in recent years. We view start-up costs as the initial investment and operating expenses of beginning service until potential customers have become aware of the new service and have had an opportunity to use it. We doubt that carriers such as Braniff and Continental lacked the means to acquire necessary equipment and operate for a reasonable period of time when they instituted Pacific operations. When Pan American, formerly the longest-operating cargo carrier in the Pacific, discontinued its freighter service, it could hardly have been due to start-up costs. We believe the withdrawals were due to the inability of those carriers to earn adequate profits under existing rates, inducing them to employ their equipment in more promising markets. Thus, we disagree that start-up costs are a significant barrier to market entry in the Pacific or that they were the cause of service reductions.

The Hawaii-Japan market presents a situation in which there are enough carriers to provide competition (at least five as of December 1982), but demand

is not sufficient to support freighter or charter service. Available capacity is limited to passenger belly space, and passenger flights are subject to Japanese government restrictions. The problem that arises in such a situation is deciding which shippers have access to the available capacity and at what price. We think the open market is the best way of making these choices.

It appears that low papaya SCR's are offered because those goods would not move at general commodity rates and carriers have available cargo space that would otherwise fly empty. It is therefore possible that papaya SCR's would be increased if GCR traffic increased and excess belly space diminished. However, there is no evidence at this time that current belly capacity is insufficient to accommodate existing demand, and we do not believe that papaya shippers (who already enjoy among the lowest rates in the market) need special protection from normal market fluctuations. Carriers have no economic incentive to cross-subsidize GCR's with SCR's, as Hawaii apparently expects. The presence of five carriers in the market provides competition adequate to prevent any of them from manipulating capacity or prices to defeat normal market forces. And we see no reason why papaya shippers are necessarily entitled to lower rates than other shippers. We therefore find that conditions in Hawaii require no special treatment.

Competition among carriers is relatively weak in Latin America, where there are fewer major airlines in each market. Most countries have restrictive price and capacity policies. On the other hand, none of the commenters seemed especially concerned about poor competition in this area, which accounts for much less cargo traffic than either the Atlantic or Pacific.

Bargaining Strength of Shippers

The number of carriers and availability of substitute transportation are not the only forces that hold prices in check. The bargaining strength of the carriers' customers is perhaps as important. Unlike airline passengers, air cargo shippers are almost all sophisticated businesses that keep close watch on the various price and service options offered by competing carriers. Many shippers, individually or together, control large volumes of traffic. For instance, in 1975 we estimated that electronics traffic accounted for about 30 percent of transpacific cargo shipments. Air freight forwarders likewise control large blocks of traffic. Shippers such as these need little or no Board supervision to protect their interests where, as we have found here, some competition exists and substitutes are available. Their abilities to unilaterally affect a carrier's business by using other carriers, chartering their own flights, or using other modes of transportation, sharply reduce their need for government protection.

The largest and strongest shippers typically use SCR's, container rates, or high-weightbreak GCR (above 500 kg.) discounts. Low-weightbreak bulk GCR's are mainly used by small or irregular shippers. We conclude that the SCR, container, and high-weightbreak GCR shippers are generally in a much better position to protect their own interests than small and medium-weight GCR shippers.

GCR's

Since GCR shippers appear to have the greatest need for regulatory protection, we are limiting upward flexibility for those rates. The amount of flexibility varies depending on the relative degree of competition in the region. We consider 5 percent to be the minimal amount of flexibility needed to raise any depressed rates to compensatory levels and deal with rate variations both over the short term (between periodic cost adjustments to the standard foreign rate level) and between individual markets. At the same time, a 5 percent price increase pending Board investigation does not appear to pose a serious threat to shippers. Therefore, we are limiting GCR flexibility (up to and including the 500 kg. weightbreak) to 5 percent in the Western Hemisphere (except Mexico and Canada), where competition is weakest. For the Canada/Mexico transborder markets, where competitive conditions for cargo are somewhat stronger than in Latin America but still relatively restrictive, we will establish the GCR flexibility zone at 10 percent. A recent check indicates that transborder cargo rates generally fall within this zone. Larger zones of 15 percent in the Pacific and 20 percent in the Atlantic are justified by the greater protection provided by competition in those areas. The broader zones in the Atlantic, Pacific, and transborder markets will give carriers greater scope for developing new price and service initiatives. The standard rate level from which these percentages are measured will be based on recent GCR's, as explained in more detail below, and the standard level will be adjusted periodically for cost inflation (or deflation).

GCR's above the 500 kg. level appear to be used by large shippers with strong bargaining leverage, and indeed those low rates have been voluntarily offered by the carriers to attract the business of those shippers. There appears to be less need for close regulation of those rates than of the lower weightbreaks. Therefore, GCR's above the 500 kg. level will be subject to the same dollar-per-kg. ceiling as the GCR's for 500 kg. shipments. We are not adopting the carriers' suggestion that GCR's be limited only by the highest rated weightbreak in each market, as we are not sure that competition for medium and small GCR shipments is strong enough to protect the shippers who use them.

SCR's

Low SCR's like high-weightbreak GCR's, have never been mandated by the Board, but have been offered voluntarily by carriers. Those specific commodities would otherwise be treated as general commodities under bulk GCR or container rates. There may be many reasons why carriers offer low SCR's. Some goods may have lower transportation cost characteristics. In other cases, carriers may use them as traffic-generating discounts to fill capacity that would otherwise fly empty, thus supplementing their revenues. Or carriers may offer SCR's to establish steady customers. Whatever economic motivations the carriers may have, market forces have up to now been sufficient to establish and maintain SCR's for major commodity categories in many markets. The fact that shippers who enjoy low SCR's are among the carriers' largest and most regular customers undoubtedly has had much to do with carriers' willingness to offer such rates.

Because of the strength of SCR shippers and the economic incentives for carriers to offer low SCR's, we conclude that carriers can safely be permitted upward flexibility on those rates to the GCR level in all markets. We do not expect that limit to be approached in the vast majority of cases.

The Electronic Shippers argued that electronics goods cost less to carry than general commodities, so that allowing SCR's to rise to the GCR level without cost justification would be an abdication of the Board's ratemaking responsibilities. But this assumes that SCR's must be strictly cost-leased. SCR's are essentially discount rates, and like discount fares, our policy has been to permit substantial carrier discretion in this area, consistent with the Act's competitive mandate. Such discretion should at least govern the Board's decision whether to suspend a proposed

SCR. While appearances of economic reasonableness are relevant to the suspension decision, the precision with which they can be known is subject to practical limits. We see no need for a detailed investigation into the cost characteristics of each commodity for which there is an SCR as a prerequisite to this suspension policy. We find, on the basis of market forces already noted, that any SCR that carriers set below the GCR level is likely to be reasonable. We also find the SCR shippers are capable of bearing the risk that such a rate structure may later be found unreasonable. Therefore, the potential risk to SCR shippers is outweighed by the benefits of allowing carriers wide flexibility to adjust SCR's.

Premium rates, established above the GCR levels for specific commodities that require special handling, will be treated like GCR's for purposes of this suspension policy. Adequate justification will be required for new premium rates or increases in existing premium rates which exceed the increases in GCR's permitted by the appropriate flexibility ceiling. Since premium rates are generally defined as a percentage of GCR's, they would normally change in tandem with GCR's.

Container Rates

We find that competitive conditions are strong enough to support unlimited upward flexibility for containers. Low container rates, like SCR's, are the result of market forces rather than Board mandate. Since virtually all containers carry upwards of 500 kgs., they are used mainly by large shippers. Several carriers, including Northwest and Transamerica, have aggressively promoted low-rate container service, which appears to be on the ascendancy as a marketing tool. Containers benefit carriers by reducing their loading and handling costs and by enabling them to charge on the basis of density as well as weight without regard to specific commodity type. Containers also benefit shippers by reducing split shipments and pilferage.

Container rates will be limited in practice by the GCR level, since shippers are free to tender their shipments in bulk instead of containers. We see no need for a lower, independent ceiling to protect container shippers. In addition, a separate ceiling would severely restrict the flexibility of container rates, which are far more complex to regulate than bulk rates. Thus, the detriments of a separate ceiling would outweigh the likely benefits.

We reject the IAAA's argument that forwarders require a separate container rate ceiling to protect them from being driven out of business by air carriers. Competition between carriers is too strong, and forwarders control too much traffic, for any carriers to acquire the market power to squeeze forwarders out of business. The position of freight forwarders is not, as IAAA believes, analogous to the MCI situation, since they are not limited to one monopolistic seller like AT&T. If one carrier attempted to stifle forwarders' business by eliminating container discounts, forwarders could begin arranging charters or taking their business to other carriers. It also seems unlikely that carriers would want to raise container rates (or lower small-volume GCR's) for all their customers simply to compete with forwarders. Such tactics would disrupt their price structure, which is geared at least in part to non-forwarder traffic. In any case, we are maintaining a ceiling on GCR weightbreaks, which were the original basis for forwarders' consolidation business before containers became commonly used. Although container shipments may enhance the quality of service that forwarders can provide, they are not necessary for the survival of the business. We therefore see no reason to believe that forwarders require the protection of a separate rate ceiling.

Standard Foreign Rate Level

The zone of suspension-free flexibility will be measured from rates in effect on April 1, 1982. PSDR-65 proposed to base the standard level on October 1, 1979, rates, adopting the same date used in H.R. 5882. The carriers suggested that a later date, April 1, 1980, be used, mainly because those rates were said to be more compensatory with respect to costs at that time.

We do not decide whether the rates on any date are more compensatory than on any other date. We select April 1, 1982, primarily because relatively competitive conditions prevailed in most major cargo markets during the preceding year. Where IATA rate agreements were in effect, they generally included special escape clauses permitting member carriers to match non-IATA rates, and those clauses were frequently invoked. On the North Atlantic, for example, special contract rates proliferated in response to market pressures, despite the existence of an IATA area agreement. On Pacific routes, non-IATA competition had been strong enough to prevent substantial implementation of area-wide rate agreements for several years; as a result, rates during the twelve months prior to April 1, 1982, were largely a product of individual carrier pricing decisions, in one of the most competitive periods the Pacific region has experienced. Conditions in the Caribbean and Central America were also generally quite competitive, although limited agreements were in effect for South American routes. Our selection of April 1, 1982, rather than an earlier date is also administratively sound, since it will reduce the time between the base date and our first adjustment of the standard rate level for operating cost changes. The more distant the base date, the greater will be subsequent cost increases that have occurred since then and that will not be taken into account until the Board makes its first pass-through adjustment. Until the Board makes that adjustment, carriers may be inhibited by their zone of flexibility in bringing rates up to date. An April 1, 1982, base date will tend to avoid overtaxing the flexibility zones during the first months of the policy.

In demonstrating that a rate proposal falls within the flexibility ceiling, carriers will use the lowest appropriate rates that were in effect for any carrier in the market on April 1, 1982. Thus, to the extent that there were discrepancies between weightbreaks or rates in the same market, carriers should demonstrate that they are within the ceiling by citing the applicable base rate in their proposed tariff and noting the percentage by which this policy permits them to exceed that rate.

DHL and Puget Sound Traffic Association opposed any specific date without an investigation of whether rates in effect on that date were economically reasonable. In particular, they are concerned about perpetuating market cost deviations allegedly caused by common rating. We find that investigating the reasonableness of individual market rates in effect on the base date would be a fruitless and unnecessary exercise in connection with a suspension-free zone, which is not intended to define conclusively whether any rate is reasonable. Moreover, our experience in the recently decided *Standard Foreign Fare Level* and *Pacific Common Fares* investigations, Orders 80-8-66 and 82-7-20, indicates that there is no *a priori* basis to presume that common rating is uneconomic or otherwise unlawful, much less that any deviations from theoretical costs in a particular market at a particular point in time would necessarily be perpetuated by, or would distort the utility of, the flexibility zones adopted here.

Cost Pass-Through Adjustments

Cost pass-through adjustments will be made as suggested in PSDR-65, except

that they will be averaged for each of three geographical areas—the Atlantic, the Pacific, and the Western Hemisphere—instead of for the six originally proposed. Adjustment for three regions instead of six is simpler and almost as accurate. The standard foreign rate level will be adjusted at least every 6 months, and more frequently as needed. For the immediate future, we plan to adjust the standard level bimonthly, at least for fuel costs, as we now do for the standard foreign fare level for passengers.

We have decided not to impose any additional reporting requirements on the carriers at this time. Upon review of the comments on cost allocation and examination of data currently reported to the Board on a regular basis, we believe that the necessary allocations can be made using data already available. If we find existing data resources to be inadequate in practice, we will impose whatever additional reporting requirements are necessary.

PSDR-65 invited comments on how best to allocate certain costs in making the periodic cost adjustments to the standard rate level. ATA made several specific suggestions on allocating aircraft servicing, traffic servicing, reservations and sales, advertising and publicity, and general and administrative expenses between freighter and other operations. In general, opponents of the policy did not comment substantively on how costs should be allocated and computed, preferring to wait until the Board publishes a more specific description of its methodology. We have studied the comments and will describe our methodology when we order the first periodic cost adjustment. A show cause proceeding, as suggested by some of the opponents, or other detailed treatment of the methodology is not necessary or practical at this point, as "fine-tuning" of accounting methods is best accomplished in working with concrete data. As in the international passenger area, we expect the cost pass-through methodology to evolve with experience and we will use appropriate procedural vehicles to provide accurate analysis and participation by the public.

PSDR-65 stated that "the Board will make no adjustments * * * to costs actually incurred," paralleling a statutory provision governing cost adjustments to passenger fare levels. The Electronic Shippers argued that the Board could not automatically discount any factors that might involve questions of "honest, economical, and efficient management" without Congressional action. We find that, for the purposes of our suspension policy, it is consistent with our procompetitive mandate and the legislative history not to make adjustments for load factors, aircraft utilization, and other operational decisions made solely by management. However, as the rule now makes clear, we retain the discretion to normalize costs for strikes, mandatory aircraft groundings, and other occurrences not solely due to management decisions.

We will base cost adjustments on actual operating costs for scheduled freighter and combination operations by U.S. carriers. ATA and IATA urged that capital costs (such as new equipment investment costs) be factored into the periodic cost adjustments along with operating costs. We believe that the zone of flexibility allows enough room to accommodate veriations in those non-operating costs, and we therefore exclude them at this time from the cost pass-through formula. These problems affect passenger fares as well as cargo rates, and we have already issued an advance notice of proposed rulemaking in Docket 39635 (PSDR-72; 46 FR 29285; June 1, 1981) to address these matters comprehensively.

IATA argued that foreign carrier costs, as well as U.S. carrier costs, should be used in computing the adjustments. Recognizing that foreign carriers would be reluctant to supply cost information specifically identifiable to their operations, IATA suggested that it be permitted to compile and submit composite information for foreign carriers. The Electronic Shippers had no objection in principle to using foreign carrier data in computing cost adjustments, provided the data were verifiable and in accordance with accepted U.S. accounting standards. They were not, however, satisfied that IATA's offer to submit merged data would meet their concerns. We share the same concerns that the IATA data will not be adequately verifiable and consistent with U.S. standards. Therefore, we will base the cost adjustment solely on U.S. carriers' costs.

We have decided to use the existing Standard Foreign Fare Level (SFFL) data base, plus costs for all-cargo carriers, as a basis for our cost adjustments for international freight rates. We believe this utilization of existing information will avoid duplication of effort and make the administration of the Standard Foreign Rate Level (SFRL) much more efficient. As indicated above, modifications suggested for freight and passenger cost adjustments can be reflected in both calculations should it be necessary due to the similarity of methodology. In this connection, it should be noted that the International Air Transportation Competition Act, P.L. 96-192, which mandates that the Board establish the SFFL for passenger fares, requires that the Board adjust the fare level periodically by the percentage change from the last previous period in actual operating costs per available seat-mile and that the Board shall make no adjustment to costs actually incurred. The SFRL as well as the SFFL reflects changes in cost levels over time rather than the development of unit costs at a given point in time.

Basically, our SFRL methodology, like the SIFL/SFFL methodology, projects the most recent trends to the midpoint of the period in which the index will be in effect. Due to the significant differences in the rates of escalation of fuel cost versus other costs, these have been broken out separately. Changes in fuel costs are based on the average cost change for the most recent period and projected forward, using the latest actual data as a base. Nonfuel cost changes are based on the unit costs of the most recent 12 month period. This result is projected forward to the midpoint of the rate period. While projecting costs for a prospective ratemaking period to determine the SFFL and SFRL levels may result in some overstatement or understatement of the actual level incurred, the use of a 12-month moving average to establish the cost levels is self-correcting over time and has the adventage of minimizing regulatory lag.

Special Tariff Permission and Extraordinary Circumstances

Under the basic scheme of the Federal Aviation Act, carrier cargo rate proposals are to be filed at least 60 days before they become effective, unless otherwise specified in bilateral aviation agreements. But clearly, if a rate proposal is within the flexibility zone and there are no apparent foreign policy reasons to suspend it, there is no point in delaying effectiveness 60 days except to the extent necessary for an opposing party to show the sort of extraordinary circumstances that might justify a suspension. Carriers can apply for a shortening of the statutory filing period by requesting "Special Tariff Permission" (STP). We have already adopted a policy of granting STP for passenger fares within a flexibility zone similar to the one being adopted here, and we find it in the public interest to apply the same policy to cargo rates within the zone of flexibility in this rule.

The Electronic Shippers expressed concern that they would not have adequate notice of STP applications,

which would impair their ability to object in a timely manner. They suggested that carriers be required to serve their STP applications on interested parties. We have decided that it would be more efficient to maintain a public file of STP applications in our offices, which interested parties can monitor. This will not create an undue burden on those parties, since professional "tariff-watchers" already make a business of monitoring newly-filed tariff applications daily, and can easily monitor STP applications, if there is demand for that service. In cases of obviously controversial filings, carriers should notify readily identifiable representatives of affected shippers, as provided in 14 CFR 221.91 (e) and (f), where STP approval is being sought.

The conditions under which we will consider suspending a rate within the flexibility zone are the same as those described in PSDR-65. Such conditions include unreasonable actions by foreign governments with respect to U.S. air carrier rate proposals, or rate changes that clearly threaten serious and irreparable damage to the public. Parties alleging such conditions have the burden of presenting convincing evidence that such conditions exist.

IATA Agreements

IATA and Flying Tiger suggested that IATA agreements setting rates within the flexibility zones proposed in PSDR-65 should also be approved without a showing of economic justification. Their suggestion was apparently based on the expectation that no rate within the zones would be suspended or disapproved, as PSDR-65 proposed, in which case it would seem pointless to require justification for rates that would clearly be found reasonable. However, the final rule states only a suspension policy, and we express no absolute judgment on the reasonableness of those rates. The zones we adopt here, like the zones of international passenger fare flexibility established as as matter of regulatory discretion following passage of the International Air Transportation Competition Act, are clearly not advance determinations of the economic reasonableness of all possible prices within the zones. Rather, they are periodically reviewed and adjusted determinations of limits within which we will automatically permit price changes to be implemented pending any further investigation of lawfulness, based on the probability that actual price levels will reasonably reflect costs and on the attainment of other policy goals set by our statute. See Orders 80-2-69, 80-5-139 and 81-1-119. Because the zones assume effective competitive market forces as an overall constraint on pricing decisions, the rationale for automatic nonsuspension may be invalid or seriously undercut when the carriers are able to set prices in concert. IATA or other multicarrier pricing agreements are in this sense quite different from individual carrier tariff filings. Moreover, all agreements are evaluated under the public interest standard, and there might be other problems, not directly related to the rate levels, with such agreements.

Therefore, the fact that the resultant price levels of a multicarrier agreement are within an applicable discretionary zone of flexibility, while often of relevance to the degree of justification and review necessary under section 412 of the Act, cannot provide assurance that the agreement will be approved on substantive grounds. We continue to expect all multicarrier agreements to be economically justified, although the precise nature and scope of information beyond the minimum noted below will be the responsibility of the participating carriers in the first instance. This approach is applicable to both rate and fare agreements within their respective discretionary zones. The request of IATA and Flying Tiger for automatic approval of agreements within the zones must be rejected.

To facilitate future evaluation of IATA rate and fare agreements we take this opportunity to clarify that we will require IATA to supply the following minimum explanatory documentation in conjunction with any major IATA agreement submitted for Board action: (1) Detailed and comprehensive minutes of all IATA meetings at which the agreement was developed, including working-group discussions and plenary sessions; (2) a full summary and explanation of the principal changes embodied in the agreement (which may be incorporated in the minutes or presented separately); and (3) a detailed table comparing the present and proposed fares, rates, and/or charges in the major markets covered by the agreement, showing price levels in U.S. dollars and percentage change. These administrative requirements apply to major multicarrier agreements governing passenger matters, cargo matters, or both. The requisite documentation must be submitted at the time the agreement is filed, and is considered part of the public record. We emphasize our discretion to require additional documentation, information, and economic justification, as necessary.

The Staff Memorandum

This rule adopts the recommendations of the April 22, 1981, staff memorandum that the Board depart from instructions it had previously given the staff. After the memorandum was released and the public comment period was reopened by PSDR-65C, the Electronic Shippers submitted a critical comment, arguing that the recommendations in the memorandum lacked factual support, and that any Board action based on it "does not meet the statutory or judicial standards for rulemaking." For example, they questioned its statement that there had been an upsurge in the popularity of forwarder chartering. (We note, however, that Flying Tiger's comment presented information in support of that statement.)

As to the argument that this action lacks necessary factual support, we note that the setting of zones of presumed lawfulness for cargo rates is a legislative type of action, governed by the informal rulemaking provisions of 5 U.S.C. 553, rather than an adjudication to resolve a narrow issue between two parties. Therefore, a case such as *San Antonio, Texas v. U.S.*, 631 F.2d 831 (D.C. Cir. 1980), cited by the Electronics Shippers, is inapposite here. That case involved an Interstate Commerce Commission determination, after an oral evidentiary hearing, of the reasonableness of a particular rate for the carriage of coal on a particular route. In this legislative-type rulemaking, the decision is not based solely on the truth or validity of a specific allegation. Among the facts that the Board relies on here are its knowlege and experience (including that of its staff) concerning the entire structure of the air cargo industry, as amplified and illuminated by the public comments in this docket and reflected in the thorough discussion above of the Board's reasons for adopting this final rule, and the Congressionally established policy in favor of deregulation and reliance on competitive market forces.

Arguments that a final rule such as this one is not justified in light of the "decision" that the Board made when it originally instructed the staff reflect a misunderstanding of both the role of Board staff and the meaning of instructions to staff. As we noted in PSDR-65C,

> [w]hen the Board instructs its staff to prepare a final rule in an informal rulemaking proceeding such as this, the Board is not making a final decision. It is not even making a "tentative decision" as that term is commonly used in orders to show cause or, occasionally, notices of proposed rulemaking. Legally, instructions to staff are not a decision at all. The Board merely directs its employees to prepare a document whose approval, if and when that approval is voted, will ultimately amount to a decision.

Thus, although the Board's instructions to staff were given at a public meeting, they were, like the staff memorandum recommending a departure from those instructions, a part of the agency's internal deliberative process. The Board has not now changed its mind by adoption of this rule, but rather completed the process of making up its mind on the subject of cargo rate flexibility rules.

Related Documents

ER-1322, issued along with this rule, makes conforming amendments to 14 CFR Part 221, *Tariffs*. As discussed above, the requirement of economic justification is eliminated for tariff filings that state international cargo rates within the flexibility zone, and those rates that are made eligible for Special Tariff Permission. Also, the permission to omit economic justification when filing passenger fares that are within the fare flexibility zone for the 48 contiguous States and the District of Columbia is extended to cover all domestic and international fare flexibility zones. Because this change merely corrects oversights in ER-1171 (45 FR 20059; March 27, 1980) and PS-96 (45 FR 48600; July 21, 1980), the Board finds that notice and public procedure on it are unnecessary and contrary to the public interest.

We are denying as moot an October 27, 1980, motion of the Electronics Shippers for consolidation of this rulemaking with the maximum tariffs rulemaking in Docket 38746. With respect to foreign air transportation, the proceeding in Docket 38746 was terminated, on December 18, 1981, without adoption of a final rule, by ED-408E (47 FR 15144, April 8, 1982).

List of Subjects in 14 CFR Part 399

Administrative practice and procedure, Advertising, Air carriers, Antitrust, Archives and records, Consumer protection, Freight forwarders, Grant programs-Transportation, Hawaii, Motor carriers, Puerto Rico, Railroads, Reporting requirements, Travel agents, Virgin Islands.

Amendments

In light of the foregoing, the Civil Aeronautics Board amends 14 CFR Part 399, *Statements of General Policy*, as follows:

PART 399—[AMENDED]

1. The authority for 14 CFR Part 399 is:

Authority: Secs. 101, 102, 105, 204, 401, 402, 403, 404, 405, 407, 408, 409, 411, 412, 416, 801, 1001, 1002, 1102, 1104, Pub. L. 85-726, as amended, 72 Stat. 737, 740, 743, 754, 757, 758, 760, 766, 767, 768, 769, 770, 771, 782, 788, 797, 92 Stat. 1708; 49 U.S.C. 1301, 1302, 1305, 1324, 1371, 1372, 1373, 1374, 1375, 1377, 1378, 1379, 1381, 1382, 1386, 1461, 1481, 1482, 1502, 1504.

2. A new § 399.41 is added to the table of contents, to read:

Sec.

* * * * *

399.41 Zones of limited suspension for international cargo rates.

* * * * *

3. Section 399.35(c) is revised to apply to higher rates as well as fares, so that it reads:

§ 399.35 Special tariff permission.

* * * * *

(c) *Higher fares or rates.* For tariffs that state higher fares or rates, and any rules affecting only those fares or rates, the Board's policy on STP is, except in unusual or emergency circumstances:

(1) To grant STP if the resulting fares or rates are within a statutory or Board-established zone of fare or rate flexibility; and

(2) Otherwise, to deny STP.

4. A new § 399.41 is added, to read:

§ 399.41 Zones of limited suspension for international cargo rates.

(a) *Applicability.* This section states the Board's policy for suspending rate changes for the transportation of property in foreign air transportation. It does not affect the Board's authority to suspend any rate as unjustly discriminatory, unduly preferential, or unduly prejudicial. This section applies to rate changes by all direct air carriers and direct foreign air carriers.

(b) *Standard foreign rate levels.* For each market in foreign air transportation, the standard foreign rate level for the carriage of property shall be the bulk general commodity rates in effect in that market on April 1, 1982, as adjusted in accordance with paragraph (f) of this section. However, the general commodity rate for shipments larger than 500 kg. shall be deemed to be the same as the 500 kg. rate for the purposes of this paragraph, regardless of any different rate in effect in the market.

(c) *Ceilings of limited rate suspension.* Except as provided in paragraph (d) of this section, the Board will not suspend as unreasonable any proposed rate for foreign air transportation of property equal to or less than the following levels:

(1) For all bulk rates (GCR's and SCR's) in the Atlantic region, 20 percent above the standard foreign rate level.

(2) For all bulk rates (GCR's and SCR's) in the Pacific region, 15 percent above the standard foreign rate level.

(3) For all bulk rates (GCR's and SCR's) in the Western Hemisphere region (except Mexico and Canada), 5 percent above the standard foreign rate level.

(4) For all bulk rates (GCR's and SCR's) in Canada/Mexico transborder markets, 10 percent above the standard foreign rate level for the Western Hemisphere.

(5) For all container rates, no maximum level.

(d) *Extraordinary circumstances.* The Board may suspend any tariff if it finds that—

(1) The suspension is in the public interest because of unreasonable regulatory action by a foreign government with respect to rate proposals of an air carrier, or

(2) All of the following extraordinary circumstances are present:

(i) It is highly probable that the fare would be found unreasonable after investigation;

(ii) There is a substantial likelihood of immediate and irreparable harm to the public if the rate is allowed to go into effect; and

(iii) The suspension is required by the public interest.

(e) *Burden of proof.* Persons requesting tariff suspension under paragraph (d) of this section shall have the burden of producing convincing evidence that the conditions of that paragraph are present.

(f) *Standard foreign rate level adjustments.*

(1) The Board will periodically adjust the standard foreign rate levels to reflect the percentage change in average operating costs per available ton-mile since the previous adjustment.

(2) Costs will be averaged for three regions—the Atlantic, the Pacific, and Western Hemisphere—and applied equally among all markets in each region.

(3) Cost computations will be based on scheduled freighter and combination service by U.S. air carriers.

(4) Adjustments will be made on April 1 and October 1 of each year, or more frequently as the Board finds appropriate.

(5) In computing costs under this section, the Board will make no adjustments for load factors, aircraft utilization, or other matters due to operational decisions made solely by carrier management. However, the Board retains the discretion to normalize costs for strikes, mandatory aircraft groundings, and other occurrences not solely due to management decisions.

(g) *Definitions.* For the purpose of this section:

(1) "GCR" means general commodity rate.

(2) "SCR" means specific commodity rate.

(3) "Container rate" means any rate specifically applicable to property tendered to the carrier in a unit load devise.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2563 Filed 1-28-83; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Parts 0 and 4

Organization; Miscellaneous Rules

AGENCY: Federal Trade Commission.

ACTION: Change in delegation of authority.

SUMMARY: The Commission has reorganized the Office of the Secretary and the Office of the Executive Director. A Deputy Executive Director for Planning and Information will maintain the Commission's public records and, among other things, assumes the delegated authority formerly granted by the Commission to the Secretary to respond to initial requests for records under the Freedom of Information and Privacy Acts. These rules implement the new organization.

DATE: Effective on January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Barry R. Rubin, Assistant General Counsel, Federal Trade Commission, Washington, D.C. 20580, 202 523-3520.

SUPPLEMENTARY INFORMATION: The Commission's Office of the Executive Director has been reorganized to create a new Deputy Executive Director for Planning and Information. That person will assume responsibility for the Commission's data processing and information systems, library, and information analysis functions. The legal information and services divisions of the Office of the Secretary have been transferred to the Office of the Executive Director.

List of Subjects

16 CFR Part 0

Organization and functions (Government Agencies).

16 CFR Part 4

Administrative practice and procedure, Freedom of Information, Privacy.

Accordingly, the Commission amends 16 CFR Parts 0 and 4 as follows:

1. Paragraphs (a) and (b) are revised and paragraph (c) is added to § 0.10 to read as follows:

§ 0.10 Office of the Executive Director.

(a) The Executive Director, under the direction of the Chairman, is the chief operating official. He exercises executive and administrative supervision over all the offices, bureaus, and staff of the Commission and resolves problems concerning priorities in case handling. Immediately under his direction are the Deputy Executive Directors for Management and Planning and Information.

(b) The Deputy Executive Director for Management functions as staff advisor to the Executive Director in all aspects of administrative management; provides administrative policy guidance to agency management and provides general supervision to the programs of procurement and contracts, personnel, budget and finance, and administrative service activities; initiates and develops long-range plans to assure that the Commission acquires and effectively utilizes the manpower, financial resources, physical facilities and management tools necessary to accomplish its mission; and is responsible for publication of all Commission actions which must appear in the **Federal Register** and publication of the *Federal Trade Commission Decisions* and the *Court Decisions—Federal Trade Commission.*

(c) The Deputy Executive Director for Planning and Information provides general supervision to the programs of data processing and information systems, information analysis, and the library; responds to initial requests for Commission records under the Freedom of Information and Privacy Acts; maintains a current index of opinions, orders, statements of policy and interpretations, staff manuals and instructions that affect any member of the public, and other public records of the Commission; makes available for inspection and copying all public records of the Commission; and coordinates the Commission's information processing systems.

2. 16 CFR 0.12 is revised to read as follows:

§ 0.12 Office of the Secretary.

The Secretary is responsible for the minutes of Commission meetings and is the legal custodian of the Commission's seal, property, papers, and records, including legal and public records. The Secretary, or in his absence an Acting Secretary designated by the Commission, signs Commission orders and official correspondence.

3. Paragraphs (a)(1)(iv)(C) and (a)(2)(i)(A) of 16 CFR 4.11 are revised to read as follows:

§ 4.11 Requests for disclosure of records.

(a) *Freedom of Information Act requests*—(1) *Initial Requests.*—* * *

(iv) *Initial determination.*—* * *

(C) Records to which access has been granted will be made available to the requester and will remain available for inspection and copying for a period not to exceed thirty days from date of notification to the requester unless the requester asks for and receives the consent of the Deputy Executive Director for Planning and Information to a longer period. Records assembled pursuant to a request will remain available only during this time period and thereafter will be refiled. Appropriate fees may again be imposed for any new or renewed request for the same records.

* * * * *

(2) *Appeals to the General Counsel from initial denials.*—(i) *Form and contents; time of receipt.*—(A) If the Deputy Executive Director for Planning and Information denies an initial request for records in its entirety, the requester may, within 30 days of the date of the determination of the Deputy Executive Director for Planning and Information, Appeal such denial to the General Counsel. If the Deputy Executive Director for Planning and Information denies an initial request in part, the time for appeal shall not expire until 30 days after the date of the letter notifying the requester that all records to which access has been granted have been made available. The appeal shall be in writing and should include a copy of the initial request and a copy of the response of the Deputy Executive Director for Planning and Information, if any.

The appeal shall be addressed as follows:

Freedom of Information Act Appeal
Office of the General Counsel
Federal Trade Commission
6th Street and Pennsylvania Avenue, NW.
Washington, D.C. 20580

* * * * *

§§ 4.8, 4.11, 4.13 [Amended]

4. In addition to the amendments set forth above, 16 CFR Part 4 is amended by removing the words "the Secretary" or "the Secretary of the Commission" and inserting, in their place, the words "the Deputy Executive Director for

Planning and Information", in the following places:

A. 16 CFR 4.8(b)
B. 16 CFR 4.8(c)(1)
C. 16 CFR 4.11(a)(1)(i)(A)
D. 16 CFR 4.11(a)(1)(i)(B)
E. 16 CFR 4.11(a)(1)(i)(D)
F. 16 CFR 4.11(a)(1)(i)(E)
G. 16 CFR 4.11(a)(1)(iii)(A)
H. 16 CFR 4.11(a)(1)(iii)(B)
I. 16 CFR 4.11(a)(1)(iii)(C)
J. 16 CFR 4.11(a)(1)(iv)(A)
K. 16 CFR 4.11(a)(1)(iv)(B)
L. 16 CFR 4.11(a)(2)(ii)(B)
M. 16 CFR 4.13(c)
N. 16 CFR 4.13(d)
O. 16 CFR 4.13(e)
P. 16 CFR 4.13(f)
Q. 16 CFR 4.13(h)
R. 16 CFR 4.13(i)(1)
S. 16 CFR 4.13(i)(2)(i)
T. 16 CFR 4.13(j)
U. 16 CFR 4.13(k)

(Sec. 6(g), 38 Stat. 721 (15 U.S.C. § 46(g)); 80 Stat. 383, as amended, 81 Stat. 54 (5 U.S.C. § 552).

By direction of the Commission dated September 16, 1982.

Carol M. Thomas,

Secretary.

[FR Doc. 83-2525 Filed 1-28-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Reg. No. 4]

Federal Old-Age, Survivors, and Disability Insurance Benefits Annual Earnings Test

AGENCY: Social Security Administration, HHS.

ACTION: Final regulations.

SUMMARY: These regulations reflect recent statutory amendments which delay for one year (from January 1982 until January 1983), for all except a very small number of individuals who file their tax returns on a fiscal year basis, full implementation of section 302, Pub. L. 95-216, the Social Security Amendments of 1977. Section 302 reduced from 72 to 70 the age at which Social Security beneficiaries are no longer subject to an earnings test.

EFFECTIVE DATE: These final regulations are effective January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Marval Cazer, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone (301) 594-7463.

SUPPLEMENTARY INFORMATION: These rules were published as a Notice of Proposed Rulemaking on May 26, 1982 (47 FR 22965). During the 60-day comment period, we received only two comments. A direct response was made to one commenter, who had misinterpreted the effective date of the age 70 provision. The second comment related to potential abuse of the earnings test by self-employed individuals. Although this comment is not directly related to these regulations, we would point out that at the the time a self-employed individual files an application for benefits a careful evaluation is made as to whether substantial services continue to be performed.

These final regulations conform existing regulations to section 2204 of Pub. L. 97-35, enacted August 13, 1981. This legislation exempts recipients of retirement and survivors benefits from an earnings test (including the 7-day foreign work test) for the months after December 1982 in which a beneficiary is age 70 or over. The January 1983 effective date is not tied to the beginning or ending date of any taxable year.

The Social Security Amendments of 1977 had made full benefits payable, with no deduction for earnings, for months in which a beneficiary was age 70 or over in a taxable year ending after December 31, 1981. This provision became effective in calendar year 1981 for a few beneficiaries (prior to the enactment of the 1981 Amendments) whose taxable year is not on a calendar year basis. In order to avoid adversely affecting those few beneficiaries, the delay under the 1981 Amendments in implementing the age 70 provision does not apply to them nor to those beneficiaries who attain age 70 after enactment in the taxable year beginning in 1981 and ending in 1982 if the fiscal taxable year was approved by the Internal Revenue Service prior to the 1981 legislation. For example, a beneficiary with a taxable year of November 1, 1981, through October 31, 1982, who attains age 70 on July 3, 1982, would not be subject to the earnings test for months after June 1982. However, if a beneficiary had an approved taxable year June 1, 1981 through May 31, 1982, but attained age 70 after May 31, 1982, he or she would be subject to the earnings test for all months prior to January 1983 because the beneficiary is not age 70 in the taxable year that begins in 1981 and ends in 1982.

Regulatory Procedures

Executive Order 12291—These regulations merely conform the existing rules to the changes legislated by Pub. L. 97-35. The law delayed for one year putting into effect the age 70 provision after which a beneficiary is no longer subject to the earnings test. The resulting impact is solely the result of legislation and is in place and effective regardless of regulatory action on our part. Therefore, these regulations do not "result in" a cost impact of $100 million or more or otherwise trigger the criteria for a major rule established in Executive Order 12291.

Regulatory Flexibility Act—We certify that these regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because these rules only affect individual beneficiaries. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act—These regulations impose no reporting/recordkeeping requirements requiring OMB clearance.

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-Age, Survivors and Disability Insurance.

(Secs. 203 and 1102 of the Social Security Act, as amended, 49 Stat. 623 and 647 as amended, 42 U.S.C. 403 and 1302; and sec. 2204 of Pub. L. 97-35, 95 Stat. 357.)

(Catalog of Federal Domestic Assistance Program Nos. 13.803—Social Security Retirement Insurance; 13.805—Social Security Survivors Insurance.)

Dated: November 24, 1983.

John A. Svahn,

Commissioner of Social Security.

Approved: January 7, 1983.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE

Part 404, Subpart E, of Title 20, Code of Federal Regulations is amended as set forth below:

1. Section 404.415 is amended by revising paragraph (a) to read as follows:

§ 404.415 Deductions because of excess earnings; annual earnings test.

(a) *Deductions because of beneficiary's earnings.* Under the annual earnings test, deductions are made from monthly benefits (except disability insurance benefits, child's

insurance benefits based on the child's disability, or widow's or widower's insurance benefits based on the widow's or widower's disability) payable to a beneficiary for each month in a taxable year (whether a calendar year or a fiscal year) beginning after December 1954 in which the beneficiary is under age 72 (age 70 after December 1982) and to which excess earnings are charged under the provisions described in § 404.434.

* * * * *

2. Section 404.417 is amended by revising paragraph (a) except the last sentence to read as follows:

§ 404.417 Deductions because of noncovered remunerative activity outside the United States; 7-day work test.

(a) *Deductions because of individual's activity.* Under the 7-day work test, a deduction is made from any monthly benefit (except disability insurance benefits, child's insurance benefits based on the child's disability, or widow's or widower's insurance benefits based on the widow's or widower's disability) payable to an individual for each month on a taxable year beginning after December 1954 in which the beneficiary, while under age 72 (age 70 after December 1982), engages in noncovered remunerative activity (see § 404.418) outside the United States on seven or more different calendar days. * * *

* * * * *

3. Section 404.428 is amended by revising the parenthetical sentence at the end of paragraph (a)(1) to read as follows:

§ 404.428 Earnings in a taxable year.

(a) *General.* (1) * * * (See, however, § 404.430 for the rule which applies to earnings of a beneficiary who attains age 72 during the taxable year (age 70 for months after December 1982))

* * * * *

4. Section 404.430 is amended by revising the parenthetical sentence at the end of paragraph (a)(3) to read as follows:

§ 404.430 Excess earnings defined for taxable years ending after December 1972; monthly exempt amount defined.

(a) *Method of determining excess earnings for years ending after December 1982.* * * * (All references to age 72 will be age 70 for months after December 1982.)

* * * * *

5. Section 404.435 is amended by revising in paragraph (a)(3) the parenthetical phrase to read as follows:

§ 404.435 Excess earnings; months to which excess earnings cannot be charged.

(a) *Monthly benefits payable for months after 1977.* * * *

(3) * * * (age 70 for months after December 1982); * * *

* * * * *

[FR Doc. 83-2006 Filed 1-28-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Approval and Disapproval of Amendments to the Ohio Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final Rule; approval and disapproval of amendments to the Ohio State regulatory program.

SUMMARY: The Secretary of the Department of the Interior is approving four amendments and disapproving one amendment to the Ohio State regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Ohio received conditional approval of its permanent program effective August 16, 1982, as announced in the **Federal Register** of August 10, 1982 (47 FR 34688–34718), subject to the correction of eleven minor deficiencies. On October 13, 1982, Ohio submitted to the Department of the Interior five revisions to regulations contained in its regulatory program to be considered under 30 CFR 732.17 procedures for amendments to State regulatory programs. Four of the program amendments are being approved and one program amendment is being disapproved. Approval of the four program amendments will be reflected in 30 CFR Part 935.

EFFECTIVE DATE: Approval of four amendments and disapproval of one amendment is effective January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Arthur Abbs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240. Telephone: (202) 343–5361.

SUPPLEMENTARY INFORMATION: On January 22, 1982, the State of Ohio resubmitted to the Department of the Interior its permanent regulatory program under SMCRA. The resubmission followed an initial disapproval, notice of which was published in the **Federal Register** October 1, 1980 (45 FR 64962–64971). After opportunity for public comment and thorough review of the program resubmission, the Secretary of the Interior determined that the Ohio program meets the requirements of SMCRA and the Federal permanent program regulations, except for minor deficiencies. Accordingly the Secretary of the Interior conditionally approved the Ohio program subject to the correction of eleven minor deficiencies. Information pertinent to the general background, revisions, and modifications to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982, **Federal Register** (47 FR 34688–34718). The approval was effective on August 16, 1982.

In accepting the Secretary's conditional approval, Ohio agreed to correct deficiency "e" by submitting to the Secretary by September 16, 1982, copies of promulgated regulations deleting the provision in OAC 1501:13–1–01(A) exempting persons holding permits issued after September 1, 1981, from the requirement to apply for a new permit after approval of the program. Ohio also agreed to correct all other deficiencies by August 8, 1983.

On September 16, 1982, Ohio submitted materials modifying the approved State program so as to satisfy condition of approval "e". Approval of the modification satisfying condition "e" can be found in the January 17, 1983, **Federal Register.**

On October 13, 1982, Ohio submitted to OSM additional materials to amend its conditionally approved State regulatory program. The materials consisted of the following five amendments to rules contained in the State program.

1. Amendment to OAC 1501:13–1–02 Definitions, revising the definition of "affected area."

2. Amendment to OAC 1501:13–1–07 Applicability, clarifying the requirements for operations continuing to operate under interim program permits.

3. Amendment to OAC 1501:13–4–03 Permit Application Requirements for Legal, Financial, Compliance and Related Information, making it the obligation of the applicant to include information on notices of violation in the permit application.

4. Amendment to OAC 1501:13–4–04 Permit Application Requirements for Information on Environmental Resources, requiring slope measurements included in the application for a permit to be in "degrees".

5. Amendment to OAC 1501:13–4–05 Permit Application Requirements for Reclamation and Operations Plans, deleting the provision exempting operators with planned long term existence from the requirement to submit a description of the postmining land use with the application.

None of the amendments was intended to satisfy conditions of program approval. On November 3, 1982, OSM published a notice in the **Federal Register** (47 FR 49869) announcing receipt of the materials and inviting public comment on whether the materials submitted should be approved and incorporated into the Ohio regulatory program. The public comment period ended on December 10, 1982. No one appeared to present testimony at a public hearing that was scheduled for December 8, 1982.

Secretary's Findings

1. *Proposed Change to OAC 1501: 13–1–02 Definitions.* The State's definition for "affected area" as provided in OAC 1501:13–1–02(E) of the State program conditionally approved by the Secretary was found consistent with the definition for "affected area" of 30 CFR 701.5. In the materials submitted by Ohio to OSM on October 13, 1982, the State proposed to amend the definition of "affected area" by deleting the portion pertaining to underground mining activities.

In 30 CFR 701.5, "affected area" is defined to include with respect to underground mining activities, any water or surface land upon or in which those activities are conducted or located; and land or water which is located above underground mine workings. Deletion of this provision from the Ohio definition of "affected area" is not consistent with 30 CFR 701.5 and the Secretary therefore disapproves the change.

2. *Proposed Change to 1501:13–1–07 Applicability.* OAC 1501:13–1–07 in the State program conditionally approved established the applicable requirements for coal mining operations, strip mining operations and underground mining operations. Some of the applicable requirements for operations continuing to operate under interim program permits have since been amended by the permanent State program rules. The proposed materials substitute the newly enacted rules in place of the rules no longer in effect thereby clarifying the requirements for those operations continuing to operate under interim program permits. The Secretary approves the modification to OAC 1501:13–1–07.

3. *Proposed Change to 1501:13–4–03, Permit Application Requirements for Legal, Financial, Compliance and Related Information.* OAC 1501:13–4–03 as contained in the conditionally approved program provides that the schedule listing notices of violation of any law, rules or regulations of the United States pertaining to operations conducted in Ohio need not be provided by the applicant, but that the Chief shall insure such information is made available to the public in the appropriate manner. In the materials submitted by the State to OSM on October 13, 1982, Ohio proposed to amend 1501:13–4–03 to make it the obligation of the applicant to include the information on all notices of violation in the permit application. The amendment also provides that on written request by the applicant, the Chief shall supply to the applicant the information pertaining to Ohio. The Secretary finds the modification consistent with 30 CFR 778.14(c) and thereby approves it.

4. *Proposed Change to OAC 1501:13–4–03, Permit Application Requirements for Information on Environmental Resources.* In the materials submitted to OSM on October 13, 1982, Ohio proposed amending 1501:13–4–04 to require that slope measurements included in the application for a permit be made in "degrees." This change is consistent with 30 CFR 779.25(k) and is therefore approved.

5. *Proposed Change to OAC 1501:13–4–05, Permit Application Requirements for Reclamation and Operations Plans.* In the materials submitted to OSM on October 13, 1982, Ohio proposed deleting OAC 1501:13–4–05(F)(4) which exempted operators with planned long term existence from submitting a description of the postmining land use with the initial application. The deletion of the exemption is consistent with 30 CFR 80.23 and is therefore approved.

Public Comment

No comments were received in response to November 3, 1982, **Federal Register** notice announcing the hearing and comment period on the amendments submitted by Ohio.

Approval of Amendment

Accordingly, 30 CFR Part 935 is amended to indicate approval of four Ohio program amendments submitted to OSM on October 13, 1982.

Additional Findings

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this approval. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve State regulatory programs or amendments. Therefore, this program amendment is exempt from the preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

On December 22, 1982, the Environmental Protection Agency transmitted its written concurrence on the Ohio program amendments being approved.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

PART 935—OHIO

30 CFR 935.10 is revised to read as follows:

§ 935.10 State regulatory program approval.

The Ohio State regulatory program as submitted on February 29, 1980, and resubmitted on January 22, 1982, is conditionally approved, effective August 16, 1982. Beginning on that date, the Department of Natural Resources shall be deemed the regulatory authority in Ohio for all surface coal mining and reclamation operations and for all exploration operations on non-Federal and non-Indian lands. Only surface coal mining and reclamation operations on non-Federal and non-Indian lands shall be subject to the provisions of the Ohio permanent regulatory program. The amendment to OAC 1501:13–1–01(A) submitted on September 16, 1982, is approved effective January 17, 1983. The amendments to OAC 1501:13–1–07, 13–4–03, 13–4–04 and 13–4–05 submitted on October 13, 1982, are approved effective January 31, 1983. Copies of the approved program, as amended, are available at:

(a) Division of Reclamation, Ohio Department of Natural Resources, Fountain Square, Bldg. B, Columbus, Ohio 43224, Telephone: (614) 265–6633.
(b) Office of Surface Mining, Room 5315, 1100 L St., NW., Washington, D.C. 20240, Telephone: (202) 343–4728.

Dated: January 25, 1983.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 83–2606 Filed 1–28–83; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 707

Special Rules With Respect to Additional Station and Signal Lights

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its Special Rules with Respect to Additional Station and Signal Lights under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that the present additional submarine identification signal light is not in full compliance with the provisions of the 72 COLREGS in that the location and characteristics of that light are similar to the location and characteristics of the light required by Rule 23(b) of the 72 COLREGS for an air-cushion vessel when operating in the non-displacement mode. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: February 1, 1983.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1606 and Executive Order 11964, the Department of the Navy amends 32 CFR Part 707. This amendment provides notice that the Secretary of the Navy has determined that the present additional submarine identification signal light is not in full compliance with the applicable Rules of the 72 COLREGS. This determination was based upon the requirement of Rule 1(c) of the 72 COLREGS, which permits the use of special rules to be issued by any government with respect to additional station or signal lights for ships of war provided that such additional station or signal lights shall be such that they cannont be mistaken for any light or signal authorized elsewhere under any rule of the 72 COLREGS. The location and characteristics of the present additional submarine identification signal light are such that it might be mistaken for the light required by Rule 23(b) of the 72 COLREGS for air-cushion vessels, when operating in the non-displacement mode, and, therefore, this amendment to Part 707 of 32 CFR Chapter VI, Department of the Navy, promulgates the location and characteristics of the new additional submarine identification signal light. The intended effect of this amendment is to ensure that United States Navy submarines do not use an identification light which might be confused with another light authorized by the 72 COLREGS.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of the additional submarine identification signal light is in full compliance with all applicable rules of the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS).

List of Subjects in 32 CFR Part 707

Marine safety, Navigation (water), and Vessels.

PART 707—[AMENDED]

Accordingly, 32 CFR Part 707 is amended by revising § 707.7 to read as follows:

§ 707.7 Submarine identification light.

Submarines may display, as a distinctive means of identification, an intermittent flashing amber beacon with a sequence of operation of one flash per second for three (3) seconds followed by a three (3) second off-period. The light will be located where it can best be seen, as near as practicable, all around the horizon. It shall not be located less than two (2) feet above or below the masthead lights.

(Executive Order 11964; 33 U.S.C. 1606)

Dated: January 12, 1983.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 83–2584 Filed 1–28–83; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 54

[CGD 82–109]

Allotments From Military Pay for Certain Support Obligations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule contains procedures for the notification to institute allotments from the active duty pay of Coast Guard members who are delinquent in meeting their family support obligations. This action implements Section 172, the Tax Equity and Fiscal Responsibility Act of 1982.

EFFECTIVE DATE: This rule is effective January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Coleman R. Sachs, Office of Chief Counsel (G–LGL), U.S. Coast Guard Headquarters, Washington, D.C. 20593. (202–426–1553).

SUPPLEMENTARY INFORMATION: Section 172(a) of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), enacted on September 3, 1982, requires allotments to be taken from the pay and allowances of any member of the uniformed services on active duty who owes the equivalent of two months or more in court ordered child support or child and spousal support payments. The service member's failure to make these payments is established by notice from a court authorized to order support or the agency or attorney of a State with a Federally approved plan for spousal or child support, who is responsible for recovering amounts owed for this purpose. This notice is to be directed to a designated official within the uniformed service involved.

Upon receipt of the notice, the service must provide a copy to the member whose pay it would affect, and arrange a consultation for that member with a representative of its legal staff to discuss the legal and other factors involved in the member's support obligations and the consequences of failing to make any necessary payments. The allotment may not be instituted until this consultation has been provided, or thirty days after the member had been given notice of the delinquency in all instances where it has not been possible to arrange for the consultation. The uniformed services are directed to issue "regulations" designating the official to whom notice of the delinquency in support obligations or notice to discontinue or

adjust an allotment is to be given, prescribing the form and content of this notice, and specifying any other necessary rules. The procedure is promulgated as a final rule because 5 U.S.C. 553(b)(3)(A) excepts rules of agency procedure from notice requirements.

It is being made effective upon publication because it implements benefits that became effective on 1 October 1982.

Regulatory Evaluation

The Coast Guard has evaluated the procedure and determined that it is not a major rule under Executive Order 12291. Furthermore, it is nonsignificant under Policies and Procedures for Simplification, Analysis and Review of Regulations (44 FR 11034, February 28, 1979, as amended by 44 FR 28126, May 14, 1979).

In addition to furnishing the designated official a copy of the order for the support payments, which is required by the Act, these rules require only the submission of information which will be readily available to the applicant. Accordingly, it is also certified under the Regulatory Flexibility Act (5 U.S.C. 605) that the procedure will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 54

Administrative practice and procedure, Wages.

In consideration of the foregoing, the Coast Guard is amending Title 33, Code of Federal Regulations, by adding a new Part 54, to read as follows:

PART 54—ALLOTMENTS FROM ACTIVE DUTY PAY FOR CERTAIN SUPPORT OBLIGATIONS

Sec.

Authority: 42 U.S.C. 665(c).

§ 54.01 Purpose.

This part prescribes procedures for State officials to notify the Coast Guard that a member on active duty is delinquent in meeting an obligation for child support alone, or both child and spousal support, in an amount equal to the support payable for two months or longer. Under 42 U.S.C. 665, an allotment may be taken from the pay and allowances of the member in this situation.

§ 54.03 Persons authorized to give notices.

For the purpose of instituting an allotment under this Part, notice that a Coast Guard member is delinquent in meeting support obligations may be given by:

(a) Any agent or attorney of any State having in effect a plan approved under Part D of Title IV of the Social Security Act (42 U.S.C. 651–664), who has the duty or authority to seek recovery of any amounts owed as child or child and spousal support, including any official of a political subdivision when authorized under a State plan.

(b) The court that has authority to issue an order against the member for the support and maintenance of a child, or any agent of that court.

§ 54.05 Form and contents of notice.

(a) The notice required to institute an allotment under this Part must be given in the form of a court order, letters, or other document issued by a person specified in § 54.03.

(b) The notice must:

(1) Provide the full name, social security number, and duty station of the member who owes the support obligation;

(2) Specify the amount of support due, and the period in which it has remained owing;

(3) Be accompanied by a certified copy of an order directing the payment of this support issued—

(i) By a court of competent jurisdiction, or;

(ii) In accordance with an administrative procedure which is established by State law, affords substantial due process, and is subject to judicial review;

(4) Provide the full name, social security number, and mailing address of the person to whom the allotment is to be paid;

(5) Identify the period in which the allotment is to remain in effect; and

(6) Identify the name and birth date of all children for whom support is to be provided under the allotment.

(c) Each notice must be accompanied by the following information:

(1) For each administrative order, a copy of all provisions of state law governing its issuance.

(2) For each court order and for each administrative order, if not stated in the support order—

(i) An explanation as to how personal jurisdiction was obtained over the member; and

(ii) A statement on the age of majority in the state law, with appropriate legal citations.

§ 54.07 Service of notice upon designated Coast Guard official.

The notice and all accompanying documentation must be sent to Commandant (G–LGL), General Law Division, U.S. Coast Guard Headquarters, Washington, D.C. 20593.

Dated: January 12, 1983.

W. P. Kozlovsky,

Rear Admiral, U.S. Coast Guard, Comptroller.

[FR Doc. 83-2674 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 5

[Docket No. 21223-259]

Revision of Patent Procedure

Correction

In FR Doc. 83–1507 beginning on page 2696 in the issue of Thursday, January 20, 1983, make the following corrections:

(1) On page 2696, first column, in the **"SUMMARY"**, second line from the bottom, remove the second "of".

(2) On page 2697, first column, second full paragraph, fifth line from the bottom, "of" should read "or".

(3) On page 2701, first column, under *"Section 1.137"*, fifth line from the bottom, "§ 1.37" should read "§ 1.137".

(4) On page 2704, first column, fourteenth line from the bottom, "application" should read "applications"; second column, eighth line from the top, "commissioner" should read "Commissioner".

(5) On page 2705, third column, twenty-ninth line from the bottom, "§ 1.37" should read "§ 1.137".

(6) On page 2706, first column, seventeenth line from the bottom, "guidelines" should read "Guidelines"; second column, third line from the bottom reading "paper of fee)" should read "paper or fee)".

(7) On page 2708, first column, § 1.6(d), last line, "trademark" should read "Trademark"; in § 1.7, third line from the bottom, "of" should read "or"; second column, § 1.10(b), second line from the bottom, there should be double quotation marks after "Mail"; third column, § 1.41, in the heading, **"Appllicant"** should read **"Applicant"**.

(8) On page 2711, second column, § 1.63(a)(3), "Indentify" should read "Identify".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AMS-FRL 2183-4]

Fuels and Fuel Additives: Measure of Octane of Unleaded Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends the unleaded gasoline regulations (40 CFR 80), substituting (R+M)/2 for Research Octane Number as a measure of unleaded gasoline octane. Research Octane Number (RON) and Motor Octane Number (MON) are the two standard laboratory methods of measuring gasoline octane. (R+M)/2, which is also referred to as AKI, or antiknock index, is equal to half the sum of the research and motor octane numbers. Stations which have been required to offer for sale at least one grade of unleaded gasoline of at least 91 RON are now required to offer for sale at least one grade of unleaded gasoline of at least 87 AKI. This change is being made to bring EPA's rule into conformity with current practice, and should not appreciably alter the effect of the existing requirement.

In addition, the allowable altitude adjustment in the measure of unleaded gasoline octane is amended to be in conformity with current industry practice.

Insofar as the regulations refer to American Society for Testing and Materials (ASTM) specifications, EPA will review changes to those specifications to determine if their continued use is appropriate, and will amend the regulations if necessary.

DATES: This rule is effective as of January 31, 1983.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 19, 1983.

ADDRESS: *Public Docket:* Copies of the rule and comments by interested parties are available for inspection in Public Docket EN-81-11 at the Central Docket Section (A-130), West Tower Lobby, Gallery I, 401 M Street, SW., Washington, D.C. 20460. This docket may be inspected between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. A reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Robert Gelman, Fuels Section, Field Operations and Support Division (EN-397), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 at (202) 382-2635.

SUPPLEMENTARY INFORMATION: On September 4, 1981, EPA published a notice of proposed rulemaking in the **Federal Register**, proposing to change the designation of gasoline octane in the unleaded gasoline regulations (40 CFR 80) from RON to (R+M)/2, for reasons described in the announcement (46 FR 44477). Time was allowed for comments and requests for a formal hearing. No hearing was requested. Comments were received from 13 organizations; two opposed the proposed rule. Volkswagen of America, Inc., said that (R+M)/2 may be misleading for fuels which are high in olefins or oxygenated hydrocarbons, and Wesreco, Inc., of Woods Cross, Utah, objected to the change because of the additional expense of running the motor octane portion of the test. A separate point was raised by the National Petroleum Refiners Association (NPRA), Chevron, and Getty, who all recommended that the octane requirement be dropped completely. Renault USA, Inc., while approving the adoption of (R+M)/2 as a measure of octane, recommended keeping the RON requirement as well. Finally, in its comments approving the proposed change, Texaco suggested that the formula for modifying minimum octane with altitude be changed to the method used in ASTM D439.

After consideration of all comments, it has been decided to incorporate Texaco's suggestion, but otherwise to promulgate the rule change substantially as proposed in the September 4, 1981, **Federal Register**, notice (46 FR 44477). Texaco's suggestion has been adopted because there does not appear to be any substantial reason for EPA to require a separate formula for calculating allowable octane decrease at higher altitudes.

With respect to Volkswagen's statement, EPA feels that any measurement of octane will not fully reflect a gasoline's antiknock performance under all conditions. Although in some cases either RON or MON may best measure antiknock performance, ASTM has concluded on the basis of extensive correlation studies that, on balance, gasoline antiknock performance is best related to (R+M)/2. Thus, the designation of 87 (R+M)/2 is at least as effective as 91 RON in meeting the regulations' objective, which is to provide assurance that an acceptable grade of unleaded gasoline will be readily available to motorists.

Wesreco's objection was not considered to be a major obstacle to the rule change, because section 202(a) of the Petroleum Marketing Practices Act (15 U.S.C. 2801 *et seq.*) requires each refiner who distributes automobile gasoline in commerce to determine the (R+M)/2 octane rating of any such gasoline, thus already imposing the burden of measuring (R+M)/2.

The question of the appropriateness of any octane requirement for unleaded gasoline at this time, raised by NPRA, Chevron, and Getty, has not been addressed, because EPA feels that this is a much larger issue, which would require much more expensive analysis and review than is presently warranted. EPA's current action is not intended as a substantive change; it is merely an attempt to make it easier to comply with an existing regulation.

EPA will fully review the continued necessity for an octane requirement as part of the unleaded gasoline regulations, outside the context of this particular rule.

Renault's suggestion, to use both (R+M)/2 and RON as octane requirements, would add to the regulatory burden, rather than easing it, which is the prime purpose of this regulatory change. EPA feels that the extensive correlation studies referred to in the discussion of Volkswagen's statement have established the adequacy of (R + M)/2 as an indicator of antiknock performance, thus allowing it to be used as a replacement for, rather than a supplement to, RON in the context of this regulation.

Under Executive Order 12291, EPA must judge whether an action is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not major because it is not likely to result in:

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

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The only effect of this action is to make it easier for gasoline retail outlets and wholesale purchaser-consumers to comply with EPA's unleaded gasoline regulations.

The action was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Finally, under the regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to determine whether a regulation will have a significant

economic impact on a substantial number of small entities so as to require a regulatory analysis. This modification should not have a significant adverse impact on any of the affected entities, which are primarily retail gasoline outlets and wholesale puchaser-consumers. Therefore, pursuant to 5 U.S.C. 605 (b), I hereby certify that this rule will not have significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 80

Incorporation by reference, Fuel additives, Gasoline, Motor vehicle pollution, Penalties,

Therefore, the rule is hereby promulgated as described below.

Dated: December 17, 1982.

Anne M. Gorsuch,

Administrator.

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

Accordingly, notice is hereby given that 40 CFR Part 80 is amended as follows:

1. In § 80.2 by revising paragraph (d) to read as follows:

§ 80.2 Definitions.

* * * * *

(d) "Octane number, (R+M) /2 method"means measurement of a gasoline's antiknock characteristics which is obtained by dividing the sum of the Research Octane Number and the Motor Octane Number by two, as explained by the American Society for Testing and Materials (ASTM) in ASTM D 439–81, entitled "Standard Specifications for Automotive Gasoline." The Research Octane Number is determined by ASTM standard test method D 2699–80 and the Motor Octane Number is determined by ASTM standard test method D 2700–81. ASTM standards D 439–81, D 2699–80 and D 2700–81 are incorporated by reference. They are available from ASTM, 1916 Race Street, Philadelphia, PA, 19103, and are also available for inspection as part of Docket EN–81–11, located at the Central Docket Section, EPA, Gallery I, West Tower, 401 M Street, SW., Washington, DC, 20460. Standard D 439–81 is contained in the Annual Book of ASTM Standards, Part 23; standards D 2699–80 and D 2700–81 are contained in Part 47. This incorporation by reference was approved by the Director of the Federal Register on January 19, 1983. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the **Federal Register.**

§ 80.22 [Amended]

2. In § 80.22 by amending the introductory text of paragraph (b) so that the portion reading "* * * not less than 91 Research Octane Number: *Provided, however,* That the octane number of unleaded gasoline offered for sale in areas where altitude is greater than 2,000 feet may be reduced one (1) octane number for each succeeding 1,000 feet, but not more than three (3) octane numbers in total" is changed to read, "* * * not less than 87 Octane, (R+M)/2 method: *Provided, however,* That the octane number of unleaded gasoline may be reduced for altitude as specified in American Society for Testing and Materials Standard D 439–81, which is incorporated by reference (see 40 CFR 80.2 (d)), except that references in that Standard to EPA regulations affecting Research Octane Number (RON) shall not apply."

[FR Doc. 83-2536 Filed 1-28-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Associate Director, State and Local Programs and Support, after consultation with the Chief Executive Officer of each community listed, finds that modification of the proposed Special Flood Hazard Areas (SFHAs) for those communities is appropriate as a result of requests for changes in the interim and/or Proposed Rule.

DATES: These modified SFHAs are in effect as of the dates listed in the sixth column of the attached list and amend the Flood Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified SFHA determinations for each community are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Dr. Brian R. Mrazik, Acting Chief, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support has published a notification of the SFHAs in prominent local newspapers for the communities listed below. Ninety (90) days have elapsed since that publication, and the Associate Director has received appeals from the communities requesting changes in the proposed SFHA determinations.

The numerous changes made in the SFHAs on the Flood Insurance Rate Map for each community make it administratively infeasible to publish in this notice all of the SFHA changes contained on the maps. However, this notice includes the address of the Chief Executive Officer where the modified SFHA determinations are available for inspection.

The modifications are pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, 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 65.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These SFHAs are 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 SFHAs together with the flood plain management measures required by § 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 of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified SFHAs shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The changes in the SFHAs listed below are in accordance with 44 CFR 65.4.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	Community No.
Indiana: Clark	City of Jeffersonville (FEMA Docket No. 6343).	*The Evening News:* July 2, 1982, July 9, 1982.	Honorable Richard Vissing, Mayor, City of Jeffersonville, City-County Building, Suite 404, 500 East Court Avenue, Jeffersonville, IN 47130.	Feb. 18, 1982	180027C.
Kansas: Sedgwick and Sumner.	City of Mulvane (FEMA Docket No. 6344).	*The Mulvane News:* June 17, 1982, June 24, 1982.	Honorable Vivian L. Thompson, Mayor, City of Mulvane, 211 North Second, Mulvane, KS 67110.	Feb. 8, 1983	200326C.
Michigan: Macomb	Township of Clinton (FEMA Docket No. 6345).	*The Macomb Daily:* July 2, 1982, July 9, 1982.	Kenneth H. Bobcean, Supervisor, 40700 Romeo Plank Road, Mount Clemens, MI 48044.	Feb. 18, 1983	260121C.
Ohio: Clermont	Village of Batavia (FEMA Docket No. 6346.	*The Clermont Sun:* July 7, 1982, July 14, 1982.	Honorable Edmond Parrott, Mayor, Village of Batavia, 389 East Main Street, Batavia, Ohio 45103.	Feb. 25, 1983	390066E.
Texas: Harris, Waller and Fort Bend.	City of Katy (FEMA Docket No. 6347).	*Katy Times:* June 23, 1982, June 30, 1982.	Honorable John G. Morrison; Mayor, City of Katy, P.O. Box 617, Katy, TX 77449.	Feb. 8, 1983	480301D.
West Virginia: Logan	Town of Man (FEMA Docket No. 6348).	*Logan Banner:* July 2, 1982, July 9, 1982.	Honorable Mervil Perry, Mayor, Town of Man, P.O. Box 70, Man, West Virginia 25635.	Feb. 18, 1983	545537B.
Arizona: Yavapai	City of Prescott (FEMA Docket No. 6364).	*Prescott Courier:* July 19, 1982, July 26, 1982.	Honorable Lawrence A. Caldwell, Mayor, City of Prescott, 201 South Cortez, P.O. Box 2059, Prescott, AZ 86301.	Mar. 29, 1983	040098B.
Maricopa	Town of Wickenburg (FEMA Docket No. 6365).	*The Wickenburg Sun:* July 22, 1982, July 29, 1982.	Honorable Bruce Woodruff, Mayor, Town of Wickenburg, P.O. Box 1269, Wickenburg, AZ 85358.	Mar. 29, 1983	040056C.
California: Riverside	(Unincorporated Area) (FEMA Docket No. 6363).	*The Evening Press-Enterprise:* July 21, 1982, July 28,1982.	Ms. Kay Ceniceros, Chairman, Board of Supervisors, Riverside County, 4080 Lemon Street, 14th Floor, Riverside, CA 92501.	Mar. 22, 1983	060245B.
Indiana: Hamilton	Town of Westfield (FEMA Docket No. 6331).	*Westfield Enterprise:* June 23, 1982, June 30, 1982.	Mr. Joseph Edwards, President of Town Board, 130 Penn Street, Westfield, Indiana 46074.	Mar. 11, 1983	180083C.
Missouri: St. Charles	City of St. Charles (FEMA Docket No. 6370).	*St. Louis Post-Dispatch:* July 29, 1982, August 5, 1982.	Honorable Douglas Boschert, Mayor, City of St. Charles, 200 North Second Street, St. Charles, MO 63301.	Mar. 22, 1983	290318C.
North Dakota: Stark	City of Dickinson (FEMA Docket No. 6361).	*The Dickinson Press:* July 27, 1982, August 3, 1982.	Mr. A. E. Baumgartner, President, Board of Commissioners, Dickinson City Hall, P.O. Box 1037, Dickinson, ND 58601.	do	380117C.
Stark	City of Belfield (FEMA Docket No. 6372).	*Dickinson Press:* July 27, 1982, August 3, 1982.	Honorable Philip Dolyniuk, Mayor, City of Belfield, P.O. Box 5, Belfield, ND 58622.	Mar. 15, 1983	380116C.
Oklahoma: Oklahoma	City of Midwest City (FEMA Docket No. 6355).	*Midwest City Sun:* July 15, 1982, July 22, 1982.	Honorable Dave Herbert, Mayor, City of Midwest City, P.O. Box 10570, Midwest City, OK 73140.	Mar. 8, 1983	400405D.
Utah: Utah	City of Lehi (FEMA Docket No. 6295).	*Lehi Free Press:* July 15, 1982, July 22, 1982.	Honorable A. E. Allison, Mayor, City of Lehi, 51 North Center Street, Lehi, UT 84043.	Mar. 1, 1983	490209B.
Wyoming: Converse	Town of Douglas (FEMA Docket No. 6375).	*The Douglas Budget:* July 22, 1982, July 29, 1982.	Honorable Dick George, Mayor, Town of Douglas, 130 South Third Street, Douglas, WY 82633.	Mar. 15, 1983	560013C.
Sweetwater	City of Rock Springs (FEMA Docket No. 6304).	*Daily Rocket-Miner:* May 4, 1982, May 11, 1982.	Honorable C. Keith West, Mayor, City of Rock Springs, P.O. Box 698, Rock Spgings, WY 28901.	Mar. 1, 1983	560051C.
Arizona: Pinal	City of Casa Grande (FEMA Docket No. 6391).	*Casa Grande Dispatch:* August 26, 1982, September 2, 1982.	Honorable Hugh N. Guinn, Mayor, City of Casa Grande, 300 East Fourth Street, Casa Grande, AZ 85222.	Apr. 19, 1983	040080B.
California: Riverside	City of Coachella (FEMA Docket No. 6392).	*Coachella Valley Sun:* September 2, 1982, September 9, 1982.	Honorable Manuel Rios, Mayor, City of Coachella, 1515 Sixth Street, Coachella, CA 92236.	Apr. 26, 1983	060249B.
Ventura	City of Ojai (FEMA Docket No. 6410).	*The Ojai Valley News:* September 15, 1982, September 22, 1982.	Honorable Frank McDevitt, Mayor, City of Ojai, P.O. Box 1570, Ojai, CA 93023.	Apr. 19, 1983	060416C.
Colorado: Summit	Town of Frisco (FEMA Docket No. 6394).	*Summit County Sentinel:* August 27, 1982, September 3, 1982.	Honorable Douglas P. Jones, Mayor, Town of Frisco, P.O. Box 370, Frisco, CO 80443.	Apr. 26, 1983	080245B.
Routt	Town of Steamboat Springs (FEMA Docket No. 6382).	*The Steamboat Pilot:* August 26, 1982, September 2, 1982.	Mr. Phil Struble, President of City Council, Town of Steamboat Springs, P.O. Box 9017, Steamboat Springs, CO 80477.	Apr. 19, 1983	080159C.
Iowa: Clay	City of Spencer (FEMA Docket No. 6411).	*The Daily Reporter:* September 17, 1982, September 24, 1982.	Honorable Edward Keith Johnson, Mayor, City of Spencer, 405 First Avenue West, Spencer, IA 51301.	do	190071B.
Louisiana: Ouachita	City of West Monroe (FEMA Docket No. 6412).	*News-Star:* September 17, 1982, September 24, 1982.	Honorable Dave N. Norris, Mayor, City of West Monroe, 2305 North Seventh Street, West Monroe, LA 71291.	do	220138C.
Oklahoma: Ottawa	City of Miami (FEMA Docket No. 6414).	*The Miami News-Record:* September 15, 1982, September 22, 1982.	Honorable William J. Hirsch, Mayor, City of Miami, P.O. Box 309, Miami, OK 74354.	do	400157C.
Creek	City of Sapulpa (FEMA Docket No. 6395).	*Sapulpa Herald:* September 7, 1982, September 14, 1982.	Honorable Bobby Lee, Mayor, City of Sapulpa, P.O. Box 1139, Sapulpa, OK 74066.	Apr. 26, 1983	400053B.
Oklahoma	Town of Harrah (FEMA Docket No. 6413).	*Harrah News:* September 16, 1982, September 23, 1982.	Honorable Robert Maxey, Mayor, Town of Harrah, P.O. Box 636, Harrah, OK 73045.	do	400140C.
South Dakota: Union	City of North Sioux City (FEMA Docket No. 6236).	*The Sioux City Journal:* December 29, 1981, December 30, 1981.	Honorable Richard White, Mayor, City of North Sioux City, P.O. Box 339, North Sioux City, SD 57049.	Apr. 5, 1983	460087C.
Texas: Grayson	City of Sherman (FEMA Docket No. 6406).	*Sherman Democrat:* September 17, 1982, September 24, 1982.	Honorable Jack G. Kennedy, Mayor, City of Sherman, P.O. Box 1106, Sherman, TX 75090.	Apr. 19, 1983	485509C.
Washington: Pierce	City of Sumner (FEMA Docket No. 6416).	*News-Review:* September 15, 1982, September 22, 1982.	Honorable Lewis R. Noel, Mayor, City of Sumner, 1104 Maple Street, Sumner, WA 98390.	Apr. 19, 1983	530147C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas

on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Flood plains.

(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; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: January 6, 1983.

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support.

[FR Doc. 83-2407 Filed 1-28-83; 8:45 am]

BILLING CODE 6718-03-M

Proposed Rules

Federal Register
Vol. 48, No. 21
Monday, January 31, 1983

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 TRANSPORTATION

14 CFR Part 23

[Docket No. 23494; Notice No. CE-83-1]

Small Airplane Airworthiness Review Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Announcement of small airplane airworthiness review program.

SUMMARY: This document announces the small airplane airworthiness review program and invites interested persons to submit proposals for consideration concerning it. The Review Progrma's objective is to provide public participation in improving, updating and developing the airworthiness standards applicable to small airplanes as set forth in Part 23 of the Federal Aviation Regulations (FAR).

DATE: Proposals must be received on or before June 2, 1983.

ADDRESS: Proposals prepared in response to this notice should be mailed or delivered in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attn: Rules Docket Clerk, Docket No. 23494, Room 1558, Federal Building, 601 East 12th Street, Kansas City, Missouri 64106. All proposals must be marked: Docket No. 23494. Proposals may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: David Warner, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106; Telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION: .

Proposals Invited

Interested persons are invited to participate in the Small Airplane Airworthiness Review Program by submitting any proposal deemed appropriate as an amendment to Part 23 of the FAR. All proposals submitted should be in the format, including all of the information requested, in the required format and information paragraph of this notice. All proposals received on or before the closing date will be considered before taking further action on the Small Airplane Airworthiness Review Program. All proposals submitted will be available, both before and after the closing date in the Rules Docket for examination by interested persons. Persons wishing the FAA to acknowledge receipt of their proposals submitted in response to this notice must submit with those proposals a self-addressed, stamped postcard on which the following statement is made: "Proposal to Docket No. 23494." The postcard will be date/time stamped and returned to the person submitting the proposal.

Availability of Notice

Any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Requests must identify the notice number. Persons interested in being placed on a mailing list for future notices and Notices or Proposed Rulemaking (NPRM) related to this Review Program should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

Background

Airworthiness standards are amentled periodically in order to remain current with the state-of-the-art for small airplanes certified under Part 23. During a recent review of Part 23 of the FAR, the need for new and updated airworthiness standards for small airplanes was identified and analyzed by the FAA. This review revealed a number of areas in which the present standards may not adequately reflect technical advancements. Aircraft type certification problems have been encountered where equivalent level of safety findings were necessary because the regulations were not sufficiently broad in scope to consider the new design feature. In some cases, special regulations have been required.

Improving Federal Regulations

To implement the President's policy on reducing the burdens of existing and future regulations, the general requirements of Executive Order 12291 of February 17, 1981, should be considered when preparing proposals. These requirements apply when promulgating new regulations and reviewing existing regulations and provide, in pertinent part, that:

1. Administrative decisions shall be based on adequate information concerning the need for and consequences of the proposed government action;
2. Regulatory action shall not be undertaken unless the potential benefits to society for the regulation outweigh the potential costs to society;
3. Regulatory objectives shall be chosen to maximize the net benefits to society;
4. Among alternative approaches to any given regulatory objective, the alternative involving the least cost to society shall be chosen; and
5. Agencies shall set regulatory priorities with the aim of maximizing the aggregate net benefits to society, taking into account the condition of the particular industries affected by regulations, the condition of the national economy, and other regulatory actions contemplated for the future.

Scope of the Airworthiness Review

To enable timely FAA action, the scope of this airworthiness review is intentionally limited to those proposals which are considered appropriate for the inprovement, updating and development of airworthiness standards for Part 23 airplanes.

Required Format and Information

The FAA has found during past airworthiness review programs that the processing of numerous regulatory proposals is greatly facilitated when they are submitted in a standard format and contain certain basic information. Set forth below is the format that should be used. An illustrative example is shown in the Appendix to this notice. Each proposal should include as a minimum that following information:

1. The full name of title of the proponent or a generally accepted acronym.
2. The FAR section affected.

3. A short title identifying the subject of the proposal in 10 words or less.

4. The specific regulatory language proposed to attain the objective(s) sought.

5. The language of the current rule that the proposal would change or supplement, as applicable.

6. An explanation and justification of the proposal, including answers to the following questions:

a. What is the background?

b. Why is the proposed change necessary?

c. What data, reports, records, etc., support the proposal?

d. What is the probable impact (if any) on the environment, energy consumption, and the public?

e. What is the cost to the public of this proposal and how will it benefit the public?

When more than one proposal is submitted to attain the objective sought, the information in paragraph 6 above may be stated in one of the proposals and cross-referenced in the others.

Consideration of a Conference

Dependent upon the response and extent of proposals received as a result of this notice, the FAA will consider the need for a public conference to further clarify proposals that are submitted. If a conference is considered necessary, the FAA will prepare a conference agenda containing a compilation of the proposals submitted, including the FAA proposals. The conference agenda will be distributed to each person who has submitted a proposal or who has expressed an interest in this small airplane airworthiness review. At that time, a Notice of Availability of the Small Airplane Airworthiness Review Agenda will be issued and published in the **Federal Register.** The conference agenda, if issued, will provide general information on the conference, including conference dates and location. The agenda will also contain detailed information on the scheduling of the proposals for discussion.

All proposals received in response to this notice will not necessarily appear in the conference agenda. To avoid overloading the conference, the FAA may elect to exclude certain proposals. Proposals that are received after the closing date for proposals, go beyond the scope of this review, do not follow the prescribed format, or lack the essential information previously outlined may also be excluded. Further, the FAA will exclude proposals that are not adequately justified, would require further research, or are not likely to generate fruitful discussion at the conference.

Anticipated Conference Procedures

If the decision is made to hold a conference, the following procedures will apply. Persons who plan to attend the conference, if convened, should be advised that the following procedures will be established to faciliate the workings of the conference:

1. There will be no admission fee or other charge to attend and participate. Hower, all persons attending the conference must register, either in advance or at the conference. All conference sessions will be open on a space available basis to all persons who register. If necessary to complete the conference agenda, sessions may be extended to evenings and/or additional days. If practicable, the conference could be accelerated to enable adjournment in less than the scheduled time.

2. One or more committees, each chaired by a representative of the FAA, will be established to discuss the proposals in the conference agenda.

3. All conference sessions will be recorded by a court reporter. Anyone interested in purchasing a transcript should then contact the court reporter. A copy of the court reporter's transcript will be placed in the public docket. In addition, the sessions may be tape recorded.

4. The FAA will not consider material presented at the conference by participants on any issue that is not contained in the conference agenda. Position papers or handout material may be accepted at the discretion of the committee chairperson. However, enough copies must be provided for distribution to all conference participants.

5. Proposals appearing in the conference agenda will not necessarily be included in any subsequent notice of proposed rulemaking. The FAA will decide after post-conference analysis which proposals should be revised, expanded or accepted without change, and which should be deferred or rejected. In addition, statements made by FAA participants at the conference should not be taken as expressing the final FAA position on any proposal.

Proposed and Final Rulemaking

Needed changes identified by the FAA and the proposals received in response to this notice plus the related discussions at the conference, if such a conference is held, will be considered by the FAA in developing one or more appropriate NPRMs which would be published in the **Federal Register.** This notice would provide interested persons an opportunity to comment on specific proposed amendments to Part 23 of the Federal Aviation Regulations. Final rules adopted pursuant to the notice would be issued after consideration of all relevant comments received.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Safety, Air transportation, Tires.

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

Issued in Kansas City, Mo., on January 14, 1983.

Murray E. Smith,

Director, Central Region.

Appendix.—Example Format for Proposals

The format which follows is an example for developing proposals for consideration during the Small Airplane Airworthiness Review Program. In addition, each proposal should be submitted on a separate page. The text should be within margins no more than 6½ inches wide nor more than 9 inches long, so that the proposal can be printed on 8½ x 11-inch paper.

Sample Format

Proposal No.: (Leave blank) _____
From: Mr. John Smith _____
Index: (Leave blank) _____
FAR: 23.65
Subject: Climb: All engines operating

Proposal	Current rules
Revise Section 23.65(c) to read as follows: Section 23.65 Climb: All engines operating.	Section 23.65 Climb: All engines operating.
* * *	* * *
(c) (Insert proposed language here).	(c) Each turbine engine-powered airplane must be able to maintain a steady gradient of climb of at least 4 percent at a pressure altitude of 5,000 feet and a temperature of 81 degrees F. (standard temperature plus 40 degrees F) with the airplane in the configuration prescribed in paragraph (a) of this section.

Explanation and Justification

(Outline the background, explain why the proposed change is necessary and set forth the rationale supporting the proposed change. Express costs and benefits in quantifiable and qualitative terms. Include an estimate of the probable impact (if any) on the environment, inflation, energy consumption and the public)

[FR Doc. 83-2324 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-AGL-11]

Proposed Designation of Control Zone

AGENCY: Federal Aviation Adminstration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this Federal action is to designate an airport control zone to serve Grand Rapids/Itasca County Airport, Grand Rapids, Minnesota. This results from a request by the Grand Rapids/Itasca County Airport Commission. The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions.

DATES: Comments must be received on or before March 5, 1983.

ADDRESS: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 82-AGL-11, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The airspace required would lower the floor of controlled airspace from 700 feet above the surface down to the surface within a five statute mile radius of the geographic center of Grand Rapids/Itasca County Airport. The control zone would be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time would thereafter be continuously published in the Airport/Facility Directory. In addition, aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 82-AGL-11." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administraion, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedures.

Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a control zone near Grand Rapids, Minnesota.

Section 71.171 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular AC 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Control zones, Aviation safety.

Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Grand Rapids, MN

Within a 5-mile radius of the Grand Rapids-Itasca County Airport (latitude 47°12'45" N., longitude 93°31'00" W.).

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

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

Issued in Des Plaines, Illinois, on January 18, 1983.

James M. Dennody,

Acting Director, Great Lakes Region.

[FR Doc. 83-2320 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ANM-17]

Proposed Alteration of Transition Area and Control Zone; Astoria, Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the 700 foot transition area and control zone to provide controlled airspace for aircraft executing a new ILS instrument approach procedure to Astoria Airport, Astoria, Oregon. The intended effect of this action is to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

DATE: Comments must be received before March 4, 1983.

ADDRESSES: Send comments to: Manager, Airspace and Procedures Branch, ANM-530, Federal Aviation Administration, Northwest Mountain

Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket will be available for examination by interested persons in the office of the Regional Counsel, and the informal docket will be available for examination in the Airspace and Procedures Office, during normal business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace and Procedures Specialist, ANM-534. The telephone number is (206) 433-1640.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they desire. Comments that provided the factual basis supporting the view and suggestions presented are particularly helpful in developing reasoned regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made; "Comments to Airspace Docket No. 82-ANM-17". The postcard will be date/time stamped and returned to the commenter. All communications received before March 4, 1983, will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination by interested persons.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking by submitting a request to the Airspace and Procedures Office at the address previously listed. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to §§ 71.181 and 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) because development of the ILS approach procedure requires the transition and control zone airspace be expanded to contain the new procedure within controlled airspace.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety, Control zones.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend §§ 71.181 and 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by amending the following transition area and control zone:

Astoria, Oregon [Amended]

1. By amending the control zone description by adding the words, "and within 2 miles each side of the Astoria ILS localizer east course, extending from the 5 mile radius zone to the PEN NDB (latitude 46°08'23" W., longitude 123°35'10" W.)."

2. By amending the transition area description by deleting all lthe words after, "24.5 miles northwest of the VOR;" and adding, "within an 18.5 mile radius arc of the Astoria VOR/DME extending clockwise from the 326° radial to the 347° radial; within a 26.5 mile radius arc of the Astoria VOR/DME extending clockwise from the 347° radial to the 039° radial; within an arc bordered by and between the 17.5 and 26.5 radius of the Astoria VOR/DME extending clockwise from the 039° radial to the 185° radial; within 9.5 miles north and 4.5 miles south of the Astoria ILS localizer east course extending from the PEN NDB (latitude 46°08'23" N., longitude 123°35'10" W.) to 18.5 miles east; and within 2 miles north and 2 miles south of the Astoria ILS localizer east course extending from the 5 mile radius area east to the PEN NDB."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a); (Sec 6(c), Department of Transportation Act (49 U.S.C. 1655(c); (Sec. 11.65 of the Federal Aviation Regulations (14 CFR 11.65))

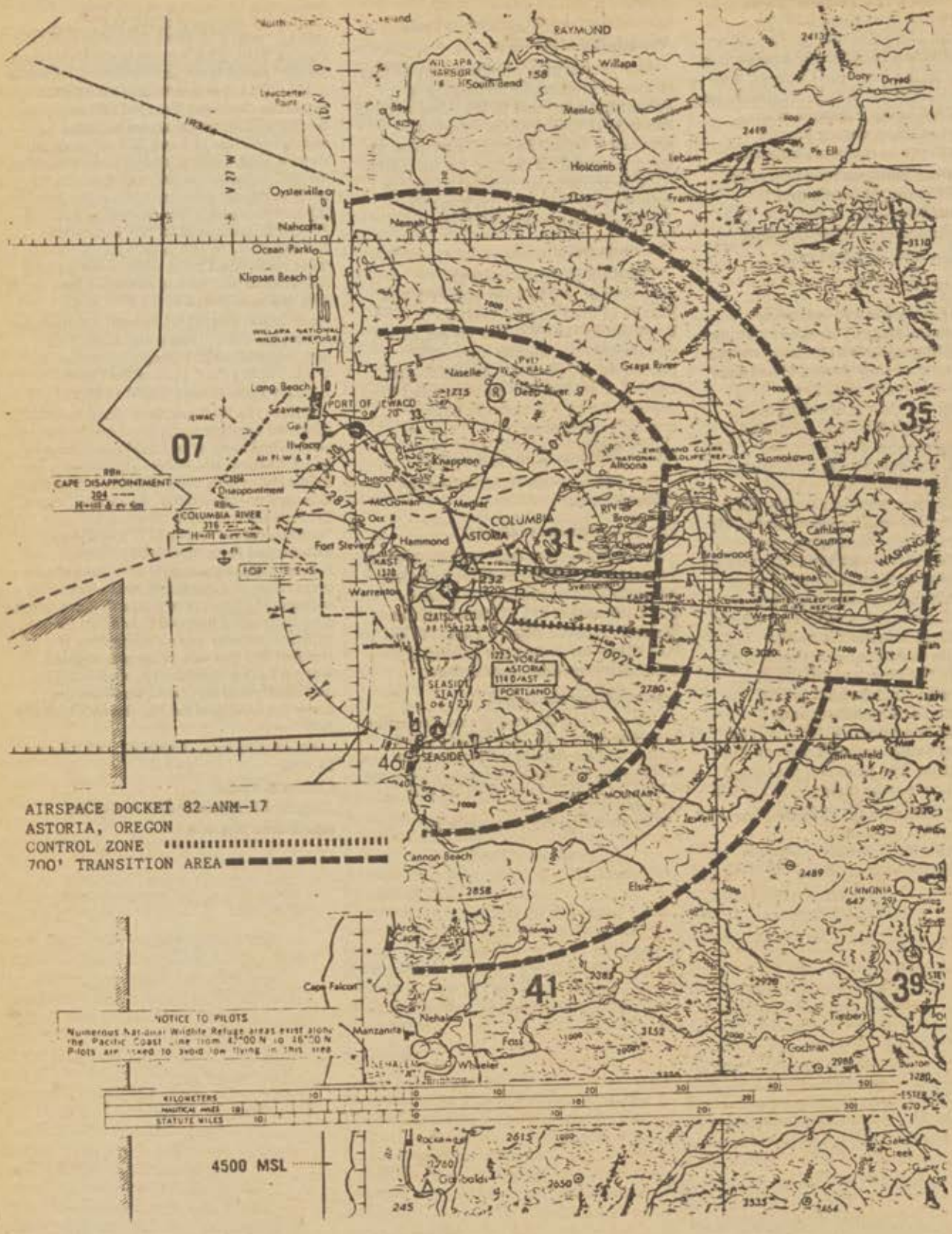
Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (14 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as th anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, on January 14, 1983.

Charles R. Foster,

Director, Northwest Mountain Region.

BILLING CODE 4910-13-M



[FR Doc. 83-2033 Filed 1-28-83; 8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 414, 416, 439 and 455

[WH-FRL 2294-5]

Organic Chemicals Manufacturing, Plastics and Synthetic Fibers, Pesticide Chemicals Manufacturing, and Pharmaceuticals Manufacturing; Intent To Transfer Confidential Information to Contractor

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule related notice.

SUMMARY: The Environmental Protection Agency (EPA) intends to transfer or to grant access to confidential information collected under Section 308 of the Clean Water Act to selected EPA contractors. This information will assist the contractors in analyzing, revising, and reviewing the technical data base which supports effluent limitations and standards and National Pollution Discharge Elimination System (NPDES) permits required by the Clean Water Act.

DATE: Comments on the notice of transfer are due February 10, 1983.

ADDRESS: Send comments to: Joseph S. Vitalis, Organic Chemicals Branch, Effluent Guidelines Division (WH-552), Office of Water Regulations and Standards, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Joseph S. Vitalis, (202) 382-7172 or the individuals specified below.

SUPPLEMENTARY INFORMATION: The Clean Water Act of 1977 requires the Environmental Protection Agency to develop, revise, and review effluent limitations and standards for industrial point sources. The Office of Water Regulations and Standards is responsible for the industrial point source categories. EPA has awarded prime contracts to Environmental Science and Engineering, Incorporated (ESE) of Gainesville, Florida including JRB Associates, McLean, VA, and Environ, Washington, DC as subcontractors (Contract No. 68-01-6701), to the E. C. Jordan Company of Portland, Maine including ESE, Gainesville, FL as a subcontractor (Contract No. 68-01-6675) and other contractors as specified below to provide technical and economic analyses and other contract support to the Office of Water Regulations and Standards.

The Clean Water Act also requires EPA and authorized States to issue NPDES permits. EPA awarded a contract to JRB Associates of McLean, VA (Contract No. 68-01-6514) to provide technical assistance and other contract support to the Office of Water Enforcement and Permits Division. The data collected from questionnaires and from field sampling and analysis surveys will be used as a source of technical information to assure that technically appropriate permit conditions are established for each plant.

One of the sources of information which EPA will use to assess effluent limitations and standards is the data collected from questionnaires sent to various industries under authority of Section 308 of the Clean Water Act. Many of the responses to these questionnaires contain fundamental information about plant size and location, wastewater composition, wastewater treatment systems, wastewater volume, production processes, and solid waste disposal practices. The survey responses which EPA will use in the course of its assessment relate to industry survey questionnaires mailed since 1975 as well as follow-up communications and submissions for selected Standard Industrial Classifications (SIC). Many of these responses contain information which has been claimed as confidential by the responding company.

The Agency has also used the authority of Section 308 to conduct numerous conventional, nonconventional and toxic pollutant parameter field sampling and analysis surveys of in-plant and end-of-pipe wastewater sources within these industries. Portions of this data also have been claimed as confidential by the sampled facilities. The data collected by EPA from questionnaires and from field sampling and analysis surveys, including portions that have been claimed as confidential, will be transferred to EPA contractors.

The industrial point source categories, designated EPA contact person, selected contractors and EPA contract numbers receiving the data, SIC codes and descriptions of industries whose data is being transferred, and remarks are listed below:

1. Plastics and Synthetic Fibers and Organic Chemicals Manufacturing Point Source Categories.

a. For further information contact: Joseph S. Vitalis, EPA (WH-552), Washington, DC 20460, FTS: 8-382-7172, COMM: 202-382-7172.

b. Contractors: ESE, Gainesville, Florida, JRB Associates, McLean, VA, and Environ, Washington, D.C., (Contract No. 68-01-6701); JRB Associates, McLean, VA (Contract No. 68-01-6514, Work Assignment No. 6); Meta Systems, Inc. Cambridge, MA and Burke-Hennesey Associates, Fairfax, VA (Contract No. 68-01-6426).

c. SIC Codes and descriptions:

SIC 2821 Plastic materials, synthetic resins and nonvulcanizable elastomers
SIC 2823 Cellulosic man-made fibers
SIC 2824 Synthetic organic fibers, except cellulosic
SIC 2865 Cyclic (coal tar) crudes and cyclic intermediates, dyes, and organic pigments (lakes and tones)
SIC 2869 Industrial organic chemicals, NEC

d. Remarks: The confidential files are currently located at JRB Associates, McLean, VA under Contract Nos. 68-01-6347 and 68-01-6348 and shall remain at JRB Associates under Contract No. 68-01-6701. Access to the confidential files under JRB Associates Contract No. 68-01-6514 shall be limited to Work Assignment No. 6 "Technical Assistance for Issuance of Permits for Industrial Dischargers."

2. Pharmaceuticals Manufacturing Point Source Category.

a. For further information contact: Frank H. Hund, EPA (WH-552), Washington, DC 20460, FTS: 8-382-7182, COMM: 202-382-7182.

b. Contractor: E.C. Jordan Company, Portland, ME and ESE, Gainesville, FL (Contract No. 68-01-6675)

c. SIC Codes and descriptions:

SIC 2831 Biological products
SIC 2833 Medicinal chemicals and botanical products
SIC 2834 Pharmaceutical products
SIC 2844 Cosmetic preparations which function as a skin treatment

d. Remarks: The confidential files will be transferred to ESE, Inc., Gainesville, FL.

3. Pesticide Chemicals Manufacturing Point Source Category.

a. For further information contact Joseph S. Vitalis, EPA (WH-552), Washington, DC 20460, FTS: 8-382-7172, COMM: 202-382-7172.

b. Contractor: ESE, Gainesville, FL (Contract No. 68-01-6701)

c. SIC Code and description: SIC 2879 Pesticides and Agricultural Chemicals, NEC.

d. Remarks: The confidential files are currently located at ESE's Miami, FL office under Contract No. 68-01-6024 and shall remain there under Contract No. 68-01-6701.

EPA has determined that it is necessary to transfer this information to

the designated contractors in order that they may carry out the work required by their contracts. The contracts and subcontracts contain all confidentiality provisions required by EPA's confidentiality regulations (40 CFR 2.302(h)(2–3)). In accordance with those regulations, sampled facilities and questionnaire respondents who have submitted confidential information have ten days from the date of this notice to comment on EPA's proposed transfer of this information to this contractor for the purposes outlined above (40 CFR 2.302(h)(2–3)).

Dated: January 13, 1983.

Rebecca W. Hammer,

Acting Assistant Administrator for Water.

[FR Doc. 83-2430 Filed 1-28-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3710, 3720, 3730, 3740, 3800, 3810, 3820, 3830, 3840, 3850, 3860 and 3870

Intent To Propose Rulemaking; Extension of Comment Period; Acquisition of Rights and Development of Mineral Resources

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Extension of Comment Period on Intent to Propose Rulemaking.

SUMMARY: A notice of intent to propose rulemaking requesting the public to comment on regulations dealing with acquistions of rights and development of mineral resources under the mining laws (30 U.S.C. 22 et seq.) and other Special Acts of Congress was published in the **Federal Register** on December 27, 1982 (47 FR 57521). That notice requested that comments be submitted by February 1, 1983. This notice of extension extends the comment period from February 1, 1983, to March 1, 1983.

DATE: Comments should be submitted by March 1, 1983. Comments received or postmarked after that date may not be considered in the decisionmaking process on the proposed rulemaking.

ADDRESS: Comments should be addressed to: Director (140), Bureau of Land Management, 18th and C Streets, NW., Washington, D.C. 20240.

Dated: January 21, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-2583 Filed 1-28-83; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 64, 65, and 70

[Docket No. FEMA 6486]

National Flood Insurance Program; Elimination of Documents

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) proposes changes to 44 CFR Parts 64, 65 & 70 which will allow for the elimination of certain documents published in the **Federal Register** for the National Flood Insurance Program (NFIP). These documents contain listings of communities with regard to their flood hazard identification, eligibility for regular program insurance and descriptions of properties inadvertently included within FEMA delineations of Special Flood Hazard Areas. FEMA proposes this action as a means of decreasing the costs of implementing the NFIP while maintaining the effectiveness of its administrative actions.

DATE: Comments are due by April 1, 1983.

ADDRESS: Please send comments to: Rules Docket Clerk, Room 835, Office of General Counsel, Federal Emergency Management Agency, Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287–0270.

SUPPLEMENTARY INFORMATION: Due to budgetary restraints, FEMA has been examining its administrative procedures to determine means of decreasing the cost of implementing the National Flood Insurance Program (NFIP) while maintaining the effectiveness of its administrative actions. During this examination, the extent, costs and effectiveness of **Federal Register** publications were reviewed. This review covered all phases of public notification of FEMA's actions under the NFIP. FEMA determined that many of its **Federal Register** publications could be eliminated since other, more direct means of notification assure knowledge of these actions by the concerned public. Elimination of these publications requires the amendment, revision or removal of some of the sections in Chapter 1 of Title 44 of the Code of Federal Regulations.

In the course of its administrative procedures which affect the actions listed in the publications being eliminated, FEMA directly notifies the affected community or individual and provides copies of notifications to States, lenders, insurance agents, and affected Federal and private agencies. In addition, FEMA publishes bi-monthly its National Flood Insurance Program—Community Status Book which contains updated hazard identification and eligibility information. These notifications and publications, along with FEMA's response capabilities to direct inquiry, obviate the need for nationwide information dissemination, through **Federal Register** publication, of listings and property descriptions.

On August 4, 1982, at 47 FR 33721–33722 FEMA published in the **Federal Register** a Notice of Intent regarding the above actions and requested comments. Five letters of comment were received. Comments are listed below with FEMA's response to them:

A. Some comments questioned both the timeliness of issuance and the accuracy of data in the Community Status Book.

From the cut-off date for updated information to the mailing of the Community Status Book, six to eight weeks will elapse. Of the **Federal Register** publications suggested for elimination in the Notice of Intent, only the publication of communities entering the NFIP, and becoming eligible for flood insurance coverage, would have an impact on the timely implementation of program activities. Therefore, listing of newly eligible communities will continue to be published under § 64.6. Our research shows that other cumulative listings currently being published in the **Federal Register** do not occur appreciably prior to Community Status Book publication and, in some cases, actually occur after it. In addition, recent computer input capabilities will allow the Community Status Book to be even more up-to-date. Errors and new information can be promptly entered by FEMA into the computer data bank which generates the book. FEMA will also be examining other means to improve both the book's accuracy and rapid dissemination.

Any individual or entity which has questions regarding a community's NFIP status or wishes to be placed on the book's mailing list may call the NFIP toll free at (800) 638–6620. Errors in the book should be brought to the attention of FEMA by writing or contacting Mr. Richard E. Sanderson at the address or phone number noted in the address section of this notice.

B. One comment noted that the U.S. Postal Service should not be relied upon to disseminate information.

FEMA, as a Federal Agency, must use the U.S. Postal Service for its mailing operations. Indeed, this Agency has found the U.S. Postal Service very reliable. All letter notifications to individual appellants, communities and States are sent by "Certified Mail—Return Receipt Requested" so that when mail is not received, we are aware of it. Mailing of letter copies, maps and studies to other individuals or organizations is accomplished through first-class or bulk distribution. Much of this mailing (in particular, the Community Status Book) depends upon mailing lists. It is, therefore, important that recipients inform us of any changes in these addresses. Requests for specific community maps can be telephoned to the toll-free number noted above or can be sent in writing to: NFIP, P.O. Box 34604, Bethesda, Maryland 20817. Once the request for a map has been made, the requestor will automatically receive revisions of that map. Requests for copies of letter notifications should be made to Mr. Sanderson's address noted above.

C. A comment was received that monies saved from FEMA's economy efforts with regard to **Federal Register** NFIP publications should remain in the NFIP.

This is the case. The Notice of Intent states that the saved funds can be reassigned to other emergency management areas of FEMA. Since funds for the publications are from the annual appropriations for the NFIP, saved funds would be utilized for other NFIP purposes.

D. A private organization felt that the only way for it to acquire information about Letters of Map Amendment is by reference to the **Federal Register**.

FEMA issues Letters of Map Amendment under Part 70 to owners of real property who submit data which show that their real property is not within the Special Flood Hazard Area (SFHA) delineated on their community's flood map. Owing to the limitations of map scale, redelineation of the SFHA to show the exclusion of the property in question is not a practical solution. A Letter of Map Amendment is issued to clearly define the property's boundaries and to describe the implications of the determination with regard to NFIP for the property owner.

In issuing Part 70 Letters of Map Amendment, FEMA's primary concern is with the individual, community, State, lender and/or insurance broker involved. Results of the review and evaluation of requests for the Letters of Map Amendment are sent directly to these entities. Since the action is of direct concern to these entities, and since finalized base flood elevations are not affected, there is no need for general public dissemination of this information.

Of the comments received, the majority of responses were concerned with the adequacy of the Community Status Book as a substitute for **Federal Register** publication. There are several points to reiterate in this regard: (1) FEMA will continue **Federal Register** publication of suspension of, withdrawal from and initial eligibility for communities in the NFIP; (2) The publications being eliminated, with the exception of Part 70 Letters of Map Amendment, are all generated by mapping activities. These maps—have, in nearly all cases, been distributed prior to **Federal Register** publication; (3) FEMA has telecommunication abilities to respond to requests for map copies and information on communities; and (4) FEMA also employs letter notification of its actions to the communities or individuals, States, and the related organizations involved.

Each of the changes to 44 CFR are at the end of this proposed rule and are numbered. As a guide to the effect of each of the changes is the following:

Change 1 (paragraph a) will eliminate publication in the **Federal Register** of lists of communities eligible for increased insurance coverages under the Regular Program.

Change 2 is necessitated for conformance of § 64.3(c) with the changes to Part 65.

Change 3 is necessitated for conformance of § 65.1 with the changes to the remainder of Part 65.

Change 4 will eliminate publication in the **Federal Register** of lists of FHBMs.

Change 5 will eliminate publication in the **Federal Register** of lists of effective FIRMs.

Change 7 will eliminate publication in the **Federal Register** of lists of withdrawn FHBMs.

Change 8 will eliminate publication in the **Federal Register** of lists of minimally flood prone communities.

Change 9 will eliminate publication in the **Federal Register** of lists of non-flood prone communities.

Change 10 will eliminate a duplication.

Change 11 will eliminate publication in the **Federal Register** of descriptions of properties inadvertently shown within Special Flood Hazard Areas on FIRMs.

The August 4 Notice of Intent also contained information on FEMA's desire to change the format of Part 67 newspaper notices and final base flood elevation determination rules. Since the changes in format are not rulemaking, they are being published in the **Federal Register** as a separate notice. No comments were received on those format changes during the comment period.

An environmental assessment is not necessary because this rule change is procedural and has no effect on the quality of the human environment. This rule change is not a "major rule" within the context of Executive Order 12291. This rule does not have a significant economic impact on a substantial number of small entities because it does not affect actual notifications received by communities regarding the actions discussed in this rule. The proposed rule changes do not involve the collection of information under 44 U.S.C. 3504(h).

List of Subjects in 44 CFR Parts 64, 65, and 70

Flood insurance, Flood plains.

For the reasons set out in the Notice of Intent and the preamble above, Parts 64, 65 and 70 of Chapter I, of Title 44, Code of Federal Regulations are proposed to be amended, revised or removed as follows:

PART 64—COMMUNITIES ELIGIBLE FOR SALE OF INSURANCE

(1) Section 64.1 is revised to read as follows:

§ 64.1 Purpose of part.

(a) 42 U.S.C. 4012(c), 4022 and 4102 require that flood insurance in the maximum limits of coverage under the regular program shall be offered in communities only after the Associate Director, State and Local Programs and Support (herein the Associate Director) has: (1) Identified the areas of special flood, mudslide (i.e. and flood) or flood-related erosion hazards within the community; and/or (2) completed a risk study for the applicant community. The priorities for conducting such risk studies are set forth in 59.23 and 60.25 of this subchapter. A purpose of this part is to define the types of zones which the Agency will use for identifying the hazard areas on maps.

(b) 42 U.S.C. 4056 authorizes an emergency implementation of the National Flood Insurance Program whereby the Associate Director may make subsidized coverage available to eligible communities prior to the completion of detailed risk studies for such areas. This part also describes procedures under the emergency program and lists communities which become eligible under the NFIP.

(2) Section 64.3(c) (1) and (2) are proposed to be revised as follows:

§ 64.3 Flood Insurance maps.

* * * * *

(c) * * *

(1) The information office of the state agency or agencies designated by statute or the respective Governors to cooperate with the Associate Director in implementing the Program whenever a community becomes eligible for Program participation and the sale of insurance pursuant to this section or is identified as flood prone.

(2) One or more official locations within the community in which flood insurance is offered.

* * * * *

PART 65—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

(3) Section 65.1 is revised to read as follows:

§ 65.1 Purpose of part.

42 U.S.C. 4101 authorizes the Director to identify and publish information with respect to all areas within the United States having special flood, mudslide (i.e. mudflow) and flood-related erosion hazards. The purpose of this part is to outline the steps a community needs to take in order to assist the Agency's effort in providing up-to-date identification and publication, in the form of the maps described in Part 64, on special flood, mudslide (i.e. mudflow) and flood-related erosion hazards.

§ 65.3 [Removed]

(4) Section 65.3 is removed.

§ 65.4 [Removed]

(5) Section 65.4 is removed.

§ 65.5 [Redesignated as § 65.3]

(6) Section 65.5 is redesignated as § 65.3.

§ 65.6 [Removed]

(7) Section 65.6 is removed.

§ 65.7 [Removed]

(8) Section 65.7 is removed.

§ 65.8 [Removed]

(9) Section 65.8 is removed.

§ 65.9 [Removed]

(10) Section 65.9 is removed.

PART 70—PROCEDURE FOR MAP CORRECTION

(11) Section 70.7(a) is revised to read as follows:

§ 70.7 Notice of letter of map amendment.

(a) The Associate Director, State and Local Programs and Support shall not publish a notice in the Federal Register that the FIRM for a particular community has been amended by letter determination pursuant to this part unless such amendment includes alteration or change of base flood elevations established pursuant to Part 67. Where no change of base flood elevations has occurred, the Letter of Map Amendment provided under §§ 70.5 and 70.6 serves to inform the parties affected.

(b) In addition, FEMA will eliminate publication in the Federal Register of cumulative listings of suspended or sanctioned communities under the National Flood Insurance Program (NFIP). No change to 44 CFR is required for this action. Suspension, new eligibility and NFIP withdrawal actions will continue to be published under § 64.6.

(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 the Associate Director)

Issued: January 20, 1983.

Lee Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 83-2358 Filed 1-28-83; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 5, 15, 21, 73, 74, 78, and 94

[Gen. Docket No. 83-10; FCC 83-4]

Expansion of Notification and Verification Equipment Authorization Procedures

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to simplify the required equipment authorization for a number of categories of radio frequency equipment. This action is necessary to reduce the time spent by applicants in obtaining approval for this equipment.

DATES: Comments must be filed on or before April 21, 1983, and reply comments must be filed on or before May 23, 1983.

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

FOR FURTHER INFORMATION CONTACT: John A. Reed, Office of Science and Technology, (202) 653-6288.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 2

Communications equipment, Imports, Radio.

47 CFR Part 5

Research.

47 CFR Part 15

Communications equipment, Labeling, Radio, Reporting and Recordkeeping requirements.

47 CFR Part 21

Communications common carriers, Point-to-point microwave, Transmissions.

47 CFR Part 73

Communications equipment, Radio broadcast.

47 CFR Part 74

Communications equipment, Television.

47 CFR Part 78

Cable television, Communications equipment, Radio, Reporting and recordkeeping requirements.

47 CFR Part 94

Communications equipment, Radio.

Adopted: January 13, 1983.

Released: January 21, 1983.

By the Commission: Commissioner Quello concurring and issuing a statement.

1. On (fill in agenda date), 1982, this Commission adopted a Report and Order in Gen. Docket No. 82-242 instituting a new form of equipment authorization known as notification. This authorization procedure will be used, along with the other existing authorization procedures, to determine if equipment is capable of complying with the appropriate regulations. Such a determination must be made before the equipment can be marketed to the public, in accordance with § 2.803 of the regulations (47 CFR 2.803). Notification differs from the other forms of equipment authorizations in that the detailed measurement data and other information normally supplied with the application will not be required unless otherwise requested. The question of which types of equipment should be placed under notification was not addressed in Gen. Docket 82-242. It was stated that the inclusion of equipment under notification, along with an expansion of the application of existing verification procedure, would be considered in separate rule making proceedings. That is the intent of this proceeding.

General Considerations

2. A number of comments filed in Docket No. 82-242 expressed concern that under notification (and certainly under verification) some manufacturers would begin to produce equipment that was not in compliance with our regulations. This possibility could result from simple error, such as a misinterpretation of the regulations, or through an intentional manipulation of the equipment design in an attempt to reduce the price of the equipment, the cost of its production or the cost of testing the equipment. The probability of detecting problems of this sort before equipment was released to the marketplace would be lower under a relaxed equipment authorization program due to a lack of technical review. Thus, it is argued that there would be an increased probability for interference-causing equipment being released for public use.

3. In addition to being cautious with the selection of equipment to be placed under notification and verification, an efficient sampling program could deter the entry of noncomplying equipment into the market place. Such a program has always been desirable but has been used only sporadically because of other staffing demands. We intend to increase our degree of sampling with the institution of notification.

4. The sampling of equipment, both post-grant and pre-grant, has an advantage over the testing of prototype equipment normally submitted for type approval or, when requested, with certification or type acceptance. It has been alleged that some prototypes may not represent the quality of the equipment actually marketed to the public. As resources permit, our sampling program will test market equipment and will, therefore, be able to obtain a more accurate assessment of the equipment actually used by the public. Thus, the sampling program could provide us with a greater ability for determining equipment compliance than previously provided under the other authorization procedures without post-grant sampling. The sampling program would also include equipment approved under type acceptance, type approval and certification in addition to verification and notification.

5. In the process of changing the type of equipment authorization procedure employed, we must pay particular attention to equipment acceptable for use in more than one radio service. For example, many transmitters approved for operation under Parts 21, 22, 74, 87, 94 or 95 or a combination of these rule parts.[1] Requiring different forms of equipment authorizations for different radio services even though the same equipment is employed, would pose an unacceptable economic and recordkeeping burden on the manufacturers. While it would be possible to be consistent in selecting the form of equipment authorization such that the same authorization procedure is applied to similar equipment categories even though they may be used in different radio services, it is felt that this solution would be difficult to achieve and would still cause some confusion. Therefore, we are proposing an amendment to the regulations that would state that for equipment which requires a grant of notification, approval of the equipment under type acceptance, certification or type approval shall be deemed to constitute approval of the equipment under notification. Comments are requested concerning the feasibility of this approach.

6. The specific proposal for equipment categories to be placed under notification and verification are contained below. This discussion has been separated into three parts for clarification: The first two parts concern the categories of equipment which are proposed for placement under verification and notification while the third part discusses those equipment categories for which no changes are proposed in the type of authorization required. Comments are requested concerning the suitability of the specific authorization types for the equipment discussed. These comments should be concerned not only with the interference potential of the equipment to other radio services but also the interference impact to the radio service in which the equipment is operated. We are particularly interested in any probabilities of interference which could result in a safety problem, e.g., interference to air navigation operations.

7. Since the proposed procedures are intended to accelerate the issuance of an authorization to the manufacturer, reduce the amount of paperwork submitted to the Commission, and reduce the Commission's processing workload, we propose to make the new procedures effective at the earliest possible dated, i.e., on the effective date of the order issued in this proceeding. Attention is called to the fact that the proposed changes will not afect the marketing status of equipment approved under any earlier, more stringent equipment authorization. We propose further that all applicants for equipment authorizations received after the final rules in this proceeding will be examined under the new procedures adopted herein.

Verification

8. The expansion of the verification procedure should proceed with even more caution than applied to notification. Under verification, no information is submitted to this Commission. We may not even be aware of the equipment models being manufactured or marketed. Therefore, only that equipment which possesses a low potential for causing interference problems should be considered for inclusion. At the present time, the only equipment included under verification is Class A (and some Class B) computing equipment with a waiver action allowing certain cattle identification systems. The cattle identification system would normally be used in rural areas. The computing equipment is marketed primarily for use in a commercial, industrial or business environment and would not normally be used near residential operations. Thus, the equipment that would receive the interference should be in the vicinity of the computing device and is equipment that is likely to be under the same ownership as the computing device. Further, the manufacturer of the computing device has an incentive to shield these devices from sources of outside interference. This shielding should help to reduce the level of radio frequency energy emitted by the device, reducing the interference-causing potential of the radio equipment should not be adversely affected from interference from these computing devices making verification an appropriate form of equipment authorization.

9. Because verification is least burdensome to the applicant and would permit the most flexibility in using Commission resources, it would be preferable to use verification to the greatest extent possible. In exercising caution at this early state, we propose to expand the use verification only for those equipment categories which seldom undergo complete or major design change, which have already demonstrated an ability not to cause harmful interference problems, and for which no major changes are expected in

[1] Part 21—Domestic Public Fixed Radio Services (Other Than Maritime Mobile); Part 22—Domestic Public Mobile Radio Services; Part 74—Experimental, Auxiliary, and Special Broadcast and other Program Distributional Services; Part 87—Aviation Services; Part 90—Private Land Mobile Radio Services; Part 94—Private Operational-Fixed Microwave Service; Part 95—Personal Radio Services.

the type of service offered. Only two categories of equipment appear to comply with all of these requirements: television broadcast receivers and FM broadcast receivers, both subject to certification under Part 15 (Radio Frequency Devices) of the regulations. These devices account for more than 40 percent of the equipment applications received by the FCC Laboratory.

10. Compliance with the emission standards has not presented a difficulty for television receivers. However, these receivers are also required to meet a number of performance standards such as UHF detent tuning and tuner noise figure standards. While such performance standards affect the received picture quality and ease of operation, these parameters have no bearing on the ability of the receiver to cause harmful interference to other users. Our experience suggests that manufacturer compliance with these performance standards has been excellent. We do not believe that certification process is necessary to maintain this compliance. These devices can, therefore, be included under verification. We have proposed deleting all of the present reporting requirements for the performance standards, unless such information is specifically requested, with the exception of the annual UHF noise figure performance report. However, we do not want this action to be viewed either by industry or the public as a sign that we are foregoing our responsibility and commitment to ensure continued compliance with these performance standards. We will continue to enforce the all-channel regulations, the peak picture sensitivity standards and the UHF tuner noise figure requirement and will aid this enforcement with our expanded sampling program. We intended, initially, to examine closely production units of television receivers for compliance with these performance standards. Should certain television models be found to no longer be in compliance with these standards, sufficient safeguards exist both in our regulations and in the Communications Act of 1934, as amended (47 U.S.C. 501, 502, 503) to either prosecute violations of our regulations or to revoke an equipment authorization, as necessary. Comments are requested as to what other actions, if any would be needed to ensure the continued compliance with these performance standards.

10a. It should be noted that Pub. L. 97-259, effective September 13, 1982, allows this Commission to control the susceptibility of television receivers to interference from other sources. In fact, were we to impose such standards, initial design problems could result. We are presently studying what steps should be taken in this area and will coordinate our efforts with the final results of this proceeding to alleviate any problems which may occur. For further information, reference is made to General Docket No. 78-369, Further Notice of Inquiry, released July 16, 1981, FCC 81-267.

11. Because our records indicate that FM broadcast receivers have caused no interference problems, we are proposing to include these devices under verification. While it is possible that any rule making actions on the susceptibility of receivers to outside interference sources could also affect FM receivers, causing design problems similar to that discussed for television receivers, there are two pending Commission actions which may affect the design of FM broadcast receivers. These involve the proposals in docket 21310 (Memorandum Opinion and Order and Notice of Proposed Rule Making, FCC 80-434, 45 FR 55491) and in docket 82-536 (Notice of Proposed Rule Making, released August 19, 1982, 47 FR 36235) that would allow the transmission of quadraphonic FM broadcast signals. At this time, we do not anticipate that the introduction of quadraphonic broadcasting would cause any substantial changes in the receiver design. The potential for harmful interference from these receivers is not expected to increase.

Notification

12. At the start of the notification program, we intend to be highly selective in our choice of equipment until enough experience has been gained in the administration of this procedure. In general, because of the higher output power and the accompanying higher levels of unwanted emissions with their greater potential for causing interference, any relaxation in the equipment authorization for licensed transmitters will be to notification and not verification.

13. Part 5 (Experimental Radio Service (Other Than Broadcast)) of the regulations contains two categories of equipment subject to the type acceptance requirements: Wildlife tracking transmitters and ocean buoy tracking and telemetering transmitters. Both of these Part 5 transmitters are manufactured in small quantities and are low powered devices, less than 100 milliwatts for ocean buoy tracking and telemetering transmitters and less than 10 milliwatts for wildlife tracking transmitters. The usual operating locations are in remote areas where the potential for interference is minimal. Moreover, no interference problems have been reported from the use of this equipment. We therefore propose to require a grant of notification in lieu of type acceptance.

14. Because receivers (Part 15—Radio Frequency Devices) generate radio frequency energy capable of causing harmful interference, those receivers in the frequency range of 30 to 890 MHZ and CB receivers are required to be certificated. However, with the exception of certain types of receivers, very few interference problems have actually been generated by these devices. Notable exceptions to this statement are CB receivers and the superregenerative receivers used primarily with garage door openers and security alarm systems. We therefore propose to include all receivers in the frequency range of 30 to 890 NHz under the notification procedure excepting those receivers subject § 15.63(d) which are associated with transmitters operating under §§ 15.122, 15.184 or 15.201-15.215 of our regulations. CB receivers are outside of this frequency range and are covered under a separate rule section (§ 15.59). Because of the interference problems from CB receivers and superregenerative receivers, we intend to retain certification for this equipment. Should a superregenerative receiver used with equipment other than a garage door opener or a security alarm system be submitted for approval under notification, it is likely that measurement data or a sample would be requested prior to issuing a grant of equipment authorization. Similarly, we would prefer to retain those receivers known as "scanners" under certification due to their ability to cause interference problems but are unsure as to how these receivers should be designated without including a number of other receiver types. For example, receivers with conventional tuning that may also scan a priority channel or a FM broadcast receiver with a built-in "seek and scan" capability should not be required to be retained under certification. Comments are requested as to how this action could be achieved. We also are not proposing changing the requirement to obtain type approval of certain receivers used under Parts 81 (Stations on Land in the Maritime Services and Alaska-Public Fixed Stations) and 83 (Stations on Shipboard in the Maritime Services). This equipment is designed to protect safety of life. The requirements placed on its testing should not be relaxed.

15. It is realized that only a minimum benefit to the public would be incurred from placing the receiver portion of a

transceiver under notification while requiring a different type of approval for the transmitter portion. The paperwork required for the submission for an equipment authorization would be only partially reduced while the time required for the Commission to process the application would remain unchanged. However, not all receivers would be part of a transceiver. In addition, any reduction in the paperwork is considered to be beneficial. In time, othe categories of transmitters would likely be placed under notification. At that point, the full benefits from this action could be realized.

16. Much of the Part 73 (Radio Broadcast Services) equipment appears to be suitable for inclusion under notification. Modulation monitors are currently being considered for deletion from our standards under Docket 81-698 (Notice of Proposed Rule Making, released October 15, 1981, FCC 81-448) and will not be discussed further in this proceeding. AM antenna phase monitors are produced in limited quantities and are not considered to be interference-causing devices. Admittedly, a poorly designed monitor might not reveal a station's improper antenna pattern which could result in harmful interference, but this is not felt to be a likely occurrence. Broadcast transmitters (AM, FM and television) are fixed operations so that any source of interference should be readily detectable. We also believe that broadcast station licensees would readily cooperate to solve any interference problems. Thus, AM broadcast antenna phase monitors and AM, FM, and TV broadcast transmitters are proposed for inclusion under notification.

17. A further category of equipment which could be included under notification is transmitters used in the fixed point-to-point microwave services. These operations are primarily conducted under rule Parts 21, 74, 78 (Cable Television Relay Service) and 94. All of these radio services currently require the type acceptance of transmitters [2], require extensive coordination for licensing, and are further constrained by a number of operational requirements. Because these transmitters are operated as fixed point-to-point (Part 74 television pickup stations and other mobile microwave operations are not considered in this proposal) transmissions, interference would be confined to a relatively small area. Additionally, it would be a relatively simple matter to detect any source of interference, should it occur, as these are fixed stations. Since no major interference problems have been evident from these systems, we feel that notification is an appropriate class of equipment authorization. We are also proposing an amendment to § 2.975(a)(2) of the regulations to require that the modulated emission utilized for the microwave transmissions be described whenever application is made for notification. This information is currently requested under the type acceptance procedure and will be similarly requested during notification. Placing this requirement in the regulations will avoid the time delay which would be imposed from having the applicant submit additional information after the original filing of an application for notification.

[2] Some equipment operated under Part 74 does not require any type of equipment authorization. We are not proposing to change this.

Unchanged Equipment Authorizations

18. As can be seen from the earlier discussions, we have not proposed changing the type of authorization associated with equipment used under rule Parts 18 (Industrial, Scientific and Medical (ISM) Equipment), 22, 81, 83, 87, 90, 95 or 97 (Amateur Radio Service). Changes have been proposed for some, but not all, of the equipment associated with rule Parts 15, 21, 73 and 74. Our reservations are based on four concerns: (1) Interference problems associated with the equipment; (2) a high level of congestion in the service; (3) the safety aspects of the affected radio service; and (4) the sharing of frequencies with government users. In some cases, the mobility of the equipment associated with the radio service contributed to our reluctance to change the equipment authorization.[3]

19. In some of these radio services, it may be important to strengthen rather than relax our review of the equipment. This can be accomplished by retaining the existing equipment authorization program while instituting a strong sampling schedule. Once both notification and the sampling program have become firmly established, it is possible that we would reconsider changing the required level of authorization for additional categories of equipment.

[3] Equipment operated under Part 18 is the only exception to these reservations. That equipment is being considered under an outstanding rule making item in Docket No. 20718 (Notice of Proposed Rule Making, released September 29, 1978, 43 FR 46326). Any action changing the type of equipment authorization will be made in that separate item.

Enforcement

20. By expanding the use of verification and notification, we are making the equipment authorization program less burdensome for certain equipment. Our marketing regulations require, with a few exceptions, that radio frequency devices subject to technical standards in our rules shall comply with these standards when the devices are marketed. In addition, if the rules require that the device be subject to a specific type of equipment authorization, our marketing rules require the manufacturer/vendor to acquire the appropriate equipment authorization as a prerequisite for legal marketing. Thus, those devices for which we are proposing notification will be expected not only to hold a grant of notification, but to actually comply with our technical standards before the device is marketed. Similarly, for devices subject to verification, the device will be expected to be verified as well as to actually comply with our technical standards before the device is marketed even though no information is filed with the Commission and no document is issued.

21. The sampling program which was extensively discussed in the Report and Order to General Docket No. 82-242 will be used to determine that compliance with the appropriate regulations continues. The Communications Act (47 U.S.C. 501, 502, 503) allows us some flexibility prosecuting violations of these regulations. We intend to use this authority, especially the direct forfeiture authority contained in Section 503, to the greatest extent possible when noncompliance is found by our sampling program. In this manner, we hope to deter the entry into the marketplace of noncomplying equipment. It is felt that, in most cases, these methods as such will not be necessary. Indeed, we are confident that the majority of equipment suppliers attempt to follow our regulations.

Administrative Provisions

22. *Regulatory Flexibility Act Initial Analysis:* I. Reason for actions: The proposed changes will place equipment under the recently instituted notification equipment authorization procedure and under the existing verification procedure.

II. The objective: The objective is to reduce the amount of time needed for an applicant to obtain an equipment authorization while, at the same time, allowing the Commission some flexibility with its staff resources. A sampling program will also be instituted

to strengthen the equipment authorization program.

III. Legal basis: Action is proposed in accordance with Sections 4(i), 302, 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended.

IV. Description, potential impact and number of small entities affected: The proposed changes in the regulations would affect a number of entities both large and small. An estimate of the number of such entities affected is not obtainable. Radio frequency equipment suppliers, importers and manufacturers will not have to file the large volumes of paperwork formerly required and could begin marketing equipment at an earlier date. Equipment testing laboratories should experience no effect as we will still require the radio frequency equipment to be tested to show compliance with the regulations prior to marketing of the equipment. It is therefore felt that any impact from this proceeding would be beneficial to those affected.

V. Recording, record keeping and other compliance requirements: None beyond that required under the existing regulations.

VI. Federal rules which overlap, duplicate or conflict with this rule: None.

VII. Any significant alternative minimizing impact on small entities and consistent with stated objectives: None.

23. For the purpose of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts the Notice of Proposed Rule Making until the time that a Public Notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final Order disposing of the matter is issued by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation, addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR § 1.1231. A summary of these Commission procedures governing *ex parte* presentations in informal rule making is available from the Commission's Consumer Assistance Office, Washington, D.C. 20554.

24. The proposed amendments to the regulations as set forth in Appendix A are issued pursuant to the authority contained in Sections 4(i), 302, 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended. In accordance with the applicable procedures set forth in § 1.415 of the regulations, interested persons may file Comments on or before April 21, 1983, and Reply Comments on or before May 23, 1983.

All relevant and timely comments will be considered. In reaching its decision, the commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

25. In accordance with the provisions of § 1.419 of the regulations, an original and five copies of all comments, reply comments, briefs and other documents shall be furnished the Commission. To obtain the widest possible response in this proceeding, informal comments (without extra copies) will be accepted, but these comments should make specific reference to this proceeding. Responses will be available for public inspection during regular working hours in the Commission's Public Reference Room located at its headquarters at 1919 M Street, NW., Washington, D.C. 20554. For further information, contact John A. Reed at (202) 653-6288.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 2—[AMENDED]

A. Title 47 of the Code of Federal Regulations, Part 2, is amended as follows:

1. A new paragraph (d) is added to § 2.904 to read as follows:

§ 2.904 Notification.

* * * * *

(d) For equipment which requires a grant of notification, approval under type acceptance, type approval or certification shall be deemed to constitute approval of the equipment under notification.

2. A new paragraph (a)(2)(v) is added to § 2.975 and paragraphs (a)(2)(iii) and (a)(2)(iv) are revised to read as follows:

§ 2.975 Application for notification.

(a) * * *

(2) * * *

(iii) Rated frequency tolerance (if applicable);

(iv) Rated radio frequency power output, if applicable (if variable, give the range); and

(v) If the equipment is a microwave transmitter, an explanation of the type of emission employed.

* * * * *

PART 5—[AMENDED]

B. Title 47 of the Code of Federal Regulations, Part 5, is amended as follows:

Section 5.109 is revised to read as follows:

§ 5.109 Acceptability of transmitters for licensing.

All transmitters used at stations licensed for wildlife and ocean buoy tracking and telemetering operations pursuant to § 5.108 shall be type accepted or notified pursuant to Subpart J of Part 2 of this chapter. After (effective date), only grants of notification will be issued for this equipment.

PART 15—[AMENDED]

C. Title 47 of the Code of Federal Regulations, Part 15 is amended as follows:

1. A new § 15.36 is added to read as follows:

§ 15.36 Notification.

When the rules in this part require a device to be notified, application therefor shall be filed on FCC Form 731 pursuant to the procedures set out in Subpart J of Part 2 of this chapter.

2. Paragraph (a) of § 15.41 is revised to read as follows:

§ 15.41 Identification of an authorized device.

(a) Each device authorized under a grant of equipment authorization issued under this part shall be labeled pursuant to subpart J of Part 2 of this chapter.

* * * * *

3. A new paragraph (d) is added to § 15.46 to read as follows:

§ 15.46 Photographs required.

* * * * *

(d) Unless otherwise requested, photographs are not required for equipment subject to notification.

4. In § 15.48, remove the words "certification or type approval" and insert in lieu thereof the words "a grant of equipment authorization" in paragraph (a) and add a new paragraph (e), to read as follows:

§ 15.48 Private label device—Multiple listing of a device.

(a) When the same or essentially the same device will be marketed under more than one trade name or model number (as in the case of private label equipment), a grant of equipment authorization must be requested separately for each additional trade name or model number.

* * * * *

(e) For notified equipment, notification for additional model numbers must be included in the original application. If notification is requested after the basic device has been notified, a complete application pursuant to § 2.975 shall be filed. The statement attesting compliance shall be modified to explain that the device covered by the application is identical to the device originally measured for compliance and which has been notified, specifying the identification of the notified device and the date notification was granted.

5. A new paragraph (c) is added to § 15.49 to read as follows:

§ 15.49 Changes in an authorized device.

* * * * *

(c) Changes in a notified device may be made under § 2.977 of Part 2 of this chapter.

6. A new paragraph (b)(3) is added and paragraph (c) is revised for § 15.66 to read as follows:

§ 15.66 All-channel television broadcast reception: Noise figure.

* * * * *

(b) * * *

(3) Unless otherwise requested, the information requested in paragraphs (b)(1) and (b)(2) of this section is not required to be submitted for those receivers subject to verification.

(c) Followup proof of performance required for a TV receiver certificated or verified on or after October 1, 1979. Each year after certification has been granted or verification has been performed for a specific model, the grantee shall file a report giving the actual UHF noise figure performance of the units of that model as actually measured during that year.

* * * * *

7. Section 15.69 is revised to read as follows:

§ 15.69 Equipment authorization for a receiver.

(a) Every receiver encompassed by §§ 15.59 and 15.63 requires an equipment authorization to show compliance with the technical specifications set out in these rules.

(b) The particular equipment authorization required is listed below:

Type of receiver	Equipment authorization required
1. TV broadcast receiver	Verification.
2. FM broadcast receiver	Verification.
3. CB receiver	Certification.
4. Receiver using super regenerative circuitry.	Certification.
5. Receiver, regardless of type of circuitry, associated with a garage door opener.	Certification.
6. Receiver, regardless of type of circuitry, associated with a security alarm system.	Certification.
7. All other receivers subject to Part 15, Subpart C.	Notification.

(c) For details concerning the several types of equipment authorizations see Part 2, Subpart J of this chapter.

8. A new paragraph (e) is added to § 15.70 to read as follows:

§ 15.70 Comparability of tuning information to be submitted pursuant to § 15.45(b).

* * * * *

(e) Unless otherwise requested, the information requested in this section is not required for receivers subject to verification.

9. New paragraphs (a)(4) and (b)(3) are added to § 15.72 to read as follows:

§ 15.72 Date when certification is required.

(a) * * *

(4) All television receivers manufactured after (effective date of final rule) shall continue to comply with the requirements of this section except these receivers shall be subject to verification instead of certification.

(b) * * *

(3) All receivers manufactured after (effective date of final rule) shall be subject to the form of equipment authorization specified in § 15.69.

10. The introductory sentence in paragraph (b) of § 15.75 is revised to read as follows:

§ 15.75 Measurement procedure.

* * * * *

(b) The following methods of measurement are considered acceptable procedures for testing receivers pursuant to § 15.69:

* * * * *

11. A new paragraph (e) is added to § 15.76 after the Note, to read as follows:

§ 15.76 Report of measurements: FM broadcast receiver.

* * * * *

(e) Unless otherwise requested, the information required by this section need not be reported to the Commission.

12. A new paragraph (f) is added to § 15.77 to read as follows:

§ 15.77 Report of measurements: TV receiver.

* * * * * *

(f) Unless otherwise requested, the information required by this section need not be reported to the Commission.

13. A new paragraph (h) is added to § 15.79 to read as follows:

§ 15.79 Report of measurements: Receivers other than FM or TV.

* * * * *

(h) Unless otherwise requested, the information required in this section need not be reported to the Commission if the receiver is subject to verification or notification, as shown in § 15.69.

14. Section 15.82 is revised to read as follows:

§ 15.82 Interference from a radio receiver.

The operator of a radio receiver, regardless of tuning range, date of manufacture, or any form of equipment authorization, which causes harmful interference shall promptly take steps to eliminate the harmful interference.

PART 21—[AMENDED]

D. Title 47 of the Code of Federal Regulations, Part 21, is amended as follows:

Paragraphs (a), (b) and (c) and the heading of § 21.120 are revised to read as follows:

§ 21.120 Authorization of transmitters.

(a) Except for transmitters used at developmental stations or for fixed point-to-point operation pursuant to Subpart I, each transmitter shall be a type which has been type accepted by the Commission for use under the applicable rules of this part. Transmitters used in the point-to-point microwave service under Subpart I for fixed operation shall be of a type which has been either notified or type accepted by the Commission. As of (effective date), fixed point-to-point microwave transmitters will only be approved under notification.

(b) Any manufacturer of a transmitter to be produced for use under the rules of this part may request type acceptance or notification by following the applicable procedures set forth in Part 2 of this chapter. Type accepted and notified transmitters are included in the Commission's Radio Equipment List.

Copies of this list are available for inspection at the Commission's office in Washington, D.C. and at each of its field offices.

(c) Type acceptance or notification for an individual transmitter may also be requested by an applicant for a station authorization, pursuant to the procedure set forth in Part 2 of this chapter. An individual transmitter will not normally be included in the Radio Equipment List, but will be enumerated on the station authorization.

* * * * *

PART 73—[AMENDED]

E. Title 47 of the Code of Federal Regulations, Part 73, is amended as follows:

1. Paragraph (a) the introductory sentence in paragraph (c), and paragraphs (c)(9) and (c)(11) of § 73.53 are revised, the text of paragraph (b) is removed and designated as [Reserved], and the heading of the section is revised to read as follows:

§ 73.53 Requirements for approval of antenna monitors.

(a) *General requirements:* (1) Antenna monitors shall be type approved or notified by the Commission. Effective (effective date), only grants or notification will be issued for antenna monitors.

(2) Type approval or notification can be obtained by following the procedures specified in Subpart J of Part 2 of this chapter.

(b) [Reserved]

(c) An antenna monitor eligible for authorization by the Commission shall meet the following specifications:

* * * * *

(9) The monitor, if intended for use by stations operating directional antenna systems by remote control or using extension meters to observe the monitor indications shall be designed so that the switching functions required by paragraph (c)(7) of this section may be performed from a point external to the monitor and phase and amplitude indications be provided by external meters. The indications of external meters furnished by the manufacturer shall meet the specifications for accuracy and repeatability of the monitor itself, and the connection of these meters to the monitor, or of other indicating instruments with electrical characteristics meeting the specifications of the monitor manufacturer shall not affect adversely the performance of the monitor in any respect. The type approval or notification designations and the instruction manuals for monitors not designated for external switching of the indications as specified in this subparagraph shall clearly show that the monitors are not acceptable for use at stations using remote control for the operation of directional antennas or extension meters to read and log the monitor indications.

* * * * *

(11) the monitor shall be accompanied by complete and correct schematic diagrams and operating instructions when submitted for type approval. When approved under notification, these materials shall be retained by the applicant and not admitted unless otherwise requested by the Commission. For the purpose of the equipment authorization, these diagrams and instructions shall be considered as part of the monitor.

* * * * *

2. Paragraph (a) of § 73.69 is revised to read as follows:

§ 73.69 Antenna monitors.

(a) Each station utilizing a directional antenna shall have in operation at the transmitter an antenna monitor which is approved by the Commission; provided that if the instrument of authorization of the station sets specific tolerances within which phase and amplitude relationships must be maintained, or requires the use of a monitor of specified repeatability or accuracy, the antenna monitor employed under such circumstances shall be authorized on an individual basis. The antenna monitor installed at a station operating a directional antenna by remote control or using extension meters to read and log the monitor indications shall be designed and approved for such use in accordance with the provisions of § 73.53(c)(9). After (effective date of Final rule), approval shall be through notification. Monitors approved under either notification or type approval are acceptable for use by stations.

* * * * *

3. Paragraphs (a), (b) and (d) and the heading of § 73.1660 are revised to read as follows:

§ 73.1660 Acceptability of broadcast transmitters.

(a) A transmitter may be type accepted or notified upon the request of any manufacturer of transmitters following the procedures described in Part 2 of this chapter. If acceptable, the transmitter will be included in the FCC's "Radio Equipment List, Equipment Acceptable for Licensing". After (effective date), these transmitters shall be approved under notification. Transmitters approved under type acceptance or under notification are acceptable for use in this service.

(b) A permittee or licensee planning to install and use as a main transmitter one not included on the FCC's "Radio Equipment List" must obtain authority to use such a transmitter by filing an application for a construction permit on FCC Form 301 (FCC Form 340 for noncommercial educational stations). The application must include a complete description and circuit diagram of the transmitter, description of the carrier frequency determining circuits, complete operating parameters, and measurement data as would be required for a grant of type acceptance.

* * * * *

(d) Additional rules concerning type acceptance and notification including modification of transmitters and withdrawal of a grant are contained in Part 2 of this chapter.

4. Paragraph (b) and the Note of § 73.1665 are revised to read as follows:

§ 73.1665 Main transmitters.

* * * * *

(b) A licensee may, without further authority or notification to the FCC, replace an existing main transmitter or install addition main transmitters for use with the authorized antenna if the replacement or additional transmitter(s) is type accepted or notified as shown in the FCC "Radio Equipment List." Within 10 days after commencement of regular use of the replacement or additional transmitter(s), equipment performance measurements, as prescribed for the type of station are to be completed and a certification must be entered in the station maintenance log by the station's consulting engineer, technical director, or chief operator that the station with the new transmitter(s), as installed, complies with the technical provisions of this part.

Note.—After January 1, 1979, no new licenses will be issued nor will existing licenses be renewed for alternate main transmitters operating into a single main antenna system. Further, licenses issued after that date will no longer identify the specific transmitters which are shown in the FCC's "Radio Equipment List" as type accepted or notified for broadcast use. Composite or other transmitting equipment which has been licensed for use based on data filed by the licensee will continue to be specified on station authorizations.

PART 74—[AMENDED]

F. Title 47 of the Code of Federal Regulations, Part 74, is amended as follows:

1. A new paragraph (h) is added to § 74.655 and the heading of the section is revised to read as follows:

§ 74.655 Approval of equipment.

* * * * *

(h) As of (effective date of Final Rule), transmitters used for a television STL station, a television intercity relay station or a television translator relay station shall be approved under the notification procedures set forth in Subpart J of Part 2 of this chapter. Transmitters approved under type acceptance or under notification are acceptable for use or for marketing for use under this subpart.

PART 78—[AMENDED]

G. Title 47 of the Code of Federal Regulations, Part 78, is amended as follows:

1. Paragraphs (a) the introductory text, (b) and text of (b)(2) of § 78.107 are revised to read as follows:

§ 78.107 Equipment and installation.

(a) From time to time the Commission publishes a revised list of type approved, type accepted and certain notified equipment entitled "Radio Equipment List". Copies of this list are available for inspection at the Commission's office in Washington, D.C. and at each of its field offices.

(b) Applications for new cable television relay stations, other than fixed stations, will not be accepted unless the equipment specified therein has been type accepted. In the case of fixed stations, the equipment must be type accepted or notified for use pursuant to the provisions of this subpart. As of (effective date of Final Rule), equipment used at fixed stations shall be approved under notification.

* * * * *

(2) Neither type acceptance nor notification is required for the following transmitters:

(i) Those which have an output power not greater than 250 mW and which are used in a CARS pickup station operating in the 12.7–13.2 GHz band; and

(ii) Those used under a developmental authorization.

* * * * *

PART 94—[AMENDED]

H. Title 47 of the Code of Federal Regulations, Part 94, is amended as follows:

1. Section 94.81 is revised to read as follows:

§ 94.81 Approval of microwave equipment.

Except for equipment used under a developmental authorization, all transmitters employed in this service must be either type accepted or notified pursuant to the requirements contained in Subpart J of Part 2 of this chapter. As of (effective date of the Final Rule), all equipment submitted to the Commission for approval will be approved under the notification procedure.

Appendix B

Note.—Appendix B will not appear in the Code of Federal Regulations.

The following is a summary of the proposed changes in the category of equipment authorization:

Rule part	Category of equipment	Present authorization	Proposed authorization
5	Wildlife tracking transmitters	Type acceptance	Notification.
	Ocean buoy tracking and telemetry transmitters.	Type acceptance	Notification.
15	Receivers from 30 to 890 MHz excluding superregenerative receivers, TV and FM broadcast receivers and scanners.	Certification	Notification
	TV and FM broadcast receivers	Certification	Verification.
21	Fixed point-to-point microwave transmitters.	Type acceptance	Notification.
73	AM antenna phase monitors	Type approval	Notification.
	Broadcast transmitters	Type acceptance	Notification.
74	Fixed point-to-point microwave transmitters.	Type acceptance	Notification.
78	Fixed point-to-point microwave transmitters.	Type acceptance	Notification.
94	All microwave transmitters	Type acceptance	Notification.

Concurring Statement of FCC Commissioner James H. Quello

In re: Amendment of Part 2 of the rules to simplify the equipment authorization procedures; Amendment of the regulations to expand the notification and verification equipment authorization procedures.

I am concurring in the result of this action because of my concern with the proposals to de-emphasize the Commission's traditional oversight over two pieces of equipment which are integral parts of our broadcasting system; i.e., television receivers and antenna phase monitors.

Antenna phase monitors are devices which provide information on the relative phase of current directed to each tower in an AM radio directional antenna array. The relative phase and current ratios determine the shape and direction of the signal pattern which emanates from such an array. While I realize that the monitor is only one part of a system that produces the phase information to the licensee, it is the only part which this Commission can easily control.

Television receivers manufactured under current practices are not likely to cause significant interference problems and, therefore, it might be appropriate to place more reliance upon the manufacturers than we have in the past. However, I want to make it very clear that my concern regarding television receivers—and particularly UHF television receivers—is not limited to their interference potential. Recognizing that they are a vital part of our television broadcasting system, I remain concerned with their performance. As is noted in the Notice of Proposed Rulemaking adopted today, manufacturers must still submit annual reports on UHF noise figure performance for Commission review. They also will continue to be subject to both the All Channel Receiver Act [1] and our rules relating to receiver performance. My concerns are further assuaged by the Commission pledge to sample receivers after they have reached the marketplace to determine whether, in fact, they meet those requirements.

While I have these concerns, I am concurring because this Notice will provide the opportunity to gather and thoroughly evaluate all comments in response to these proposals.

[FR Doc. 83-2255 Filed 1-28-83; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82-19, Notice 2]

Evaluation Report on Federal Motor Vehicle Safety Standard No. 214—Side Door Strength—Passenger Cars

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Extension of comment period.

SUMMARY: On November 23, 1982 (47 FR 54839, December 6, 1982), the Agency announced the publication of an Evaluation Report on Federal Motor Vehicle Safety Standard No. 214, Side Door Strength (49 CFR 571.214). The report evaluates the effectiveness and costs of the Federal standard that established strength requirements for the side doors of passenger cars. The

[1] Pub. L. 87-529, July 10, 1962; 76 Stat 150; 47 U.S.C. 303(s)

report is published in response to Executive Order 12291 and is a component of the Departmental Priority Review process for existing regulations. The Agency set January 28, 1983, as the closing date for submitting comments on the evaluation report.

On January 19, 1983, Renault USA requested the Agency to extend by at least 1 month the period for submitting comments on the evaluation report and on the same day the Motor Vehicle Manufacturers Association (MVMA) asked for a 3-month extension. Renault said that it did not receive a copy of the report until December 17, 1982, and noted that the report is a 409-page document which must be reviewed by at least two of Renault's departments. They felt that the existing deadline did not provide them with enough time to prepare their position. MVMA did not specify why 3 months were needed.

In order to give Renault and MVMA additional time to thoroughly analyze the evaluation report, the Agency has decided to extend the comment closing date to March 3, 1983. A further extension would be unacceptable because the comments on the report form an integral part of the Priority Review of Standard 214, which needs to be completed expeditiously.

DATE: Deadline for submission of comments is extended to March 3, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Frank G. Ephraim, (202) 426–1574.

(Secs. 103, 112, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); delegation of authority at 49 CFR 1.50 and 501.8)

Barry Felrice,

Associate Administrator for Plans and Programs.

[FR Doc. 83–2345 Filed 1–28–83; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 48, No. 21
Monday, January 31, 1983

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.

CIVIL AERONAUTICS BOARD

Announcement of Proposed Collection of Information Under Provisions of the Paperwork Reduction Act (44 U.S.C. 35)

Agency Clearance Officer from whom a copy of the collection of information and supporting documents is available: Robin A. Caldwell, (202) 673–5922.

Revision

Title of the Collection of Information: Part 217, "Reporting Data Pertaining to Civil Aircraft Charters Performed by U.S. Certificated and Foreign Air Carrier".

Agency Form Number: 217.

How often the Collection of Information must be filed: Quarterly.

Who is asked or required to report: U.S. Certificated and Foreign Air Carriers.

Estimate of number of annual responses: 720.

Estimate of number of annual hours needed to complete the collection of information: 4,320.

Revision

Title of the Collection of Information: "Fuel Consumption by Type of Service and Entity" (formerly "Fuel Consumption by Type of Service and Specific Operational Markets").

Agency Form Number: Form 41, Schedule P–12(a).

How often the Collection of Information must be filed: Monthly.

Who is asked or required to report: Certificated Air Carriers.

Estimate of number of annual responses: 480.

Estimate of number of annual hours needed to complete the collection of information: 1,853.

Dated: January 25, 1983.

Robin A. Caldwell,

Chief, Information Management Division, Office of Comptroller.

[FR Doc. 83-2585 Filed 1-28-83; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (see, 14 CFR 302.1701 et. seq.) Week Ended January 21, 1983

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Jan. 19, 1983	41229	Pegasus Airlines, Inc., c/o Stephen L. Gelband, Hewes, Morella, Gelband & Lamberton, 1010 Wisconsin Avenue, N.W., Suite 640, Washington, D.C. 20007. Application of Pegasus Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for a certificate of public convenience and necessity to provide scheduled interstate and overseas air transportation, and for a fitness determination. Conforming Applications, Motions to Modify Scope and Answers may be filed by February 16, 1983.
Jan. 19, 1983	41230	Pegasus Airlines, Inc., c/o Stephen L. Gelband, Hewes, Morella, Gelband & Lamberton, 1010 Wisconsin Avenue, N.W., Suite 640, Washington, D.C. 20007. Application of Pegasus Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance of a certificate of public convenience and necessity authorizing it to provide foreign charter air transportation of persons, property, and mail, as follows: (a) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and Canada, on the other; (b) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and Mexico, on the other; (c) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place located in the Gulf of Mexico or the Caribbean Sea, on the other hand; (d) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in British Honduras, the Canal Zone, Guatemala, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and in the countries on the continent of South America, on the other hand; (e) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and American Samoa, Guam, Johnston Island, the Marshall Islands, Okinawa, Wake Island, and points in Australia, Indonesia, and Asia as far west as longitude 70 degrees east via a transpacific routing on the other hand; (f) Between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand; and (g) In foreign air transportation, pursuant to contracts with the Department of Defense. Conforming Applications, Motions to Modify Scope and Answers may be filed by February 16, 1983.
Jan. 20, 1983	41231	Northeastern International Airways, Inc., c/o James Lawrence Smith, 1600 S.E. 10th Terrace, P.O. Box 21747, Ft. Lauderdale, Florida 33335. Application of Northeastern International Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests that it be issued a certificate of public convenience and necessity to engage in air transportation of persons, property and mail between points in the United States, on the one hand, and a point in a foreign country as follows: "Between Islip, New York and Miami/Ft. Lauderdale, Florida, on the one hand and Bermuda, on the other." Conforming Applications, Motions to Modify Scope, and Answers may be filed by February 17, 1983.
Jan. 20, 1983	41232	Trans World Airlines, Inc., 605 Third Avenue, New York, New York 10158. Application of Trans World Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations applies for renewal of its experimental certificate of public convenience and necessity for Route 219 authorizing backup service between Miami and London. Conforming Applications, Motions to Modify Scope, and Answers may be filed by February 17, 1983.
Jan. 21, 1983	41233	Simmons Airlines, Inc., c/o Michael R. Fournier, 11 East Goethe Street, Chicago, Illinois 60610.

Date filed	Docket No.	Description
		Application of Simmons Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests the Board to grant its application for certificate authority to engage in interstate and overseas air transportation of persons and interstate and overseas air transportation of property and mail between all points in the United States, its territories and possessions, and to grant any further and other relief which the Board may deem appropriate.
		Conforming Applications, Motions to Modify Scope and Answers may be filed by February 18, 1983.
Jan. 21, 1983	41235	Pan American World Airways, Inc., c/o Richard D. Mathias, 1660 L Street, NW., Suite 901, Washington, D.C. 20036.
		Application of Pan American World Airways, Inc. pursuant to Section 401 and Subpart Q of the Board's Procedural Regulations applies for an amendment to its certificate of public convenience and necessity for Route 130 which will authorize Pan Am to engage in foreign air transportation of persons, property and mail between the United States and Korea and the United States and Taiwan via points in Japan.
		Conforming Applications, Motions to Modify Scope and Answers may be filed by February 18, 1983.
Jan. 21, 1983	40857	Air Specialties Corp., c/o Roland E. Ginsburg, 9454 Wilshire Boulevard, Beverly Hills, California 90212.
		Supplement to Application of Air Specialties Corp. for amendment of certificate of public convenience and necessity to engage in international charter air transportation of passengers and cargo to provide for world-wide authority. Supplement to application includes a forecast of passenger revenues during the first year of proposed operations.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-2566 Filed 1-28-83; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Iowa Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Iowa Advisory Committee to the Commission will convene at 7:00 p.m. on February 28, 1983, and will adjourn at 12:00 noon on March 1, 1983, at the Des Moines Hilton Inn, 6111 Fleur Drive, Des Moines, Iowa 50321. The purpose of this meeting will be to conduct orientation for the new Committee members, and discuss program planning of activities for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committeee, should contact the Chairperson, Lee B. Furgerson, 1225 Stephenson Way, Des Moines, Iowa 50307, (515) 245-5077 or the Central States Regional Office, Old Federal Office Building, 911 Walnut Street, Room 3103, Kansas City, Missouri 64106, (816) 347-5253.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. January 24, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-2544 Filed 1-28-83; 8:45 am]

BILLING CODE 6335-01-M

Michigan Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 5:30p and will end at 9:00p, on February 24, 1983, in the Michelangelo Room, at the Westin Hotel, 400 East Jefferson, Detroit, Michigan, 48243. The purpose of this meeting will be to discuss the status of civil rights in the state of Michigan, plans for the Tuition Tax Credits and Lending Equality studies.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, M. H. Rienstra, 1225 Thomas, South East, Grand Rapids, Michigan, 49506, (616) 949-4000 or the Midwestern Regional Office, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois, 60604, (312) 353-7479.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 25, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-2543 Filed 1-28-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 207]

Resolution and Order Approving Application of New Hampshire State Port Authority for a Foreign-Trade Zone in Portsmouth, New Hampshire, and Special-Purpose Subzone for Nashua Corporation in Nashua and Merrimack, New Hampshire

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the New Hampshire State Port Authority, filed with the Foreign-Trade Zones Board (the Board) on January 22, 1982, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone in Portsmouth, New Hampshire, within the Portsmouth Customs port of entry, and for a special-purpose subzone at the Nashua and Merrimack, New Hampshire plants of Nashua Corporation, adjacent to the Lawrence Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

To Establish, Operate, and Maintain a Foreign-Trade Zone in Portsmouth, New Hampshire, and a Subzone in Nashua and Merrimack, New Hampshire

Whereas, by an Act of Congress approved June 18, 1934, an Act, "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as

amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 C.F.R. 400.304) provide for the establishment of a special-purpose subzone when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the New Hampshire State Port Authority (the Grantee) has made application (filed January 22, 1982) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a general-purpose foreign-trade zone in Portsmouth, New Hampshire, within the Portsmouth Customs port of entry, and a special-purpose subzone at the Nashua and Merrimack plants of Nashua Corporation, adjacent to the Lawrence Customs port entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satified;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone and a special-purpose subzone, designated on the records of the Board as Zone No. 81 and Subzone No. 81A at the locations mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the foreign-trade zone and subzone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone and subzone sites in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufactuing operations within the zone or subzone not described in the application.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 20th day of January 1983, pursuant to Order of the Board.

Foreign-Trade Zone Board.

Malcom Baldridge,

Chairman and Executive Officer.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR. Doc. 83-2578 Filed 1-28-83; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 205]

Resolution and Order Approving the Application of the Tri-City Regional Port District for a Special-Purpose Subzone in Fenton, Missouri, Within the St. Louis Customs Port of Entry; Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Tri-City Regional Port District, grantee of Foreign-Trade Zone 31, Granite City, Illinois, filed with the Foreign-Trade Zones Board (the Board) on July 30, 1982, requesting authority for a special-purpose subzone at the automobile assembly plant of Chrysler Corporation in Fenton, Missouri, within the St. Louis Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone in Fenton, Missouri, Within the St. Louis Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Tri-City Regional Port District, Grantee of Foreign-Trade Zone No. 31, Granite City, Illinois, has made application (filed July 30, 1982) in due and proper form to the Board requesting a special-purpose subzone at Chrysler Corporation's auto assembly plant in Fenton, Missouri, within the St. Louis Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, Therefore, in accordance with the application filed July 30, 1982, the Board hereby authorizes the establishment of a subzone at the Fenton, Missouri, auto assembly plant of Chrysler Corporation, designated on the records of the Board as Foreign-Trade Subzone No. 31A at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant,

and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 24th day of January 1983 pursuant to Order of the Board.

Foreign-Trade Zones Board.

Lawrence J. Brady,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

Attest:

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc. 83-2589 Filed 1-28-83; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 206]

Resolution and Order Approving the Application of the Greater Detroit Foreign-Trade Zone, Inc. for a Special-Purpose Subzone in Wayne, Michigan, Within the Detroit Customs Port of Entry

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

After consideration of the application of the Greater Detroit Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 70, Detroit, filed with the Foreign-Trade Zones Board (the Board) on August 20, 1982, requesting authority for a special-purpose subzone at the automobile assembly plant of Ford Motor Corporation in Wayne, Michigan, within the Detroit Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone in Wayne, Michigan, Within the Detroit Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Greater Detroit Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone No. 70 in Detroit, has made application (filed August 20, 1982) in due and proper form to the Board requesting a special-purpose subzone at Ford Motor Corporation's auto assembly plant in Wayne, Michigan, within the Detroit Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, Therefore, in accordance with the application filed August 20, 1982, the Board hereby authorizes the establishment of a subzone at the Wayne, Michigan, auto assembly plant of Ford Motor Corporation, designated on the records of the Board as Foreign-Trade Subzone No. 70C at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued threunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 24th day of January 1983 pursuant to Order of the Board.

Foreign-Trade Zones Board.

Lawrence J. Brady,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

Attest:

John J. da Ponte, Jr.,

Executive Secretary.

[FR Doc. 83-2588 Filed 1-28-83; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

[A-588-053]

Birch 3-Ply Doorskins From Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on birch 3-ply doorskins from Japan. The review covers 23 of the 25 known exporters of this merchandise to the United States and the period February 1, 1981 through January 31, 1982. The review indicates

the existence of dumping margins for certain firms.

As a result of the review, the Department has preliminarily determined to assess dumping duties for individual firms equal to the calculated differences between United States price and foreign market value on each of their shipments during the period of review.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–2923.

SUPPLEMENTARY INFORMATION:

Background

On November 8, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 50537–9) the final results of its last administrative review of the antidumping finding on birch 3-ply doorskins from Japan (41 FR 7389, February 18, 1976) and announced its intent to conduct the next administrative review by the end of February 1983. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of birch 3-ply doorskins, manufactured in a variety of glue types, sizes, and colors. Birch 3-ply doorskins are currently classifiable under items 240.1420, 240.1440, and 240.1460 of the Tariff Schedules of the United States Annotated.

The Department knows of 25 manufacturers and/or exporters of Japanese birch 3-ply doorskins to the United States. The review covers 23 of them and the period February 1, 1981 through January 31, 1982. We are deferring the consideration of all shipments of doorskins produced by Marutama Industries Co., Ltd., in order to cover the entire period from January 1, 1981 through May 25, 1982, the date we published a tentative determination to revoke with regard to Marutama. We are deferring the review with regard to shipments by Mitsui of Sanmoku produced doorskins to ensure that Mitsui has adequate time to respond to our questionnaire.

Sixteen firms (including combinations of particular manufacturers and exporters) did not export birch 3-ply doorskins to the United States during the period. The rate for cash deposit of estimated antidumping duties for those firms shall be the most recent information for each firm.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act. Purchase price was based on the f.o.b. price to unrelated Japanese firms for export to the United States. Where applicable, deductions were made for Japanese inland freight and loading charges. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used the price to purchasers in a third country (Canada) of such or similar merchandise or the constructed value, as defined in sections 773(a) and 773(e) of the Tariff Act, since insufficient sales of such or similar merchandise were made in the home market to be used as a basis for comparison. Third-country price was based on the f.o.b. Japan price to the first unrelated Canadian purchaser. Deductions were made, where applicable, for Japanese inland freight and loading charges. No other adjustments were claimed or allowed.

Constructed values were calculated as the sum of materials, fabrication costs, general expenses, profit, and the cost of packing. The amount added for general expenses was ten percent of the sum of materials and fabrication costs or actual general expenses, whichever was higher. The amount added for profit was eight percent of the sum of materials, fabrication costs, and general expenses or actual profit, whichever was higher.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist for the period February 1, 1981 through January 31, 1982:

Manufacturer (exporter)	Margin (percent)
Matsumoku Industries, Ltd.:	
(C. Itoh & Co., Ltd.)	[1]0
(Mitsubishi Corp.)	[1]0
Nitta Veneer (C. Itoh & Co., Ltd.)	
Sanmoku Lumber Co., Ltd.:	
(C. Itoh & Co., Ltd.)	6.53
(Associated Lumber Co., Ltd.)	[1]0
(Toyo Menka Kaisha, Ltd.)	0
Sattsuru Veneer Co., Ltd.:	
(C. Itoh & Co., Ltd.)	0
(Mitsubishi Corp.)	1.09
(Mitsui & Co., Ltd.)	0
(Toyo Menka Kaisha, Ltd.)	0
(Yuasa Trading Co., Ltd.)	
Teshiogawa Lumber Co., Ltd. (Ikeuchi Industry Co., Ltd.)	0
Ataka & Co	[1]5.0
Fujikawa Veneer Co., Ltd.	[1]0
Hokusei Plywood	5.0
Iwakura Gumi:	
(Mitsubishi Corp.)	[1]0
(Toyo Menka Kaisha Ltd.)	[1]0
(All other exporters)	[1]7.2
Keisei Lumber Co., Ltd.	[1]0
Kiyosato Rinsan:	
(Nissho-Iwai)	[1]1.6
(All other exporters)	[1]0.7
Okura & Co	[1]1.8
Shingu Shoko	[1]0
Showa Lumber	[1]0
Toliwa Plywood	[1]1.6

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries with purchase dates during the time period. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue assessment instructions on each exporter directly to the Customs Service.

Further, as provided by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the above margins shall be required on all shipments of Japanese birch 3-ply doorskins from these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: January 23, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83–2578 Filed 1–28–83; 8:45 am]

BILLING CODE 3510–25–M

[A-461-008]

Titanium Sponge From the U.S.S.R.; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On November 12, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on titanium sponge from the U.S.S.R. The review covered the only known exporter of this merchandise to the United States and the period August 1, 1980 through July 31, 1981.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On August 28, 1968, the Treasury Department published in the **Federal Register** (33 FR 12138) a dumping finding with respect to titanium sponge from the U.S.S.R. On November 12, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 51176-77) the preliminary results of its last administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of titanium sponge, which is used in the manufacture of aerospace vehicles and is currently classifiable under item number 629.1420 of the Tariff Schedules of the United States Annotated.

The review covers the only known exporter of titanium sponge from the U.S.S.R. to the United States, Techsnabexport, and the period August 1, 1980 through July 31, 1981.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review, and we determine that no dumping margin exists for the period.

The Department shall instruct the Customs Service not to assess dumping duties on entries made with purchase dates during the period of review. The Department will issue appraisement instructions directly to the Customs Service.

Further, the Department shall not require a cash deposit of estimated antidumping duties, as provided for in § 353.48(b) of the Commerce Regulations, on any shipments of titanium sponge from the U.S.S.R. entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of August 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Dated: January 24, 1983.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-2575 Filed 1-28-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

President's Commission on Strategic Forces; Advisory Committee Meeting

The President's Commission on Strategic Forces will meet in closed session on February 7, 8, 9, and 10, 1983 at the Pentagon, Washington, D.C.

The mission of the Commission is to review the strategic modernization program for United States forces, with particular reference to the intercontinental ballistic missile system and basing alternatives for that system, and provide appropriate advice to the President, the National Security Council, and the Department of Defense.

Because of the significance of the project to national security and the urgent need for the Commission's recommendation, the President has directed that the Commission submit its report to him by February 18, 1983. Because of the stringent deadline imposed by the President, timely notice of the meeting cannot be provided.

Discussions during the meeting will involve classified matters of national security concern throughout. Such discussion cannot reasonably be segregated into separateclassified and unclassified categories without defeating the effectiveness and purpose of the overall meetings.

Accordingly, consistent with Section 10(d) of Pub. L. 92-463, the "Federal Advisory Committee Act," and Section 552b(c)(1) of Title 5, United States Code, this meeting will be closed to the public.

Dated: January 26, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 83-2573 Filed 1-28-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP82-319-001]

Cities Service Gas Co.; Amendment

January 27, 1983.

Take notice that on January 6, 1983, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP82-319-001 an amendment to its application filed in Docket No. CP82-319-000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect the sale of natural gas to Kansas Power and Light Company (KP&L) in Reno county, Kansas, under an amended sales contract dated December 13, 1982, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that because of interventions filed by the Kansas State Corporation Commission and Greeley Gas Company, both of which opposed the take-or-pay provision in Applicant's contract with KP&L, Applicant has renegotiated this contract to eliminate that provision. In all other respects, it is stated, the application in this proceeding remains unchanged.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 17, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to

intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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 motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2590 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL80-25-003]

Commonwealth Edison Co.; Compliance Filing

January 26, 1983.

Take notice that on January 20, 1983, Commonwealth Edison Company submitted for filing revised tariff sheets pursuant to the Commission's order on remand issued November 22, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 15, 1983. Comments 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. 83-2545 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE81-33-001]

The Dayton Power & Light Co.; Application for Exemption

January 27, 1983.

Take notice that The Dayton Power and Light Company (Dayton) on December 29, 1982, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in § 290.403(a) (1) through (4) for certain small rate classes, as defined in §§ 290.404(b) and 290.404(g)(2).

In its application for exemption Dayton states, in part, that it should not be required to file the specified data for the following reasons:

The seven small rate classes contributed a total of 2.5% of the total retail sales in the twelve-month period ending August 1982. Filing of the data is not cost effective and will not further the purposes of PURPA.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45 day period such person must also serve a copy of such comments on: Allen M. Hill, Vice President—Planning, The Dayton Power and Light Company, P.O. Box 1247, Courthouse Plaza Southwest, Dayton, Ohio 45401.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2591 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER78-383-000]

Indiana & Michigan Electric Co.; Refund Report

January 26, 1983.

Take notice that on January 21, 1983, Indiana & Michigan Electric Company filed a refund report pursuant to the Commission's order issued on December 22, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 14, 1983. Comments 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. 83-2546 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-139-000]

The Inland Gas Company, Inc.; Application

January 27, 1983.

Take notice that on December 23, 1982, The Inland Gas Company, Inc. (Inland), 340 Seventeenth Street, Ashland, Kentucky 41101, filed in Docket No. CP83-139-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation of natural gas and for permission and approval to abandon certain facilities and services, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 17, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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 motion 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 motion 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 motion 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 Inland to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2592 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE81-60-001]

Long Island Lighting Co.; Application for Exemption

January 27, 1983.

Take notice that Long Island Lighting Company (LILCO) filed an application on January 4, 1983 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in § 290.304(a)(1) of Subpart C.

In its application for exemption LILCO states, in part, that it should not be required to file the specified data since transmission line data is not collected by specific voltage level; allowance for funds used during construction and replacement expenditure data are not segregated in company records.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D. C. 20426, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45 day period such person must also serve a copy of such comments on: Mr. Richard A. Visconti, Long Island Lighting Company, 250 Old Country Road, Mineola, New York 11501.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2593 Filed 1-28-83; 8:45 am]

BILLING CODE 7617-01-M

[Docket No. RE81-14-001]

Mississippi Power & Light Co.; Application for Exemption

January 27, 1983.

Take notice that Mississippi Power & Light Company (MP&L) on December 29, 1982, filed an application for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, and biennially thereafter, information on the costs of providing electric service as specified in §§ 290.404(b), 290.404(g)(2), 290.305(a)(3), 290.403(a), and 290.406(a) as they apply to Rate Class SWH-9 (Small Rate Class).

In its application for exemption MP&L states, in part, that it should not be required to file the specified data since subject rate class accounted for .01% of the total retail energy sales in 1981. The time and expense required to provide cost and load data for this small rate class would be prohibitive compared to the benefits gained.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45 day period such person must also serve a copy of such comments on:

Mr. William Hammett, Mississippi Power & Light Company, P.O. Box 1640, Jackson, Mississippi 39205

and

Mr. J. W. Schimpf, Director of Rates, Mississippi Power & Light Company, P.O. Box 1640, Jackson, Mississippi 39205.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2594 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE80-5-003]

Montana-Dakota Utilities Co.; Application for Exemption

January 27, 1983.

Take notice that Montana-Dakota Utilities Company (MDU) filed an application on December 27, 1982 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in Section 290.404(b) as it applies to MDU's service area in Montana, North Dakota, and South Dakota. In addition, exemption is sought from the requirement to file on or before June 30, 1984 and biennially thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E as it applies to the Wyoming segment of MDU's service area.

In its application for exemption MDU states, in part, that it should not be required to file the specified data for the following reasons:

With respect to the § 290.404(b):

Customer groups qualifying as small rate classes are so small that the collection of meaningful sample load data for each customer group would entail installing load meters for all the customers of each group. The attendant costs involved could not justify the limited benefits associated with the collected load data.

With respect to the Wyoming service area:

A previous order, granting MDU an exemption applicable to its Sheridan, Wyoming System (Docket No. RE80-5-000 issued April 22, 1980) for the filings that would otherwise be required on or before November 1, 1980 and on or before June 30, 1982, stipulated that for filings due beyond June 30, 1982, MDU may apply for exemption, and include a statement to the effect, if

applicable, that the nature and size of MDU's Sheridan, Wyoming system is substantially the same as described in its previous application (RE80-5-000). In its current application, MDU states (RE80-5-003) that its Sheridan Wyoming system remains substantially the same as previously described (RE80-5-000).

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D. C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period such person must also serve a copy of such comments on: Mr. Steven G. Gerhart, General Counsel & Secretary, Montana-Dakota Utilities Company, 400 North Fourth Street, Bismarck, North Dakota 58501.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2595 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP78-104-003]

Natural Gas Pipeline Co. of America; Notice of Petition To Amend

January 27, 1983.

Take notice that on December 30, 1982, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP78-104-003 a petition to amend the order issued May 9, 1978, in Docket No CP78-104-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the continued operation of existing facilities and the continued sale and delivery of natural gas under a service agreement dated October 5, 1977, between Petitioner and Entex Inc. (Entex), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner contends that said existing facilities consist of taps and appurtenant facilities on Petitioner's pipeline at the Klein delivery point, located in the Klein Independence School District Area, Harris County, Texas, which was established pursuant to the terms of a gas sales agreement dated February 8, 1963, which amended an October 18, 1961, agreement between Petitioner and Houston Natural Gas Corporation, predecessor of Entex. However, Petitioner states reference to the Klein delivery point was inadvertently omitted from its 1977 application in the subject proceeding seeking certificate authorization to continue the operation of existing facilities and the continued sale and delivery of natural gas under its October 5, 1977, service agreement with Entex. Petitioner further states that it does not propose to install any new facilities for the sales for which authorization is sought.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 17, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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 persons wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2596 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-262-000]

Pacific Gas and Electric Co.; Filing

January 26, 1983.

Take notice that Pacific Gas and Electric Company (PGandE), on January 18, 1983, tendered for filing the proposed changes in its FPC original Tariff Volume No. 2 the Second Amending Agreement to the Agreement for Sale of Electric Power and Energy to the City of Santa Clara, dated December 21, 1982.

PGandE states that the proposed amendment will allow Santa Clara to receive surplus energy from the Turlock Irrigation District (TID Energy) to be delivered by PGandE to the City under the provisions of the PGandE-NCPA Interruptible Transmission Contract-TID Energy, dated June 24, 1982; effective from March 30, 1982 to June 30, 1982.

PGandE requests an effective date of March 30, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 11, 1983. 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2547 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-263-000]

Public Service Co. of Indiana, Inc.; Filing

January 26, 1983.

Take notice that Public Service Company of Indiana, Inc. (PSI), on January 18, 1983, tendered for filing proposed changes in its FERC Electric Tariff, Tariff, Original Volume No. 1 (6th Revision); FERC Electric, Original Volume No. 2 (4th Revision) and Rate Schedules FERC No. 233, 234 and 235. Such changes in rates are the result of negotiations between PSI and the following parties:

1. Indiana Municipal Electric Utilities,
2. City of Logansport, Indiana,
3. Clark, Henry and Jackson County Rural Electric Membership Corporations,
4. Wabash Valley Power Association, Inc.,
5. Indiana Municipal Power Agency.

PSI states that the uncontested rate increase and the proposed revisions in the filed rates are based on the cost of service for Period II (Calendar Year 1982), filed August 28, 1981, and the Settlement Agreement, dated November 17, 1981, in Docket No. ER81-708-000 as primarily modified to include the annualized costs of Gibson Unit No. 5. The proposed changes would increase revenues from jurisdictional sales and service by $15.4 million.

PSI requests an effective date of February 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Public Service Commission of Indiana and the attorneys on behalf of their respective clients (i) Indiana Municipal Electric Utilities, (ii) City of Logansport, Indiana, (iii) Clark, Henry and Jackson County Rural Electric Membership Corporations, (iv) Wabash Valley Power Association, Inc. and (v) Indiana Municipal Power Agency.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 11, 1983. 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 motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2548 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE81-74-002]

Sierra Pacific Power Co.; Application for Exemption

January 27, 1983.

Take notice that Sierra Pacific Power Company (Sierra) filed an application on December 27, 1982 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in all Sections of Part 290 requiring the reporting of historic information that has been provided in Sierra's previous filings.

In its application for exemption Sierra states, in part, that it should not be required to file the specified data for the following reason:

> The information has been provided in the 1980 and 1982 PURPA filings and is readily accessible to all interested parties.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period such person must also serve a copy of such comments on:

Mr. Jack C. McElwee, Assistant Controller, Sierra Pacific Power Company, P.O. Box 10100, Reno, Nevada 89520
and
Mr. James D. Salo, Senior Attorney, Sierra Pacific Power Company, P.O. Box 10100, Reno, Nevada 89520.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2597 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-143-000]

Southern Natural Gas Co.; Request Under Blanket Authorization

January 26, 1983.

Take notice that on December 30, 1982, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP83-143-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to abandon natural gas service to W.R. Grace & Co., Davison Chemical Division (Grace), at its kaolin plant located in Aiken, South Carolina, and to abandon the facilities necessary to render such service under the authorization issued in Docket No. CP82-406-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant asserts that the sales tap and meter station to be abandoned were installed at an original cost of $7,976.37 and are located at milepost 6.150 on Applicant's 4-inch Southeastern Clay Pipeline in Aiken County, South Carolina. Applicant asserts that Grace has requested that Applicant's service be terminated effective January 1, 1983.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2549 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-142-000]

Southern Natural Gas Co.; Request Under Blanket Authorization

January 26, 1983.

Take notice that on December 29, 1982, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP83-142-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to abandon certain facilities and to construct and operate certain facilities in connection with a change in delivery point, under authorization issued in Docket No. CP82-406-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant intends to abandon certain metering and regulating facilities and to construct and operate replacement facilities all at its Augusta area delivery point near Augusta, Georgia, where Applicant delivers a contract demand quantity of 66,700 Mcf of gas per day for Atlanta Gas Light Company (Atlanta).

Applicant asserts that it provides natural gas service for Atlanta at three measuring stations which together constitute the Augusta area delivery point in the currently effective service agreement between Applicant and Atlanta dated September 23, 1969. Applicant states that it has been

advised by Atlanta that it has experienced a shift in gas requirement in the Augusta area from Measuring Stations Nos. 1 and 2 to the areas served through Measuring Station No. 3. Applicant proposes to abandon certain meter runs and associated orifice meters at Measuring Station No. 3 and to construct and operate replacement facilities increasing the capacity of Station No. 3 from a daily rate of 6,000 Mcf of natural gas to 18,333 Mcf.

Applicant estimates that the total cost of the abandonment and subsequent construction is $165,877 all of which would be reimbursed to Applicant by Atlanta. Applicant further states that there would be no increase in the contract demand quantity for the Augusta area and that all of the customers served by the subject facilities to be abandoned have consented to the abandonment.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2598 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-322-003]

Texas Gas Transmission Corp.; Petition To Amend

January 27, 1983.

Take notice that on January 7, 1983, Texas Gas Transmission Corporation (Petitioner), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP81-322-003 a petition to amend the Order issued August 12, 1981, in Docket No. CP81-322-000 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the continued transportation of natural gas for Natural Gas Pipeline Company of America (Natural) for an additional term, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that by order issued August 12, 1981, Petitioner was authorized to transport up to 50,000 Mcf of natural gas per day for Natural to Dow Intrastate and Gas Company for ultimate delivery to Dow Chemical Company (Dow) for a term of 363 days. It is asserted that Natural agreed to sell on a best-efforts basis up to a total of 15,000,000 Mcf of gas to Dow over the period.

It is submitted that on March 12, 1982, Natural and Dow amended their gas sales agreement of March 30, 1981, and that by order issued July 30, 1982, Natural was authorized to deliver an additional 30,000,000 Mcf of natural gas to Dow for a term expiring February 1, 1983. It is submitted that on April 7, 1982, Petitioner and Natural amended their gas transportation agreement of April 24, 1981, and that by companion order issued July 30, 1982, in Docket No. CP81-322-002 Petitioner was authorized to transport the 30,000,000 Mcf of natural gas on an interruptible basis for a 6-month term commencing upon the earlier of August 1, 1982, or the date upon which the previously authorized transportation terminated. Accordingly, Petitioner now seeks authority to transport up to 15,000,000 Mcf of gas to Dow for the remainder of the 363-day period agreed to in the April 7, 1982, amendment.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 17, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) 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 motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2599 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE83-5-000]

Texas-New Mexico Power Co.; Application for Exemption

January 27, 1983.

Take notice that Texas-New Mexico Power Company (TNMP) filed an application on December 29, 1982 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in Subpart A, B, C, and E, of Part 290. alternate compliance is proposed for Subpart B and § 290-501 of Subpart E.

TNMP states that it should be allowed to use an expanded alternate reporting period, to substitute certain other data for that specified in Part 290, and to omit certain marginal cost data, all such that its filing will correspond to requirements of the Public Utilities Commission of Texas and the New Mexico Public Service Commission.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the applicatyion in newspapers of general circulation in the affected jurisdiction. Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period such person must also serve a copy of such comments on:

James M. Tarpley, Vice President, Contracts and Regulations, Texas-New Mexico Power Company, 501 West Sixth Street, Fort Worth, Texas 76102 and

Arnold Fieldman, Channing D. Strother, Jr., Goldberg, Fieldman & Letham,

P.C., 1100 Fifteenth Street NW., Washington, D. C. 20005.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2600 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE81-37-001]

The Toledo Edison Co.; Application for Exemption

January 27, 1983.

Take notice that The Toledo Edison Company (Toledo) filed an application on December 20, 1982 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in §§ 290.305(a)(3), 290.306(b), 290.403(a)(1)–(4) inclusive, 290.406(a)(1)–(3) inclusive, and Subpart E as they apply to certain small rate classes defined in §§ 290.404(b) and 290.404(g)(2).

In the application for exemption Toledo states, in part, that it should not be required to file the specified data for the following reasons:

The total retail sales (kwh) of the subject small rate classes amounted to less than two percent (2%) of the total retail sales of Toledo in 1981. The cost of gathering and submitting these data would increase the cost of the filing by fifty percent (50%), a prohibitive amount considering the minimal contribution the subject small rate clases make to Toledo's total annual retail sales.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45 day period such person must also serve a copy of such comments on: F. Mitchell Dutton, Attorney, The Toledo Edison Company, 300 Madison Avenue, Toledo, Ohio 43652.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2601 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RE80-31-002]

Western Area Power Administration; Application for Exemption

January 27, 1983

Take notice that the Western Area Power Administration (WAPA) filed an application on November 29, 1982 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service information under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in Subparts B, C, D, and E. In addition, exemption is sought from the requirement specified in § 290.601(d)(iii) of Subpart E as it applies to the filings due on June 30, 1986 and biennially thereafter.

In its application for exemption WAPA states, in part, that it should not be required to file the data specified in Subparts B, C, D, and E since the nature of its present service is substantially the same as it was December 18, 1980, the date of WAPA's previous application for exemption which was granted in its entirety. Specifically, WAPA's sales are still characterized as those of hydroelectric energy wholesale transactions to Federal, state, and public agencies. The gathering of the required data will not carry out the purposes of Section 133 of PURPA.

WAPA also states that compliance with § 290.601(d)(iii) entails placement of public notice of application in newspapers with circulation in 15 states, an expensive, time consuming practice. WAPA requests that this requirement be waived for future applications for exemption. No public comment followed WAPA's publication of notices of application made in conjunction with two previous applications for exemption.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C 20426, on or before 45 days following the date this notice is published in the **Federal Register.** Within that 45 day period such person must also serve a copy of such comments on: Mr. Robert L. McPhail, Western Area Power Administration, P.O. Box 3402, Golden, Colorado 80401.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2602 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket NO. RE80-10-002]

Wisconsin Power & Light Co.; Application for Exemption

January 27, 1983.

Take notice that Wisconsin Power & Light Company (Wisconsin) filed an application on December 27, 1982 for exemption from certain requirements of Part 290 of the Commission's Regulations concerning collection and reporting of cost of service infomation under Section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, October 11, 1979). Exemption is sought from the requirement to file on or before June 30, 1984, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290.

In its application for exemption Wisconsin states, in part, that it should not be required to file the specified data for the following reasons:

The applicant was previously granted an exemption from the reporting requirements of Subparts B, C, D, and E for the two previous filings.

The Public Service Commission of Wisconsin (PSCW) has adopted the ratemaking standards specified in PURPA excluding the automatic adjustment clause, which is presently being considered for adoption.

The applicant has been ordered by the PSCW to implement time-of-day rates for all classes of customer served except municipal. Under § 290.404(h), an exemption from the gathering and reporting of load data for any customer group served under time-of-day rates is granted but information is required to

be reported in §§ 290.305(a)(3), 290.306(b), 290.406, 290.501 and 290.502 for each customer group specified in Sections 290.404(a), 290.404(b), and 290.404(d). The data requirements of these sections are satisfied, for the largest part, by the filing of comparable data in the form of annual reports to the Federal Energy Regulatory Commission and the PSCW, in addition to cost of service studies filed with the PSCW in support of pending rate proceedings. The remaining, limited non-exempt data will be provided to interested parties upon request.

Copies of the application for exemption are on file with the Commission and are available for public inspection. The Commission's regulations require that said utility also apply to any State regulatory authority having jurisdiction over it to have the application published in any official State publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application: in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period such person must also serve a copy of such comments on: Mr. John L. Walker, Rates Manager, Wisconsin Power & Light Company, P.O. Box 192, Madison, Wisconsin 53701.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-2803 Filed 1-28-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPRM-FRL 2293-6]

Agency Forms Under CMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests that have been forwarded to the Office of Management and Budget (OMB) for review. The information collection requests listed are available to the public for review and comment.

FOR FURTHER INFORMATION CONTACT: David Bowers; Office of Standards and Regulations; Information Management Section (PM-223), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, telephone (202) 382-2742 or FTS 382-2742.

SUPPLEMENTARY INFORMATION:

Solid Waste Programs

• Title: General Facility Operating Requirements (EPA ID 0805).

Abstract: Hazardous waste facilities must record, and in some cases report to EPA, data for a variety of waste analysis, ownership transfer and other reports plus personnel training records. EPA uses the information to assure the safe and efficient management of hazardous waste.

Respondents: Generators, owners and operators of hazardous waste facilities.

• Title: Contingency Plan for Hazardous Waste Management Facilities (EPA ID 0808).

Abstract: To minimize hazards to human health and the environment, RCRA requires all hazardous waste facilities to design a contingency plan to be implemented whenever a fire, explosion or release of hazardous waste occurs. The facility keeps a copy of the plan and sends one to all pertinent emergency response teams. The facilities submit the plan to EPA with RCRA Part B permit applications.

Respondents: Generators, owners and operators of hazardous waste facilities.

• Title: Operating Record for Hazardous Waste Management Facilities (EPA ID 0809).

Abstract: Hazardous waste management facilities must keep on file written operating records that describe their waste management, type of waste, emergencies, inspections and closure/post-closure estimates. EPA and the facility use the information to assure safe operation of the facility.

Respondents: Owners and operators of hazardous waste management facilities.

• Title: Unsaturated Zone Monitoring at Hazardous Waste and Treatment Units (EPA ID 0811).

Abstract: Owners/operators of hazardous waste facilities must formulate and implement an unsaturated zone monitoring plan and keep it available for inspection. EPA uses the information to (1) indicate success/failure of processes, (2) allow early detection of threats to groundwater quality, and (3) evaluate the potential for plant uptake of hazardous waste constituents.

Respondents: Owners and operators of hazardous waste treatment, storage and disposal facilities.

• Title: Generator Requirements (EPA ID 0820).

Abstract: Shippers of hazardous wastes must (1) send a *notice of international shipment* of hazardous wastes to the receiving country; (2) keep *documentation of wastes* on file for three years from time of shipment; and (3) submit *exception reports* to EPA when the facility does not receive confirmation of shipment.

Respondents: Generators of hazardous wastes shipping them abroad.

Toxic Programs

• Title: Applications for PCB Disposal Permits (EPA ID 1012).

Abstract: Applicants for PCB disposal permits must provide a sampling and quality assurance plan as well as an environmental impact assessment to EPA with their applications. EPA uses the information to evaluate the ability of the facility to dispose of the PCBs safely.

Respondents: Owners or operators of PCB disposal facilities or those researching new disposal methods.

• Title: Records of PCB Storage and Disposal (EPA ID 0583).

Abstract: Storage and/or disposal facilities must maintain records on the PCBs they handle and submit an annual report to EPA. The Agency uses the data to monitor the movement and ultimate disposal of the PCBs.

Respondents: Owners or operators of PCB storage and disposal facilities.

Grants Programs

• Title: Application for Federal Assistance (Construction) (EPA ID 0874).

Abstract: Municipalities and states apply for financial support under the EPA Construction Grants for Wastewater Treatment Works program. The Agency uses the information on the application in making the award decision and to assure grantees' compliance with Federal requirements once they receive the assistance.

Respondents: Municipalities and states applying for construction grants.

Water Programs

• Title: Construction Grants Program Information (EPA ID 08270).

Abstract: EPA is consolidating various information collection requests pertaining to construction grants for wastewater treatment projects. New requests include local government certification of financial and management capability, field testing for innovative/alternative technology grants and notices covering funding, allocation and contract administration.

Respondents: State water pollution control agencies and local governments.

* * * * *

Agency forms cleared by OMB between December 21 and January 20, 1983: None.

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Comments on all parts of this notice should be sent to:

David Bowers, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223), 401 M Street, SW., Washington, D.C. 20460

and

Anita Ducca, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, D.C. 20503

Dated: January 24, 1983.

C. Ronald Smith,

Director, Office of Standards and Regulations.

[FR Doc. 83–2321 Filed 1–28–83; 8:45 am]

BILLING CODE 6560–50–M

[SAB–FRL 2295–3]

Science Advisory Board, High-Level Radioactive Waste Disposal Subcommittee; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a two-day meeting of the High-Level Radioactive Waste Disposal Subcommittee of the Science Advisory Board will be held in The Regency Ballroom E and F, Hyatt Regency Crystal City Hotel, 2799 Jefferson Davis Highway, Arlington, Virginia, on February 16–17, 1983. The meeting will begin at 9:00 a.m. and last until 5:00 p.m. each day.

The purpose of the meeting will be to commence review of the scientific and technical basis of the Agency's proposed rules for the management and disposal of high-level radioactive wastes. The members of the Subcommittee, and the principal issues for the Subcommittee's consideration, were announced in the **Federal Register**, Wednesday, January 5, 1983, page 509.

The agenda for the meeting, which is the second in a series of meetings on the proposed rules, will include finalizing of the issues before the Committee, a review of the environmental pathways analyses supporting the proposed rules, and discussions on the agenda for future meetings.

The meeting is open to the public. Any member of the public wishing to attend or obtain further information about the meeting should contact Harry C. Torno, Executive Secretary, at (202) 382–2552, or Terry F. Yosie, Acting Staff Director, Science Advisory Board, at (202) 382–4126. Public comment will be accepted at the meeting. Written comment will be accepted in any form, and there will be opportunity for brief oral statements. Anyone wishing to make such comment must contact Mr. Torno prior to February 11, 1983, in order to be placed on the agenda.

Dated: January 25, 1983.

Terry F. Yosie,

Acting Director, Science Advisory Board.

[FR Doc. 83–2671 Filed 1–28–83; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL ELECTION COMMISSION

[Notice 1983–4]

Filing Dates for New York Special Election

AGENCY: Federal Election Commission.

ACTION: Notice of Filing Dates for New York Special Election.

SUMMARY: Committees required to file reports in connection with the special election to be held in the 7th Congressional District of New York on March 1, 1983, must file a 12-day pre-election report due on February 17, 1983, and a 30-day post-election report due on March 31, 1983.

After filing these reports, committees should resume filing reports on a semi-annual basis for 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office 1325 K Street, NW., Washington, D.C. 20463, Tel: (202) 523–4068; Toll-free: (800) 424–9530.

Notice of Filing Dates for Special Election, 7th Congressional District, New York

The State of New York has scheduled a special election in the 7th Congressional District for March 1, 1983.

All principal campaign committees of candidates involved in the special election, and all other political committees not filing monthly that support candidates in this special election, shall file a 12-day pre-election report due on February 17, 1983, with coverage dates from January 1, 1983, or the date of registration, whichever is later, through February 9, 1983, and a 30-day post election report due on March 31, 1983, with coverage dates from February 10, 1983, through March 21, 1983.

After filing these reports, committees should resume filing reports on a semi-annual basis for 1983.

Dated: January 26, 1983.

Lee Ann Elliott,

Vice Chairman, Federal Election Commission.

[FR Doc. 83–2574 Filed 1–28–83; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *America Corporation*, Morgan City, Louisiana, to acquire 100 percent of the voting shares or assets of America Bank in Louisiana, Morgan City, Louisiana. Comments on this application must be received not later than February 23, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Freeport Corporation*, Freeport, Illinois; to become a bank holding company by acquiring at least 80 percent of the voting shares of Lincolnway State Bank, Sterling, Illinois. Comments on this application must be received not later than February 23, 1983.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Orange Bancorp*, Fountain Valley, California; to acquire 51 percent of the voting shares or assets of The Bank of Northern California (In Organization),

San Jose, California. Comments on this application must be received not later than February 23, 1983.

D. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *InterFirst Corporation*, Dallas, Texas; to acquire 100 percent of the voting shares or assets of First International Bank-North West, National Association, San Antonio, Texas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than February 23, 1983.

Board of Governors of the Federal Reserve System, January 25, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2538 Filed 1-28-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Merchants of Shenandoah Ban-Corp*, Shenandoah, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by consolidation to The Merchants National Bank of Shenandoah, Shenandoah, Pennsylvania. Comments on this application must be received not later than February 23, 1983.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *LSB Bancshares, Inc.*, Lexington, North Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Lexington State Bank, Lexington, North Carolina. Comments on this application must be received not later than February 23, 1983.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *SSB Bancshares, Inc.*, Marshalltown, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Security Savings Bank, Marshalltown, Iowa. Comments on this application must be received not later than February 23, 1983.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Canadian Bancshares, Inc.*, Yukon, Oklahoma; to become a bank holding company by acquiring 80 percent or more of the voting shares of Canadian State Bank, Yukon, Oklahoma. Comments on this application must be received not later than February 23, 1983.

Board of Governors of the Federal Reserve System, January 25, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2539 Filed 1-28-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Norstar Bancorp, Inc.*, Albany, New York; to acquire 67.6 percent or more of the voting shares or assets of Bank of Commerce, New York City, New York. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York. Comments on this application must be received not later than February 24, 1983.

Board of Governors of the Federal Reserve System, January 25, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2541 Filed 1-28-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Jefferson Bankshares Corp.*, Chicago Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Jefferson State Bank, Chicago, Illinois. Comments on this application must be received not later than February 24, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Woodburn Bancorp*, Woodburn, Oregon; to become a bank holding company by acquiring 100 percent of the voting shares of Woodburn State Bank, Woodburn, Oregon. Comments on this

application must be received not later than February 24, 1983.

Board of Governors of the Federal Reserve System, January 25, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2540 Filed 1-28-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (finance company and insurance activities; Missouri): To expand the service area of an existing office of its subsidiary, Citicorp Acceptance Company, Inc., located in Overland Park, Kansas. The previously approved service area of the office encompasses the States of Kansas, Iowa, Nebraska, South Dakota, Minnesota, and the western half of Missouri. The proposed expanded service area shall be the entire State of Missouri for the following previously approved activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the making of loans to individuals and businesses secured by a lien on mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans; and the servicing, for any person, of loans and other extensions of credit. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Acceptance Company, Inc. Comments on this application must be received not later than February 23, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Northwest Bancorporation*, Minneapolis, Minnesota (financing and insurance activities; Texas): To engage through its subsidiary, Dial Finance Company of Texas, in the activities of consumer and commercial finance, and the sale of credit-related insurance including credit-accident and health, credit-life, and property and credit related casualty insurance related to extensions of credit by Dial Finance Company of California. These activities would be conducted from two relocated offices in Dallas, Texas, serving Dallas, Texas. Comments on this application must be received not later than February 22, 1983.

2. *Northwest Bancorporation*, Minneapolis, Minnesota (financing and insurance activities; California): To enage through its subsidiary, Dial Finance Company of California, in the activities of consumer and commercial finance, and the sale of credit-related insurance including credit-accident and health, credit-life, and property and credit related casualty insurance related to extensions of credit by Dial Finance Company of California. These activities would be conducted from a relocated office in Culver City, California, serving Culver City, California, other nearby suburbs of Los Angeles, California, and Los Angeles, California. Comments on this application must be received not later than February 22, 1983.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Colorado National Bankshares, Inc.*, Denver, Colorado; (credit related insurance activities; Colorado): To engage through its subsidiary, Colorado National Insurance Agency, in life, disability, and hazard insurance coverages directly related to extensions of credit by six of its recently acquired subsidiary banks: Colorado National Bank-Arvada, Arvada, Colorado; Colorado National Bank-Aurora, Aurora Colorado; Colorado National Bank-Boulder, Boulder, Colorado; Colorado National Bank-Exchange, Colorado Springs, Colorado; Colorado National Bank-Belmont, Pueblo, Colorado; and Colorado National Bank-Pueblo, Pueblo, Colorado. The respective geographic scopes for the above locations will be the city of Arvada, Colorado and the eastern portion of Golden, Colorado; the city of Aurora, Colorado; the city of Boulder, Colorado; El Paso County plus the town of Woodland Park, Colorado and Pueblo County, Colorado. Colorado National Bankshares earlier secured approval to engage in insurance activities by Board Order of July 1, 1974. Comments on this application must be received not later than February 23, 1983.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *U.S. Bancorp*, Portland, Oregon (industrial loan activities; California): To engage through its existing indirect subsidiary, U.S. Thrift & Loan, in the making, acquiring and servicing of loans and other extensions of credit, either secured or unsecured, for its own account or the account of others, including, but not limited to commercial, rediscount and installment sales contracts; to issue thrift certificates and passbooks and to act as insurance agent with regard to credit life and disability insurance solely in connection with extensions of credit by U.S. Thrift & Loan in conformance with the provisions of §§ 225.4(a)(1), 225.4(a)(2), 225.4(a)(3), and 225.4(a)(9)(i) of Regulation Y. These activities will be conducted from offices in Citrus Heights, Concord, and Stockton, California, serving the above cities respectively. Comments on this application must be

received not later than February 23, 1983.

Board of Governors of the Federal Reserve System, January 25, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-2542 Filed 1-28-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-79469]

Alaska; Airport Lease Application

Notice is hereby given that pursuant to the Act of May 24, 1928 (49 U.S.C. 211–214) the State of Alaska, Department of Transportation and Public Facilities, has applied for an airport lease for the following land.

Umiat Meridian, Alaska

T. 16 S., R. 11 E., within protracted Secs. 3, 9, 10 and 16

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of land Management, P.O. Box 1150, Fairbanks, Alaska 99707.

Dated: January 21, 1983.

Lennie Eubanks,

Chief, Branch of Land Office.

[FR Doc. 83-2577 Filed 1-28-83; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, Fourth Regular Meeting.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Service announces a public meeting in order to receive information and comments on the proposed negotiating positions for the regular meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species (Cites) of Wild Fauna and Flora to be held in Gaborone, Botswana, April 19–30, 1983. The Service will also receive at the public meeting information and comments with regard to proposals to amend the lists of species in Appendices I and II of the Convention. The instant notice of meeting will be repeated as part of a soon to be published notice setting forth the Service's proposed negotiating positions.

ADDRESSES: The public meeting will be held on February 15, 1983, from 9:30 a.m. to 12:30 p.m. in room 7000 A of the Main Interior Building, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2418).

SUPPLEMENTARY INFORMATION:

Announcement of Public Meeting

The Service announces that it will hold a public meeting on Tuesday, February 15, 1983, from 9:30 a.m. to 12:30 p.m. in Room 7000 A of the Main Interior Building of the Department of the Interior, 18th and C Streets, NW., Washington, D.C., for purposes of receiving information and comments with regard to the proposed negotiating positions for the regular meeting of the Conference of the Parties to CITES which will soon be published in the **Federal Register**, and with regard to proposals to ammend the lists of species in Appendices I and II of the Convention. Appointments to speak at the public meeting may be made with the Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240 (703/235–2418). Participants without prior appointments will be given an opportunity to speak to the extent time allows following speakers with appointments.

This notice was prepared by Arthur Lazarowitz, Federal Wildlife Permit Office.

Dated: January 25, 1983.

Robert A. Juntzen,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 83-2517 Filed 1-28-83; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Chesapeake and Ohio Canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, March 5, 1983, at 1:00 p.m. at the Brunswick Town Hall in Brunswick, Maryland.

The Commission was established by Pub. L. 91–664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Miss Carrie Johnson, Chairman, Arlington, Virginia
Mr. Carl L. Shipley, Washington, D.C.
Ms. Polly Bloedorn, Bethesda, Maryland
Mrs. Constance Lieder, Baltimore, Maryland
Mr. James B. Coulter, Annapolis, Maryland
Mr. William H. Ansel, Jr., Romney, West Virginia
Mr. Silas Starry, Shepherdstown, West Virginia
Mrs. Bonnie Troxell, Cumberland, Maryland
Mr. John D. Millar, Cumberland, Maryland
Mr. Rockwood H. Foster, Washington, D.C.
Mr. Barry Passett, Washington, D.C.
Ms. Barbara Yeaman, Brookmont, Maryland
Ms. Joan LaRock, Lovettsville, Virginia
Ms. Elise Heinz, Arlington, Virginia
Ms. Marjorie Stanley, Silver Spring, Maryland
Mrs. Minny Pohlmann, Dickerson, Maryland
Dr. James H. Gilford, Frederick, Maryland
Mr. R. Lee Downey, Williamsport, Maryland
Mr. Edward K. Miller, Hagerstown, Maryland

Matters to be discussed at this meeting include:

1. Current Issues
2. Superintendent's Report
3. Committee Reports
   Plans and Projects Committee
   Recreation Policies and Issues
   Resource Protection
4. Public Comments
5. New Business

The meeting will be open to the public, Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Richard L. Stanton, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782.

Minutes of meeting will be available for public inspection four (4) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: January 20, 1983.

Robert Stanton,

Acting Regional Director, National Capital Region.

[FR Doc. 83-2582 Filed 1-28-83; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the fifty-fourth meeting of the Board for International Food and Agricultural Development (BIFAD) on February 18, 1983.

The purpose of the meeting is to explore ways for working with the private sector on Title XII programs. Specifically, the Board will hear a presentation by Hon. Orville L. Freeman (Business International Corporation), on involvement of the private sector, along with universities in AID agricultural programs; consider a status report on a study by Dr. Ralph Smuckler (Michigan State University) on universities, the private sector, and Title XII; discuss collaboration between universities and private voluntary organizations; receive report on activities of the Joint Committee on Agricultural Research and Development (JCARD); and meet with BIFAD Support Staff to discuss staff actions and operational procedures.

The meeting will begin at 9:00 a.m. and adjourn at 12:15 p.m., and will be held in Room 1107, New State Department Building, 22nd and C Streets, NW., Washington, D.C. The meeting with the BIFAD Support Staff will begin at 8:00 a.m. and adjourn at 8:45 a.m. This meeting will be held in Room 1406, New State Department Building, 22nd and C Streets, NW., Washington, D.C. The meetings are open to the public. Any interested person may attend, may file written statements with the Board before or after the meetings, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meetings permit. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting.

Dr. Erven J. Long, Coordinator, Title XII Strengthening Grants and University Relations, Bureau for Science and Technology, Agency for International Development, is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, International Development Cooperation Agency, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: January 26, 1983.

C. H. Barker,

Deputy Coordinator for University Relations, Bureau for Science and Technology.

[FR Doc. 83-2607 Filed 1-28-83; 8:45 am]

BILLING CODE 6018-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-234

The following applications were filed in Region I: send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 162875 (Sub-1-1TA), filed January 17, 1983. Applicant: AARTIC PARCEL SERVICE, INC., 27 Canal Street, Millbury, MA 01527. Representative: J. Todd Miles (same as applicant). *General commodities, no single piece to weigh more than 100 pounds,* between points in CT, MA, RI, NH. Supporting shipper: Amtrak, National Railroad Passenger Corp., 400 North Capitol St., N.W., Washington, DC 20001.

MC 165688 (Sub-1-1TA), filed January 14, 1983. Applicant: GENERAL AMBASSADOR LIMOUSINE, INC., t.a. AMBASSADOR LIMOUSINE, 820 N. New York Avenue, Atlantic City, NJ 08401. Representative: Victor L. Schwartz, Esq., 1601 Architects Building, 117 S. 17th Street, Philadelphia, PA 19103. *Passengers and baggage* from Atlantic City, NJ to all points in CT, MD, NY, PA and NJ. Supporting shipper: Playboy Elsinore Associates, d.b.a. Playboy Hotel and Casino, 2500 Boardwalk, Atlantic City, NJ 08404.

MC 165566 (Sub-1-TA), filed January 12, 1983. Applicant: B.G.S. TRANSPORTING AND TOWING CORP., 158 Medford Ave., Patchogue, NY 11772. Representative: Jeremy Kahn, Esq., Suite 733, Investment Bldg., 1511 K Street, N.W., Washington, DC 20005. *Used automobiles and parts and accessories* betweem Patchogue, Medford, and Greenport, NY, on the one hand, and, on the other, Manheim, PA, Acton, MA, Bordentown and Teterboro, NJ, Fredericksburg, VA, and High Point, NC. Supporting Shipper(s): Tag Motors, 1601 Route 112, Medford, NY 11763; Patchogue Ford, 501 Route 112, Patchogue, NY 11772; Jay-Cee Motors, 2021 Route 112, Medford, NY 11763; Schroeder's Used Cars, 112 at Medford Ave., Patchogue, NY 11772

MC 165720 (Sub-1-TA), filed January 17, 1983. Applicant: NORMAND CLOUTIER TRANSPORT, INC., 180 R.R. 224, St. Simon of St. Hyacinthe, Quebec, CD JOH 1YO. Representative: Paquette, Perreault, Rivet & Assoc., 200 St. James Street, Room 900, Montreal, Quebec, CD H2Y 1M1. *Lumber* from the ports of entry on the U.S/CD Boundary Line at Jackson Line and Highgate, VT, Champlain, Rooseveltown and Ogdensburg, NY to points in ME, VT, NH, MA, CT, NY, PA, NJ, DE, WA, MD, WV, VA, NC, SC, GA, FL, AL, MS, LA, TN, KY, OH, IN, MI, IL, WI, MO. Supporting shipper(s): Hervay McLean Inc., 1554 Viel Street, St. Laurent, Quebec, CD; McNutt Lumber Co. Ltd., 1564 Herron Blvd., Dorval, Quebec, CD H9R 4S8; D. McLean International Inc.,

1554 Viel Street, St. Laurent, Quebec, CD.

MC 99443 (Sub-1–2TA), filed January 13, 1983. Applicant: CURRIER'S EXPRESS, INC., 30 Lowell Jct. Road, Andover, MA 01801. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *Contract carrier:* irregular routes: *General commodities, except classes A & B explosives, and hazardous materials,* between points in MA, CT, ME, NH, RI, VT, NY, NJ, PA, DE, DC, MD, OH, VA, WV, KY, and TN, under continuing contract(s) with Mystic Warehouse, Inc., of Andover, MA. Supporting shipper: Mystic Warehouse, Inc., Lowell Jct. Road, Andover, MA 01801.

Mc 165665 (Sub-1–1TA), filed January 13, 1983. Applicant: G & C INTERMODAL EXPRESS, INC., 134 Landing Road, Landing, NJ 07850. Representative: Harold L. Reckson, 33–28 Halsey Road, Fair Lawn, NJ 07410. *General commodities (except Classes A and B explosives, household goods and commodities in bulk)* between Philadelphia, PA, and points in its commercial zone, on the one hand, and, on the other, points in Atlantic, Burlington, Camden, Cumberland, Middlesex, Mercer, Ocean, Salem, Hunterdon and Somerset Counties, NJ, Berks, Bucks, Chester, Delaware and Montgomery Counties, PA, New Castle and Kent Counties, DE, and Cecil and Queen Anne Counties, MD, having a prior or subsequent movement by rail. Supporting shipper: National Piggyback Services, Inc., P.O. Box 27176, Indianapolis, IN 46227.

MC 165673 (Sub-1–1TA), filed January 13, 1983. Applicant: GOODALL TRANSPORTATION COMPANY, 572 Whitehead Road, P.O. Box 8237, Trenton, NJ 08650. Representative: Harold L. Reckson, 33–28 Halsey Road, Fair Lawn, NJ 07410. *Food and related products* from points in Alameda County, CA, to Chicago, IL, Detroit, MI, Albany and New York, NY, and points in their commercial zones, Kent County, RI, Windham County, VT, Prince Georges County, MD, Culpeper County, VA, and points in MA, NJ and PA. Supporting shipper: Westbrae Natural Foods, 4240 Hollis Street, Emeryville, CA 94608.

MC 154993 (Sub-1–11TA), filed January 13, 1983. Applicant: H & W ENTERPRISES, INC., S. Witham Road, P.O. Box 325, Auburn, ME 04210. Representative: Ignatius B. Trombetta, 1001 One Public Square Bldg., Cleveland, OH 44113. *Contract Carrier:* irregular routes: *General commodities, (except Classes A and B explosives)* from points in TX, KY, CA, NJ, OH, IL, and PA to facilites located in Androscoggin County, ME, under continuing contract(s) with L & A Tire Co., of Lewiston, ME. Supporting shipper: L & A Tire Co., 485 Sabattus Street, Lewiston, ME.

MC 154993 (Sub-1–12TA), filed January 13, 1983. Applicant: H & W ENTERPRISES, INC., S. Witham Road, P.O. Box 325, Auburn, ME 04210. Representative: Ignatius B. Trombetta, 1001 One Public Square Bldg., Cleveland, OH 44113. *Contract carrier:* irregular routes: *Metal, Plastic, Rubber and related products* (1)between facilities located in Cuyahoga County (Solon), OH, and Union County (Elizabeth), NJ, and (2) from said facilities to points in VT, Erie and Monroe Counties, NY, Chicago Commercial area and Williamson County, (Marion), IL, Fulton County, GA, Dallas County, TX, Hillsborough County, FL, and Wilson County, TN, under continuing contract(s) with Van Dorn Company of Cleveland, OH. Supporting shipper: Van Dorn Company, Davies Can Division, 30301 Carter Street, Solon, OH 44139.

MC 165664 (Sub-1–1TA), filed January 13, 1983. Applicant: A. C. PATEL, d.b.a. J. & S. DELIVERY, 406 Franklin Road, Denville, NJ 07834. Representative: A. C. Patel (same as applicant). *Photo-copy and word processing machines; materials, supplies, equipment and accessories related thereto* between points in CT, and NY. Supporting shipper: Columbia Business System, Inc., 2 Westchester Plaza, Elms for, NY 10523.

MC 114757 (Sub-1–1TA), filed January 13, 1983. Applicant: EMPIRE BUS LINES, d.b.a. LEPRECHAUN LINES, Windsor Highway, Route 32 South, P.O. Box 2628, Newburgh, NY 12550. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Common carrier:* regular routes: *Passengers and their baggage,* between Fishkill, NY, and Arlington, NY from Fishkill over U.S. Hwy. 9 to Poughkeepsie, NY, then over U.S. Hwy 44 to Arlington, and return over the same route, serving all intermediate points and the off route points of Downstate Correctional Facility and Beacon Correctional facility near Beacon, NY. Applicant intends to tack to existing authority and interline at Poughkeepsie and Ney York, NY. Supporting shipper(s): Helen E. Diesing, 36 Crestwood Blvd., Poughkeepsie, NY 12603; David D. Bruen, County, Executive, Putnam County Executive, Two County Center, Carmel, NY 10512; Lucille P. Pattison, County Executive, The Dutchess County Executive, County Office Bldg., Poughkeepsie, NY 12601.

MC 142114 (Sub-1–15TA), filed January 14, 1983. Applicant: RETAIL EXPRESS, INC., 36 South Main Street, Sharon, MA 02067. Representative: Frank M. Cushman, 5 Carbrey Avenue, Sharon, MA 02067. *Contract carrier:* irregular routes: *such commodities as are dealt in by retail department stores (except commodities in bulk and frozen foodstuffs)* between points in all of the 48 contiguous U.S. (AK and HI excluded) under continuing contract(s) with Ames Department Stores, Inc., Rocky Hill, CT. Supporting shipper(s): Ames Department Stores, Inc., 2418 Main Street, Rocky Hill, CT 06067.

MC 162247 (Sub-2TA), filed January 14, 1983. Applicant: SABER TRANSPORT, INC., Travellers Plaza, Borelli Blvd., P.O. Box 18, Paulsboro, NJ 08066. Representative: Dixie C. Newhouse, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. *Contract carrier:* irregular routes: *Machinery, including materials equipment and supplies used in the manufacture, sale and distribution thereof,* between points in the U.S. (Except AK and HI) under continuing contract(s) with Soklove Machinery Company, Inc., Huntington, PA; and (2) *Air conditioning and home heating products, including materials, equipment and supplies used in the manufacture, sale and distribution thereof,* between Trenton, NJ, including its commercial zone, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Trace CAC, Inc., Trenton, NJ. Supporting shipper(s): Soklove Machinery Company, Inc., 3816 Loop Road, Huntington, PA 19006; Trane CAC, Inc., 2231 E. State St., Trenton, NJ 08619.

MC 165663 (Sub-1TA), filed January 13, 1983. Applicant: STANCH FREIGHT SERVICE, INC., 774 Bedford Avenue, Brooklyn, NJ 11205. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. *General commodities (except Classes A and B explosives, household goods and commodities in bulk).* between points in the U.S. in and east of MI, IN, KY, TN and MS. Supporting shipper(s): There are eight statements of support with this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

MC 165686 (Sub-1–1TA), filed January 14, 1983. Applicant: LYLE STENERSEN, d.b.a. L. M. STENERSEN TRANSPORT, School Street, Route 1, Rindge, NH 03461. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *Contract carrier:* irregular

routes: *Building materials and supplies* between points in the U.S. (except AK and HI), under continuing contract(s) with Lyn'Lad Group Ltd., West Lynn, MA; Barretto Granite Corp., Milford, NH, and Seppala & Aho, Inc., New Ipswich, NH. Supporting shipper(s): Lyn'Lad Group Ltd., 220 South Common Street, West Lynn, MA 01905; Barretto Granite Corporation, Armory Road, Milford, NH 03055; Seppala & Aho, Inc., Route 124, New Ipswich, NH 03070.

MC 158722 (Sub-1–1TA), filed January 12, 1983. Applicant: T. M. DELIVERY SYSTEMS, INC., Forty Carver Avenue, Westwood, NJ 07675. Represenative: Rick A. Rude, Esq., Suite 611, 1730 Rhode Island Avenue, N.W., Washington DC 20036. *Paper, paper products, and printed matter,* between points in MA, NJ, NY, and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Transportation Management Consultants, Inc., 20 Theodore Conrad Drive, Liberty Industrial Park, Jersey City, NJ 07305.

MC 165689 (Sub-1–1TA), filed January 14, 1983. Applicant: TRANSPORT I. BIJEAU, LTD., 237 7th Avenue, Deux Montagnes, Quebec, CD. Representative: Issac Bijeau, C. P. 531, St. Eustache, Quebec, CD J7R 3H7. *Building material, lumber, fencing and plate glass* between points of entry on the U.S./CD International Boundary at Champlain, NY, and Highgate Springs, VT, and points in CT, DC, MA, MD, NH, NJ, NY, PA, RI, TN, VA, WV and VT. Supporting shipper(s): There are six statements of support with this application which may be examined at the Regional Office of the I.C.C. in Boston, MA.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 165526 (Sub-II–1TA), filed January 10, 1983. Applicant: BAMBRICK ENTERPRISES, INC., P.O. Box 216, Douglassville, PA 19518. Representative: Joseph T. Bambrick, Jr. (same address as applicant). Contract, irregular: *General commodities (except Classes A & B explosives and household goods as defined by the Commission)* between points in the U.S. (except AK and HI), under continuing contract(s) with Aladdin Industries; Assembly & Distribution Terminals of MA, Inc.; Assembly & Distribution Terminals of CA, Inc.; Assembly & Distribution Terminals of WA, Inc.; Assembly & Distribution Terminals of OR, Inc.; General Nutrition Corp.; Sherwood Medical. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are seven supporting shippers statements attached to this application that may be examined at the Philadelphia Regional Office.

MC 109448 (Sub-II–25TA), filed January 18, 1983. Applicant: PARKER TRANSFER CO., P.O. Box 256, Elyria, OH 44036. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Chemicals and related products* (except commodities in bulk) between points in Henderson, McCracken, Warren and Fayette Counties, KY; Bartholomew County, IN; Wetzel and Kanawha Counties, WV; Allegheny County, PA; Hillsborough and Orange Counties, FL; Hamilton, Davidson, Knox and Washington Counties, TN; and Madison County, AL, on the one hand, and, on the other, points in the U.S. in and east of WI, IL, KY, TN and MS, for 270 days. Supporting shipper: PB&S Chemical Company, 1100 North Adams Street, Henderson, KY 42420.

MC 110683 (Sub-II–17TA), filed January 10, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Robert L. Stover (same address as applicant). Contract, irregular: *General commodities (except household goods as defined by the Commission, commodities in bulk and Classes A and B explosives);* between points in the U.S. (except AK and HI), under continuing contract(s) with Sears, Roebuck and Co. Supporting shipper(s): Sears, Roebuck and Co., Sears Tower, Chicago, IL 60684.

MC 123675 (Sub-II–2TA), filed January 18, 1983. Applicant: SOLDIER BROS, A B T LINE, INC., 614 Paine Avenue, Toledo, OH 43605. Representative: Keith D. Warner, 5732 W. Rowland Rd., Toledo, OH 43613. *Processed polyvinylbutryal and materials and supplies used in the processing thereof,* between Toledo, OH and points in the lower peninsula of MI for 270 days. An underlying e.t.a. seeks 120 days authority. Supporting shipper(s): B O'B, Inc., 352 Morris Street, Toledo, OH 43602.

MC 165749 (Sub-II–1TA), filed January 18, 1983. Applicant: RON TOOLEY TRUCKING, INC., 345 Columbus Rd., Wooster, OH 44691. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Such commodities as are dealt in or distributed by meat packinghouses,* (except commodities in bulk) between points in Stark County, OH and Greene County, IN, on the one hand, and, on the other, points in OH, IN, PA, and NY, for 270 days. Supporting shipper: Superior Brand Meats, Inc., Sugardale Foods, Inc., Worthington Packing Co., G.B.D., Inc., 1888 Southway, S.W., Massillon, OH 44646.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 142368 (Sub-3–3TA), filed January 19, 1983. Applicant: DANNY HERMAN TRUCKING, INC., P.O. Box 55, Mountain City, TN 37683. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *General Comodities (except Classes A and B explosives, household goods, and commodities in bulk),* Between Atlanta, GA; Birmingham, AL; Boston, MA; Charlotte, NC; Chicago, IL; Dallas, Fort Worth, and Waco, TX; Greenville, SC; Jersey City, NJ; Los Angeles, CA; Miami, FL; Nashville, TN; Philadelphia, PA; and Richmond, VA and points in their commercial zones; and points in Johnson County, TN, on the one hand, and, on the other, points in AL, FL, GA, LA, and MS. Supporting shippers: Charlotte Freight Association, Inc., P.O. Box 26007, Charlotte, NC 28213; Film Salvage Co., Route 1, Coal Springs Rd., Mountain City, TN 37683; and Greever & Walsh Wholesale Textiles, Inc., Church St., Mountain City, TN 37683.

MC 165250 (Sub-3–2TA), filed January 19, 1983. Applicant: B A R TRANSPORTATION, INC., P.O. Box 863, Calhoun, GA 30701. Representative: Mark S. Gray, Suite 1006, 225 Peachtree St., N.E. Atlanta, GA 30303. *Steel wire and fence wire, including materials and supplies used in the manufacture, distribution and sale therof; and empty spools on return (except Class A and B explosives, household goods and commodities in bulk);* between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Bekaret Steel Wire Corp. Supporting shipper: Bekaret Steel Wire Corp., Drawer G, Rome, GA 30161.

MC 165762 (Sub-3–1TA), filed January 19, 1983. Applicant: FREIGHT MOVERS TRUCK BROKER, INC., P.O. Box 6501, Dothan, AL 36302. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Contract: Irregular: (1) *Lumber, including materials, equipment and supplies* used in the manufacture, sale and distribution therof, (a) between Eufaula, AL including its commercial zone, on the one hand, and, on the other, points in TX, LA, MS, GA, FL, SC, NC, VA, KY, TN and AR, under a continuing contract(s) with Lakeside Lumber Company, (b) between Abbeville, AL, including its commercial zone, on the one hand, and, on the other, points in

GA, FL, TN, NC, and SC, under a continuing contract(s) with St. Regis Paper Compay and (2) *plastic resins and plastic pipe and plumbing accessories, including materials, equipment and supplies* used in the manufacture, sale and distribution thereof, between Samson and Hartford, AL, including their respective commercial zones, on the one hand, and, on the other, points in and east of ND, SD, NE, CO, OK and TX, under a continuing contract(s) with Samson Plastic Conduit and Pipe Corporation. Supporting shippers: Lakeside Lumber Co., P.O. Box 154 Eufaula, AL 36027; St. Regis Paper Company, P.O. Box 249, Abbeville, AL 36210; and Samson Plastic Conduit and Pipe Corporation, P.O. Box 325, Samson, AL 36477.

MC 145637 (Sub-3–8TA), filed January 18, 1983. Applicant: B&B EXPRESS, INC., P.O. Box 5552, Station B, Greenville, SC 29606. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *General commodities (except classes A&B explosives and commodities in bulk),* between NC and SC, on the one hand, and, on the other, points in CA and AZ. Supporting shipper(s): E. I. Du Pont de Nemours & Co., Inc., 10th and Market St., Wilmington, DE 19898.

MC 165735 (Sub-3–1TA), filed January 18, 1983. Applicant: R & J FREIGHT, INC., Rt. 3, Box 75, Conover, NC 28613. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. *Furniture and fixtures* from Catawba County, NC to points on and east of a line bound by the western boundaries of ND, SD, NE, KS, OK, and TX. Supporting shipper: Hickory Ridge Furniture Co., Inc., P.O. Box 726, Conover, NC 28613.

MC 123712 (Sub-3–1TA), filed January 18, 1983. Applicant: STANLEY'S TRANSFER COMPANY, INC., 950–1000 North Marine Blvd., Jacksonville, NC 28540–0316. Representative: Thomas R. Kingsley, 10614 Amherst Avenue, Silver Spring, MD 20902. *Household goods, as defined,* between points in the United States (except AK, HI, MT, ND, and SD). Applicant intends to interline with other carriers at Stoughton, MA, Brooklyn, NY, Philadelphia, PA, Kansas City, MO, Lawton, OK, San Antonio, TX, and San Diego, CA. Supporting shipper: The Department of Defense as represented by the U.S. Army Legal Services Agency, 5611 Columbia Pike, Falls Church, VA 22041.

MC 165399 (Sub-3–1TA), filed January 18, 1983. Applicant: L. S. TRUCKING, INC., 9003 Tara Boulevard, Jonesboro, GA 30236. Representative: Philip L. Martin, 2220 Parklake Dr., N.E., Suite 115, Atlanta, GA 30345. *Contract:* Irregular: *Pulp, paper and related products* between points in the United States, under continuing contract with Wilcox Walter Furlong Paper Co. Supporting shipper: Wilcox Walter Furlong Paper Co., 5255 Fulton Industrial Blvd., S.W., Atlanta, GA 30336.

MC 165256 (Sub-3–1TA), filed January 18, 1983. Applicant: ELROD ENTERPRISES, INC., 4801 Port Drive, Douglasville, GA 30135. Representative: Rodney W. Elrod (same address as applicant). *Contract,* Irregular, *Metal Products, and materials, and equipment, and supplies (except commodities in bulk) used in the manufacturing, production, processing, installation, sale, and distribution,* between points in GA, AL, FL, NC, SC, TN. Supporting shipper: Crown Cork & Seal Inc., 9300 Ashton Rd., Philadelphia, PA 19136.

MC 2934 (Sub-3–53 TA), filed January 18, 1983. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W.G. Lowry, (same as above). *Contract:* Irregular: *General Commodities (except commodities in bulk and Class A and B explosives);* between points in the U.S. (including AK and HI), under continuing contracts with Motorola, Inc. and its subsidiaries, 1303 East Algonguin Road, Schaumburg, IL 60196. Supporting shipper: Motorola, Inc., 1303 East Algonguin Road, Schaumburg, IL 60196.

MC 143271, (Sub-3–2 TA), filed January 18, 1983. Applicant: CAPITAL CITY TRUCK GARAGE & TRUCKING COMPANY, INC., 3017 Trawick Road, Raleigh, NC 27604. Representative: Nicholas J. Dombalis II, 3700 Computer Drive, Post Office Box 18237, Raleigh, NC 29619. *General commodities,* between points in NC, on the one hand, and, on the other, those points in the U.S. on and east of a line beginning at the mouth of the MS River, and extending along with the MS River to its junction with the western boundary of Itasca County, MN, thence northward along the western boundaries of Itasca and Koochiching Counties of MN, to the International boundary line between the U.S. and Canada. Supporting shipper(s): Litho Industries Company, P.O. Box 30069, Raleigh, NC 27622.

MC 165405 (Sub-3–1 TA), filed January 18, 1983. Applicant: CONTINENTAL MBS COACHES, 22 Public Square, P.O. Box 973, Columbia, TN 38401. Representative: Continental MBS Coaches. *Passengers and their baggage in charter operations* between TN, KY, AL, on the one hand, and, all points in the U.S. excluding AK and HI on the other. Supporting shipper: Continental Tours, Inc., 300 Experiment Lane, Columbia, TN 38401.

MC 165232 (Sub-3–1 TA), filed January 18, 1983. Applicant: AIRLINE MOVING & STORAGE, INC., 142 Stockton Street, Jacksonville, FL 32204. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Household goods, bags and used automobiles,* between points in AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NM, NY, NC, OH, OR, OK, PA, RI, SC, TN, TX, UT, VA, VA, WV and WI. Supporting shippers: There are five supporting shippers. Their statements may be examined by the ICC Regional Office, Atlanta, GA.

MC 140902 (Sub-3–19 TA), filed January 18, 1983. Applicant: DPD, INC., 3600 N.W. 82nd Avenue, Miami, FL 33166. Representative: Dale A. Tibbets, (same address as applicant). *Contract:* irregular; *Foam and rubber products* between Morristown, TN on the one hand and on the other points in the states of AL, GA, TX, FL, IL, IN, KY, MS, NC, OH, SC, VA, WV, MO, AR, and LA under continuing Contract(s) with Recticel Foam Corporation. Supporting shipper: Recticel Foam Corporation, P.O. Box 655, Buffalo, NY 14240.

MC 148130 (Sub-3–3TA), filed January 18, 1983. Applicant: SHARP TRANSPORT, INC., Rte. 1, Box 20, Ethridge, TN 38456. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *Preserves and toppings* from points in CA to Nashville, TN. Supporting shipper(s): Shoney's Inc., 1727 Elm Hill Pike, Nashville, TN 37210.

MC 165730 (Sub-3–1TA), filed January 18, 1983. Applicant: E. H. SISTRUNK TRUCKING, INC., Route Two, Box 244, Auburn, AL 36830. Representative: V. Lee Pelfrey, Attorney at Law, 104 Court Square, Clayton, AL 36016. 1. *Lumber and wood products* between points in AL, AR, FL, GA, IN, KY, LA, MS, NC, TN, TX and SC. 2. *Fertilizer, cotton seed and cotton bales* between points in Lee County, AL, on the one hand, and, on the other, points in MS. 3. *Bark and ornamental garden chips* between points, in Lee County, AL, on the one hand, and, on the other, points in GA. 4. *Prefabricated wooden fences* between points in Russell County, AL, on the one hand, and, on the other, points in GA, FL, MS, NC, SC, TN, TX, KY, AR, LA and IN. Supporting shippers: There are seven statements in support of this application which may be examined at the ICC Regional Office, Atlanta, GA.

The following applications were filed in Region 4. Send protests to: ICC,

Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 15735 (Sub-4–51TA), filed January 17, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Household goods* between points in the U.S. (including AK but excluding HI) under a continuing contract with Monsanto Company of St. Louis, Missouri.

MC 15735 (Sub-4–52TA), filed January 14, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Martin T. Boratyn, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *Articles, including objects of Art, Displays and Exhibits, which because of their unusual nature require specialized handling* between points in the U.S. except (AK and HI) under a continuing contract with Design and Production, Inc. Supporting shipper: Design and Production, Inc., of Alexandria, Virginia.

MC 133314 (Sub-4–6 TA), filed December 13, 1982. Applicant: SILVAN TRUCKING COMPANY, INC., R.R. No. 2, Box 137, Pendleton, IN 46064. Representative: Walter F. Jones., 1111 East 54th Street, Suite 155, Indianapolis, IN 46220. *Machine, hand and automotive tools, tool chests, battery chargers and testing equipment* from Tallmadge, OH, to points in, IN, MI, and IL. Supporting shipper: Matco Tools Corp., 124 W. Ave., Tallmadge, OH 44278.

MC 145629 (Sub-4–3 TA), filed January 17, 1983. Applicant: FUCHS, INC., R.R. 1, Box 576, Sauk City, WI 53583. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, (608) 256–7444. *Contract—irregular:* (1) *Glass and glass products and materials, equipment, and supplies used in the erection and installation of glass and glass products* from Spring Green, WI to points in FL, GA, IL, IN, IA, KY, MD, MN, NJ, OH, OK, TN and the District of Columbia under continuing contract(s) with Cardinal IG Company; (2) *Materials, equipment and supplies used in the manufacture and distribution of glass and glass products* from Mount Zion, IL; Carleton, MI; Laurinburg, NC; Tulsa, OK; Carlisle, PA; Nashville, TN; and Corsicana, TX to Spring Green, WI under continuing contract(s) with Cardinal IG Company; and (3) *Salt* from Lyons and Hutchinson, KS to points in WI on and south of W. S. Hwy 29 under continuing contract(s) with Mounds Agricultural Co., Inc. Underlying ETA seeks 120 day authority. Supporting shippers: Cardinal IG Company, 1011 East Madison St., Spring Green, WI 53588; Mounds Agricultural Co., Inc., 8309 University Ave., Middleton, WI 53562.

MC 145246 (Sub-4–10 TA), filed January 11, 1983. Applicant: A. E. SCHULTZ CORPORATION, 901 Lyndale Avenue, Neenah, WI 54956. Representative: Frank M. Coyne, 25 West Main Street, Madison, WI 53703. *Extended Rosin Size*, from Neenah, WI to points in WI, MN and Upper Peninsula of MI. Supporting shipper: The Plasmine Corporation, 61 Bishop Street, Portland, ME 14100, Mr. Ralph Emerson (representative).

MC 148308 (Sub-4–3 TA), filed January 17, 1983. Applicant: ROTRANSCO, INC., 6516 West 74th Street, Bedford Park, IL 60638. Representative: Edward G. Bazelon, 135 South La Salle Street, Chicago, IL 60603. Contract: Irregular: (a) *Corrugated containers and packaging supplies*, from Bedford Park, IL, to Massilon, OH, and points in its commercial zone, under continuing contract(s) with Jet Age Containers, Inc., of Bedford Park, IL, and (b) *packaging, shipping and maintenance supplies*, from Bedford Park, IL, to Cincinnati, OH, and points in its commercial zone, under continuing contract(s) with Rose Packaging Corp., of Bedford Park, IL, restricted against the transportation of commodities in bulk, for 270 days. Supporting shippers: Jet Age Containers, Inc., and Rose Packaging Corp., both at 6516 West 74th Street, Bedford Park, IL 60638.

MC 164888 (Sub-4–2 TA), filed January 17, 1983. Applicant: TAX AIRFREIGHT, INC., 4430 S. Kansas Ave., Milwaukee, WI 53207. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *General commodities (except Classes A and B explosives, household goods as defined by the Commission and commodities in bulk* between Chicago, IL on the one hand and on the other hand points within Milwaukee, Ozaukee, Sheboygan and Calumet Counties, WI. Supporting shippers: Arthur J. Fritz & Co., 4824 South Tenth Street, Milwaukee, WI 53221; Erie Manufacturing Company, 4000 South 13th Street, Milwaukee, WI 53221; Fritz Air Freight, Inc., 4824 South Tenth Street, Milwaukee, WI 53221; Tecumseh Products Company, 1604 Michigan Avenue, New Holstein, WI 53061; and Transportation Systems International, Inc., 2500 Kennedy Street, N.E., Minneapolis, MN 55413.

MC 165738 (Sub-4–1 TA) filed January 17, 1983. Applicant: NEENAH APIARIES, INC., 3307 West Fairview Road, Neenah, WI 54956. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, Il 60603. *Contract*, Irregular: *Food or Kindered Products* between points in IL, IN, IA, LA, MD, MM, & WI, under continuing contracts with Henkel Corporation, Delicious Food Products Co., Inc. and W. F. Straub & Company. Supporting shippers: Henkel Corporation, 4620 West 77th Street, Minneapolis, MN 55435; Delicious Food Products Co., Inc., 5520 Northwest Highway, Chicago, IL 60630; and W. F. Straub & Company, 5520 Northwest Highway, Chicago, IL 60630.

MC 165739 (Sub-4–1 TA) filed January 17, 1983. Applicant: CROW RIVER TRANSPORT, INC., 236 Erie Street South, Hutchinson, MN 55350. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Edina, MN 55424. (1) *Machinery*, between hutchinson, MN, on the one hand, and, on the other, points in MN, ND, SD, IA, NE, WI, IL and IN, under continuing contract(s) with AG-Systems, Inc. of Hutchinson, MN, and (2) *Lumber and Wood products*, between Hutchinson, MN, on the one hand, and, on the other, points in WA, OR, ID, MT, WY and SD, under continuing contract(s) with Stearnswood, Inc. of Hutchinson, MN. Supporting shippers: Ag-Systems, Inc., Box 698, Hutchinson, MN 55350; Stearnswood, Inc., 320 3rd Avenue N.E., P.O. Box 50, Hutchinson, MN 55350.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6, Motor Carrier Board, 211 Main St., Suite 501, San Francisco, CA 94105.

MC 165620 (Sub-6–1 TA) filed January 11, 1983. Applicant: JERRY HARDING, d.b.a. A.& J. TRUCKING, 7110 Zenobia, Westminster, CO 80030. Representative: Richard P. Kissinger, 50 S. Steele St., Suite 330, Denver, CO 80209. *Contract Carrier:* irregular routes: *General Commodities* (except Classes A & B explosives, commodities in bulk and hazardous materials) between points in CO and AZ for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Samsonite Corporation, a Division of Beatrice Foods, 11200 E. 45th Ave., Denver, CO 80239.

MC 133589 (Sub-6–3 TA) filed January 17, 1983. Applicant: BCT, INC., P.O. Box 7219 Boise, ID 83707. Representative: James R. Daly (same as applicant). *Contract carrier*, irregular routes, *General commodities* (except used household goods and class A and B explosives) between points in the U.S. (except AK and HI) under continuing contract with Superior Transportation

Systems, Inc. of Wilsonville, OR, for 270 days. Supporting shipper: Superior Transportation Systems, Inc., 9450 S.W. Commerce Ct., Suite 400, Wilsonville, OR 97070.

MC 165696 (Sub-6–1TA), filed January 14, 1983. Applicant: BALISON TRUCKING, INC., 815 Church St., Sandpoint, ID. Representative: Hughan R. H. Smith, 26 Kenwood Place, Lawrence, MA 01841. *Contract Carrier:* irregular routes, *Building materials and Utility poles,* between points in the U.S. (except AK and HI), under continuing contract(s) with B. J. Carney Industries, Inc. of Spokane, WA, for 270 days. *Supporting shipper:* B. J. Carney Industries, Inc., Washington Mutual Building, Sopkane, WA 99210.

MC 165444 (Sub-6–1TA), filed January 12, 1983. Applicant: CAL-SIERRA EXPRESS, INC., 940 South Arthur Ave., Fresno, CA 93706. Representative: Fred R. Covington, 2150 Franklin Street 554, Oakland, CA 94612. *Tractor parts, farm implement parts* and *related equipment and supplies,* from, to and between points in CA, for 270 days. Supporting shippers: Sierra Valley International Trucks, Inc., P.O. Box 188, Fresno, CA 93707; Lawrence Tractor Co., 9213 E. Third St., Hanford CA 93230.

MC 140889 (Sub-6–33TA), filed January 17, 1983. Applicant: FIVE STAR TRUCKING, 1638 Pioneer Way, El Cajon, CA 92020. Representative: John Gramc, 4720 Beidler Rd., Willoughby, OH 44094. *Contract Carrier,* Irregular routes: *General commodities* (except Classes A and B explosives, household goods, commodities in bulk and hazardous materials) between points in the U.S. (except AK and HI) under continuing contract with ITOFCA, Inc., of Downers Grove, IL, for 270 days. Supporting shippers; ITOFCA, Inc., P.O. Box 1518, Downers Grove, IL 60515.

MC 144660 (Sub-6–1TA), filed January 19, 1983. Applicant: MEL FLINDERS TRUCKING, 160 Old Ranch Rd., Park City, UT 84060. Representative: Mel Flinders (same address as applicant). (1) *Paper goods, paper packaging, domestic paper,* and *canned* and *packaged food stuffs* between points in CA, NV, WA, ID, OR, and UT. (2) Transporting *Roofing, insulation, clay products, brick, tools, equipment* and *building materials* between points in CA, NV, ID, WA, OR, WY, CO, AZ, and UT; for 270 days. An underlying ETA seeks 120 days, authority. Supporting shippers: Gladding McBean & Company, a Division of Pacific Coast Building Products Inc. 2114 So. 400 W., Salt Lake City, UT 84115; Marriott-Ray, Inc., 366 So. 5th E., Salt lake City, UT 84012.

MC 153314 (Sub-6–1TA), filed January 19, 1983. Applicant: M & D TRANSPORTATION INC., P.O. Box 775, Glendale, AZ 85311. Representative: Michael S. Varda, 121 South Pinckney St., Madison, WI 53703. (1) *Food and related products* from points in CA, and the commercial zones of Chicago, IL, and New York NY, to Phoenix, AZ, and (2) *alcoholic beverages* from Phoenix, AZ, Olympia, WA, and Monroe, WI, and points in CA and KY, to Albuquerque, NM, for 270 days. Supporting shippers: Food for Health, Inc., 3839 West Indian School Road, Phoenix, AZ 85013, and United Wholesale Liquor, Inc., 901 2nd Street, SW, Albuquerque, NM 87102.

MC 165721 (Sub-6–1 TA), filed January 17, 1983. Applicant: MPT CORPORATION, West 9220 Futurity Dr., Missoula, MT 59801. Representative: David L. Jackson, 203 North Ewing St., Helena, MT 59601 *Cedar shakes, split rail fences, hardware, apple products, meat products, cheese and milk products, paper and plastic containers, malt beverages and wine, canned goods, juices, frozen vegetables, flour, and frozen foods* between points MT, ID, WA, OR, CA, NV, UT, CO, WY, SD, and ND for 270 days. Supporting shippers: There are 10 shippers. Their statements may be examined in the office listed.

MC 153897 (Sub-6–3 TA), filed January 13, 1983. Applicant: MONTEZUMA WEST, INC., 11884 Ehlen Rd. NE., Aurora, CO 97002. Representative: Donna Purdum (same address as applicant). *Contract Carrier,* irregular routes; *Chemicals and all products in bulk* necessary for the business of Crown Zellerbach Corporation, under continuing contracts, between points in the U.S. for 270 days. Supporting shipper: Crown Zellerbach Corporation, 1500 S.W. First Ave., Portland, OR 97201.

MC 152393 (Sub-6–8 TA), filed January 19, 1983. Applicant: SCOTT B. WARN, d.b.a. OVERNITE EXPRESS, 555 143rd Ave., San Leandro, CA 94577. Representative: Armand Karp, 743 San Simeon Dr., Concord, CA 94518. *Contract Carrier,* Irregular Routes: (1) *Brake Shoes and Brake Linings,* from Ridgeway, PA to points in CA, for the account of Motion Control Ind., a Division of Carlisle Corp., and (2) *furniture, fixtures, and textile mill products,* from Santa Clara, CA to points in CO, GA, IL, KS, MN, PA, TX, UT, and WA, for the account of Liberty Vinyl Corporation, for 270 days. Supporting shippers: Motion Control Ind., a Division of Carlisle Corp., Gillis Ave., Ridgeway, PA 15853, and (2) Liberty Vinyl Corporation, 3380 Edward Ave., Santa Clara, CA 95050.

MC 165037 (Sub-6–1 TA), filed January 11, 1983. Applicant: GAIL CISSELL & RICHARD TOWNSEND, d.b.a. PALACE TRANSFER & STORAGE CO., 119 S. Main St., Clovis, NM 88101. Representative: Richard Townsend (same as applicant). *Used household goods* for the account of the U.S. government, incidental to the performance of pack & crate service on behalf of the DOD, for 270 days. Suporting shipper: U.S. Air Force, Base Contracting Division, Arrow AFB, NM 88103.

MC 112076 (Sub-6–1 TA), filed January 3, 1983. Applicant: THOMAS J. PECK & SONS, INC., 415 S. 600 E., R.F.D. 4A, Lehi, UT 84043. Representative: Harry D. Pugsley, 940 Donner Way, No. 370, Salt Lake City, UT 84108. *Contract carrier,* irregular routes; *Fly-ash* from Lincoln County, WY, to points in UT, ID and NV; and from Emery County, UT to NV, for 270 days. Supporting shipper: Pozzolan Products Company, 41 W. Central Ave., Salt Lake City, UT 84107.

MC 165776 (Sub-G–1TA); Filed January 17, 1983. Applicant: JOSEPH ARNOLD TAYLOR; d.b.a. TAYLOR TRANSPORT, 1912 E. Mettler Rd., Lodi, CA 95240. Representative: Same as applicant. *Passengers and their baggage* in special and charter operations between points in NV, CA, AZ and UT for 270 days. Supporting shipper: Century Assembly, 550 W. Century Blvd., Lodi, CA 95240.

MC 151225 (Sub-G–12TA), filed January 17, 1983. Applicant: DON WARD, INC., 241 West 56th Ave., Denver, CO 80216. Representative: Don L. Ward (same as applicant). *Lime, Soda Ash, Poptassium Chloride, Ammonium Sulfate, Sodium Silicate, Salt, Kolite, Bentonite,* Between points in CA, CO, MT, KS, NM, ND, SD, TX, UT, and WY for 270 days. Supporting shippers: Van Waters & Rogers, 4300 Holly St., Denver, CO; Dowell Division-Dow Chemical, P.O. Box 5818, Denver, CO 80217.

MC 165722 (Sub-G–1TA); filed January 14, 1983. Applicant: WESTON TRUCKING, INC., 267 West Main, Tremonton, UT 84337. Representative: David C. Weston (same as applicant). *Fertilizer* between points in ID, UT, NV, AZ, CA, WA, OR, WY, CO and NE for 270 days. Supporting Shipper: H. J. Baker & Bro., Inc., 4969 E. Clinton Ave, Ste. 119, Fresno, CA; Western Ag. Supply, Inc., 2002, Gateway Blvd., Ste. 112, Fresno, CA; and Jim Hicks & Company,

561 Mercury Lane, Ste. A, Brea, CA 92621.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2553 Filed 1-28-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 5, (202) 275-7289.

Volume No. OP5-FC-25

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-81070. By decision of January 19, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to WAYNE E. MORRIS, INC., Palestine, TX of Permit No. MC-149408 (Sub No. 1)X issued September 22, 1981, and the underlying authorities set forth in Permit No.'s MC-129328 issued March 13, 1970, MC-129328 Sub 1 issued August 3, 1970, MC-129328 Sub 2 issued December 5, 1972, MC-129328 Sub 4 issued June 5, 1974, MC-129328 Sub 5 issued November 19, 1973, MC- Sub 6 issued April 4, 1978, MC-129328 Sub 7 issued April 4, 1978, MC-129328 Sub 8 issued February 23, 1978, MC-129328 Sub 10F issued December 14, 1978, MC-129328 Sub 11F issued May 29, 1979, MC-129328 Sub 12F issued April 4, 1980, MC-129328 Sub 14F issued August 1, 1980, MC-129328 Sub 16F issued June 24, 1980, and MC-129328 Sub 17F issued January 23, 1981; and Permit No. MC-129328 Sub 15F issued October 20, 1981, to PALTEX TRANSPORT CO., (Billy Lee Thompson, trustee in bankruptcy) Palestine, TX, generally authorizing irregular route transportation of specified commodities, between points in the U.S., under continuing contract (s) with eight named shippers. Representative: William D. Lynch, P.O. Box 912, Austin, TX 78767.

MC-FC-81109. By decision of January 19, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to ED CHADDERTON TRUCKING, INC., Sharon, PA, of Certificates Nos. MC-105008 Sub 25 and MC 105008 Sub 26F, issued February 7, 1979, and December 8, 1980, respectively, to EDWARD W. CHADDERTON, d.b.a. ED CHADDERTON TRUCKING, Sharon, PA, authorizing the transportation of (1) *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), (a) between the Borough of Mercer, PA, and those points in Mercer County, PA, on the west of U.S. Hwy 19, on the one hand, and, on the other, points in PA, and (b) between New Castle, PA, on the one hand, and, on the other, points within 5 miles of New Castle; (2) *scrap metals, building materials, contractors' equipment, and commodities* the transportation of which, because of their size or weight, requires the use of special equipment or special handling, between those points in PA on the west of U.S. Hwy 219, on the one hand, and, on the other, those points in OH and WV on and east of U.S. Hwy 23 and on the north of U.S Hwy 50; (3) *iron and steel articles and equipment and supplies* used in connection with steel mills, (a) between Sharon, New Castle, Brackenridge, West Leechburg, Apollo, and Carnegie, PA, on the one hand, and, on the other, points in the OH and WV territory specified above, and (b) between Follansbee, WV, and Youngstown, OH; (4) *pig lead, rags, and burlap*, between New Castle, PA, on the one hand, and, on the other, those points in OH on and east of U.S. Hwy 21; the authority in (1), (2), (3), and (4) are restricted against the transportation of commodities in bulk in dump vehicles and transit mix equipment, between points in Lawrence, Mercer, Beaver, and Butler Counties, PA, on the one hand, and, on the other, points in Mahoning, Trumbull, and Columbiana, OH; (5) *household goods* (as defined by the Commission), between New Castle, PA, on the one hand, and, on the other, points in OH; the authority in (1)(a) may not be joined or tacked with the carrier's other irregular-route authority; and (6) *iron and steel articles, and materials, supplies and equipment* used in the manufacture, sale, and distribution of iron and steel articles, between Sharon, PA, and points in Mercer County, PA, on the one hand, and, on the other, points in MD, NJ, OH, and WV. Represesntative for transferee: William A. Gray, 2310 Grant Building, Pittsburg, PA 15219.

MC-FC-81131. By decision of January 18, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to BORLEY MOVING AND STORAGE, INC., Hastings, NE, of Certificates Nos. MC-65058 and MC-65058 Sub 1, issued February 28, 1942, and June 2, 1942, respectively, to BORLEY STORAGE & TRANSFER CO., INC., Hastings, NE, authorizing the transportation of *general commodities*, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and comodities requiring special equipment, over regular routes, between Grand Island, NE, and Hastings, NE: over U.S. Hwy 281; the authority described above permits service to be performed only when motor carrier service is substituted for rail service and does not permit service entirely by motor vehicle where no line haul rail service is performed, nor does it authorize service at points intermediate to those named above which are not located on the line of the rail carrier for whose account the substitute service is performed; and *household goods*, over irregular routes, between those points in NE on and east

of U.S. Hwy 83, on the one hand, and, on the other, points in CO, KS, MO, IA, IL, WI, MN, SD, OK, and WY. An application for temporary authority has been filed. Representative for transferee: Warren R. Whitted, Jr., P.O. Box 93, Hastings, NE 68901.

MC–FC–81134. By decision of January 21, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to GORDON FREIGHTLINES, INC., of Dillion, MT of Certificate No. MC 121108 Sub 2 issued July 22, 1976 and MC 121108 Sub 3F issued November 10, 1980 to MICHAEL L. GORDON, d/b/a M. L GORDON FREIGHTLINES, of Dillon, MT, authorizing the transportation of *general commodities* with exceptions, (1) between Butte, MT and Monida, MT, serving the intermediate points of Divide, Maiden Rock, Melrose, Glen, Dilion, Barrett's Station, Armstead, Dell, Lima, and Clark Canyon Dam, MT over U.S. Hwy 91 (also over Interstate Hwy 15); (2) between the junction of U.S. Hwy 10 and MT Hwy 41 and Twin Bridges, MT over MT Hwy 41, serving the off-route points of Waterloo and Cliff Lake, MT; (3) between the junction of U.S. Hwy 10 and MT Hwy 55 and the junction of MT Hwy 55 and MT Hwy 41, over MT Hwy 55, serving the off-route points of Waterloo and Cliff Lake; (4) between Twin Bridges and Dillon, MT, over MT Hwy 41, serving the off-route points of Waterloo and Cliff Lake; (5) between Twin Bridges and the junction of U.S. Hwy 10 and U.S. Hwy 287, serving the off-route points of Waterloo and Cliff Lake, from Twin Bridges over MT Hwy 287 to junction U.S. Hwy 287, then over U.S. Hwy 287 to junction U.S. Hwy 10, and return over the same route; (6) between Harrison and Pony, MT over unnumbered hwys, serving the off-route points of Waterloo and Cliff Lake; (7) between Harrison and Cardwell, MT, serving the off-route points of Waterloo and Cliff Lake, from Harrison over U.S. Hwy 287 to junction MT Hwy 359, then over MT Hwy 359 to Cardwell, and return over the same route; (8) between the junction of U.S. Hwy 287 and MT Hwy 287 and Raynolds Pass, serving the off-route points of Waterloo and Cliff Lake, from junction U.S. Hwy 287 and MT Hwy 287 over U.S. Hwy 287 to junction MT Hwy 87, then over MT Hwy 87 to Raynolds Pass, and return over the same route; and (9) between the junction of U.S. Hwy 10 and U.S. Hwy 287 and Butte, as an alternative route for operating convenience only, serving no intermediate points, from junction U.S. Hwy 10 and U.S. Hwy 287 over U.S. Hwy 10 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Butte, and return over the same route. Service is authorized to all intermediate points in (2) through (8) above. Transferee is not a carrier. Representative: Frank Burgess, 2801 South Montana St., Butte, MT 59701.

MC–FC–81147. By decision of January 18, 1983 issued under 49 U.S.C. 19026 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to C.N.W. TRANSPORTATION CO., Ft. Collins, CO, of Certificate No.'s MC–113398 Sub 16F issued August 6, 1981 and MC–113398 Sub 18 issued May 10, 1982 to RUSSELL TRANSPORT, INC., Ft. Collins, CO, authorizing irregular route transportation of (1) *machinery and transportation equipment*, between Denver, CO, on the one hand, and, on the other, points in NE, SD and 10 named counties, in WY and (2) *shipments* weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S., and No. MC–113398 (Sub-No. 17)X issued March 23, 1982, and its underlying authorities set forth in the Certificates MC–113398 issued November 21, 1963, MC–113398 Sub 11 issued June 6, 1966 and MC–113398 Sub 14 issued October 7, 1977 generally authorizing regular-route transportation of *motion picture film and newspapers* between named points in NE, CO and WY, serving specific intermediate and off-route points, and the irregular-route transportation of the same commodities between points in named counties in NE, SD, and WY. An application for temporary authority has been filed. Representative: Charles M. Williams, 665 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203.

Volume No. OP5–FC–26

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Fortier not participating.)

MC–FC–81112. By decision of January 19, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to BATT TRUCKING, INC., of Caldwell, ID of Certificates No. MC 148018 (Subs 4, 7, 9, and 10) issued May 29, 1981, December 10, 1981, February 18, 1982, and November 30, 1982, respectively, and Permit No. MC 148018 (Subs 2F, 3F, 5, 6, and 8) issued July 11, 1980, March 11, 1981, September 3, 1981, July 12, 1982, and February 8, 1982, respectively, to JAMES S. BATT, d.b.a. BATT TRUCKING, of Caldwell, ID, authorizing: In Sub 4 the transportation for or on behalf of the United States Government, of *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.; In Sub 7, the transportation of *lumber and wood products*, between points in OR and ID, on the one hand, and, on the other, points in the U.S.; In Sub 9, the transportation of *food and related products*, between points in St. Louis County, MN, Jackson County, OH, and DeKalb County, GA, on the one hand, and, on the other, points in the U.S.; In Sub 10, the transportation of *such commodities* as are dealt in by grocery and food business houses, between points in the U.S. (except AK and HI); In Sub 2F, the transportation of *dry fertilizer*, in bulk, from Moab, Garfield and Wendover, UT, to points in ID, OR, and WA, under continuing contract(s) with North Pacific Trading Co., of Portland, OR; In Sub 3F, the transportation of *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., (except AK and HI), under continuing contract(s) with J. R. Simplot Company, and Ore-Ida Foods, Inc., both of Boise, ID; In Sub 5, the transportation of *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contracts with (a) American Wood Products, Inc., of Caldwell, ID, (b) McCluskey Commissary, Inc., of Caldwell, ID, (c) Hehr International, Inc., of Nampa, ID, and (d) Union Seed Company, of Nampa, ID; In Sub 6, the transportation of *general commodities* (except household goods and classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with D & B Supply, Inc., of Caldwell, ID, and Wilbur Ellis Company, Inc., of Portland, OR; and In Sub 8, the transportation of *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Ralston Purina Company, of St. Louis, MO. Transferee is not a carrier. Representative: Kevin M. Clark, 2417 Bank Dr., Suite 8, Boise, ID 83705.

Note.—Transferee seeks in this proceeding to acquire No. MC 148018 Sub 11 which is still pending at the Commission and cannot be subject to transfer. Transferee is advised to request substitution of applicant in that proceeding.

[FR Doc. 83–2557 Filed 1–28–83; 8:45 am]

BILLING CODE 7035–01–M

[Vol. No. OP5-27]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: January 21, 1983.

The following restriction removal applications, are governed by 49 CFR Part 1165. Part 1165 was published in the Federal Register of December 31, 1980, at 45 FR 86747 and redesignated at 47 FR 49590, November 1, 1982.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1165.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed. Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Review Board No. 2, Members Carleton, Williams and Ewing.

Agatha L. Mergenovich,

Secretary.

Please direct status inquiries to Team 5, at (202) 275-7289.

MC 147309 (Sub-3X), filed January 13, 1983. Applicant: UNITED SALES & LEASING COMPANY, INC., d.b.a. PATH TRUCK LINES, 3649 E. Lake Rd. P.O. Box 210, Dunkirk, NY 14048. Representative: Ronald W. Malin, Bankers Trust Bldg., 4th Fl., Jamestown, NY 14701, (716) 664-5210. MC-147309 lead permit: (1) broaden steel bars, steel billets, and steel coils to "metal products," and (2) expand the territorial description to "between points in the U.S.," under continuing contract(s) with a named shipper.

[FR Doc. 83-2558 Filed 1-28-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision—Notice

In the matter Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods).

The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the Federal Register on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the Federal Register on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the Federal Register on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275-7992.

Volume No. OP1-34

Decided: January 23, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 142710 (Sub-4), filed January 10, 1983. Applicant: SELBY INVESTMENTS, INC., CONTIKI AMERICA, 1432 East Katella Ave., Anaheim, CA 92805. Representative: David M. Marshall, Sixth Floor, 95 State St., Springfield, MA 01103, (413) 732-1136. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 159071, filed January 7, 1983. Applicant: LAKELAND TRANSPORTATION, INC., 845 Nepperhan Ave., Yonkers, NY 10703. Representative: Sidney J. Leshin, 3 East 54th St., New York, NY 10022, (212) 759-

3700. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 159290 (Sub-1), filed January 11, 1983. Applicant: S & P BUS RENTAL, INC., 3911 Dorchester Rd., Baltimore, MD 21207. Representative: Williard E. Saunders (same address as applicant), (301) 466-1320. Transporting *passengers*, in charter and special operations between points in the U.S. (except AK and HI).

Note.—Applicant intends to provide privately funded charter and special transportation.

MC 165590, filed January 11, 1983. Applicant: PAULSSEN & GUICE, LTD., 15 Park Row, New York, NY 10038. Representative: Eduardo Gonzalez (same address as applicant), (212) 349-6910. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165610, filed January 10, 1983. Applicant: HALSTEAD AGENCY, INC., 73 Freemont St., Harrison, NY 10528. Representative: Barry D. Kleban, 1430 Land Title Bldg., Philadelphia, PA 19110, (215) 561-1030. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165641, filed January 11, 1983. Applicant: DELMAR R. AYLOR, d.b.a. D & V PRODUCE, Route 2, Box 120AB, The Plaines, VA 22171. Representative: Delmar R. Aylor (same address as applicant), (703) 364-1293. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165670, filed January 13, 1983. Applicant: DEBBIE LINDSEY, d.b.a. B & L NORTHWEST TRUCK DIVISION, 6708 Dorian St., Boise, ID 83709. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343-3071. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 2 at 202-275-7030.

Volume No. OP2-038

Decided: January 24, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 5723 (Sub-10), filed December 27, 1982. Applicant: VANGUARD INTERSTATE TOURS, INC., 1 Westerly Rd., Ossining NY 10510. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., N.W., Washington, DC 20005, 202-783-3525. Transporting *passengers*, between Poughkeepsie and Tarrytown, NY: from Poughkeepsie over U.S. Hwy 9 to junction Interstate Hwy 84, then over Interstate Hwy 84 to junction Interstate Hwy 684, then over Interstate Hwy 684 to White Plains, then over city streets to Harrison, then over city streets to Tarrytown, and return over the same route, serving all intermediate points, under continuing contract(s) with Hudson Valley Commuters Association, Ltd., of Hopewell Junction, NY.

MC 5723 (Sub-11), filed January 5, 1983. Applicant: VANGUARD INTERSTATE TOURS, INC., 1 Westerly Road, Ossining, NY 10562. Representative: Jeremy Kahn, Suite 733, Investment Bldg., 1511 K St., NW., Washington, DC 20005 (202) 783-3525. Transporting *passengers*, in charter and special operations, between points in the U.S. (including AK but excluding HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 125973 (Sub-12), filed January 17, 1983. Applicant: CROWN WAREHOUSE & TRANSPORTATION COMPANY, INC., 710 East 9th Avenue, P.O. Box M799, Gary, IN 46401. Representative: Leonard R. Kofkin, Suite 1515, 140 South Dearborn St., Chicago, IL 60603; (312) 580-2210. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 157763 (Sub-2), filed December 14, 1982. Applicant: PRESTO TRANSPORTATION, INC., P.O. Box 469, Peru, IL 61354. Representative: David Zimmerman, P.O. Box 1564, York, PA 17405, 717-854-3138. Transporting *general commodities* (except classes A and B explosives and household goods), between Dillsburg, Penfield, Gifford, Armstrong, Potomac, Baker, Hallville, Jenkins, New Holland, Burton View, Beason, Janesville, Bradbury, Hildalgo, Rose Hill, Falmouth, Liverpool, Bryant, Maple Mills, and Richmond, IL, Linwood and Northfield, NJ, Camp Dodge, Johnston, Kent, Bedford, Merle Jct., Lenox, Conway, and Clearfield, IA, Wampsville, NY, Lone Pine, Bartlette, Cartago, Olancha, Brown, and Detour, CA, Arnaudville, Cecilia, Loreauville, and Jefferson Island, LA, Prine, Interlachen, Mannville, Hollister, and Largo, FL, Aullville, Cocordia, Emma, Holcomb, Frisbee, Whiteoak, Hopkins, and Pickering, MO, Mahtomedi and Stillwater, MN, Birnamwood, Aniwa, Antigo, Kempster, Elcho, Deerbrook, Summit Lake, Pelican Lake, Monico, Malvern, Nine Springs, McFarland, Stoughton, Edgerton, Lyons, Springfield, Elkhorn, Darien, Delavan, Porters, Clintonville, Bear Creek, and Sugar Bush, WI, Milledgeville, Octa, Edgefield, New Jasper, Mount Blanchard, Janera, Padora, Vaughnsville, Rimer, and Rushmore, OH, Robert Lee, TX, Lewiston, NC, Sodus, Eau Claire, Berrien Center, North Niles, Dollar Bay, Houghton, Chassell, Keweenaw Bay, Baraga, L'Anse, Herman, and Summit, MI, Cheraw and McClave, CO, Delight, AR, Mackay, Moore, Leslie, and Darlington, ID, Coalmont, TN, Prague, Malmo, and Ithaca, NE, Mays, Sexton, New Lisbon, Milton, Wadesville, Oliver, Springfield, and Solitude, IN, Agar, Gorman, and Gettysburg, SD, and Parkdale, OR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

For the following, please direct status calls to Team 3 at 202-275-5223.

Volume No. OP3-21

Decided: January 20, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 103734 (Sub-5), filed January 7, 1983. Applicant: NOONEY BUS LINES, INC., 1017 Jefferson St., Ronaoke Rapids, NC 27870. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840-8565. Transporting *passengers*, in charter and special operations, points in the U.S. (except HI).

Note.— Applicant seeks to provide privately-funded special and charter transportation.

MC 150405 (Sub-2), filed January 6, 1983. Applicant: HOMER JONES SCENIC TOURS, INC., Route 4, Box 1065, Minden, LA 71055. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245, (214) 358-3341. Transporting *passengers*, in charter and special operations, beginning and ending at points in LA, TX, AR, and MS, and extending to points in the U.S. (except HI).

Note.— Applicant seeks to provide privately-funded charter and special transportation.

MC 162465 (Sub-1), filed January 10, 1983. Applicant: MIKE KAZEMI, d.b.a. TBT BUS LINES, P.O. Box 7474, Oakland, CA 94601. Representative: Robert J. Brooks, 1828 L St., N.W., Suite 1111, Washington, DC 20036, (202) 466–3892.Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.— Applicant seeks to provide privately-funded special and charter transportation.

MC 165194, filed January 10, 1983. Applicant: A. WEST, d.b.a. KREMLIN BUS SERVICE, Box 27, 203 N. 7th St., Kremlin, OK 73753. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center, 5101 N. Classen Bldg., Oklahoma City, OK 73118, (405) 848–7946. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.— Applicant seeks to provide privately-funded special and charter transportation.

MC 165545, filed January 6, 1983. Applicant: SHAR-LEE TRANSPORTATION, INC., 65 Rosewood Lane, Chicago Heights, IL 60411. Representative: Stephen C. Herman, 20 North Wacker Drive, Chicago, IL 60606, (312) 236–0204. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 165564, filed January 5, 1983. Applicant: STRASSER BUS SERVICE, Rte. 2, Box 6015, CTH "B", La Crosse, WI 54601. Representative: Joseph E. Ludden, 2707 South Ave., P.O. Box 1567, La Crosse, WI 54601, (608) 788–2000. Transporting *passengers*, in charter and special operations, between points in La Crosse, Vernon, Juneau and Richland Counties, WI, on the one hand, and, on the other, points in MN, IA, IL, IN, KY, TN, GA, FL, LA, AL, NC, SC, MO, KS, OK, TN, and AR.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165574, filed January 10, 1983. Applicant: SFO AIRPORTER, INC., 923 Folsom St., San Francisco, CA 94107. Representative: Daniel W. Baker, 100 Pine St., No. 2550, San Francisco, CA 94111, (415) 986–1414. Transporting *passengers*, in charter and special operations, between points in CA, OR, WA, ID, UT, NV, and AZ.

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 165594, filed January 10, 1983. Applicant: ELLWOOD CITY TRANSIT, INC., 2 Portersville Rd., Ellwood City, PA 16117. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, (412) 471–3300. Transporting *passengers*, in charter and special operations, between points in the U.S..

Note.—Applicant seeks to provide privately-funded special and charter transportation.

MC 165634, filed January 10, 1983. Applicant: MT. VIEW TOURS, INC., 57 Newark Ave., Wayne, NJ 07470. Representative: Eugene Zak (same address as applicant), (201) 696–9766. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded special and charter transportation.

For the following, please direct status calls to Team 4 at 202–275–7669.

Volume No. OP4–036

Decided: January 21, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 165637, filed January 10, 1983. Applicant: AMERICAN TRUCK DISPATCH, INC., 2055 E. North Ave., Fresno, CA 93771. Representative: Tom Kourafas, 1336 W. San Bruno, Fresno, CA 93711, (209) 486–7920. As a *broker of general commodities* (except household goods), between point in the U.S. (except AK and HI).

MC 165656, filed January 11, 1983. Applicant: RAINBOW COACH AND TOUR, INC., Phelps Collins Airport, P.O. Box 278, Alpena, MI 49707. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, (517) 482–2400. Transporting *passengers*, in charter and special operations, beginning and ending at points in MI, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165666, filed January 13, 1983. Applicant: HARRIS BUS LINES, 1154 E 222nd St., Bronx, NY 10469. Representative: Gregory Harris (same address as applicant), (212) 277–2242. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165667, filed January 13, 1983. Applicant: 7–K TRANSIT, INC., 1801 Leeland, Houston, TX 77003. Representative: Paul S. Broussard, 501 Crawford, Suite 401, Houston, TX 77002, (713) 227–9735. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165676, filed January 13, 1983. Applicant: FOX AIR EXPRESS, 815 Arbor Vitae St., Inglewood, CA 90301. Representative: Ralph D. Fox (same address as applicant), (213) 649–3678. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 165707, filed January 4, 1983. Applicant: WPX FREIGHT SERVICE, INC., 528 Mission St., San Francisco, CA 94105. Representative: Eugene J. Toler (same address as applicant), (415) 982–2100. As a broker of *general commodities* (except household goods), between points in the U.S.

Volume No. OP4–039

Decided: January 24, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 143837 (Sub-1), filed January 7, 1983. Applicant: GOOD WILL TOURS, INC., P.O. Box 236, Erie, KS 66733. Representative: Clyde N. Christey, 1010 Tyler, Suite 110–L, Topeka, KS 66612, (913) 233–9629. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165657, filed January 10, 1983. Applicant: MARTIN BUS LINES, INC., 3540 Wilshire Blvd., Suite 709, Los Angeles, CA 90010. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108, (415) 986–8696. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165767, filed January 18, 1983. Applicant: PINE TREE BROKERS, INC., R.F.D. No. 2, Box 1878 Hampden, ME 04444. Representative: James L. Rivers (same address as applicant), (207) 862–4693. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 165787, filed January 17, 1983. Applicant: ALFRED C. HANSEN, Rt. 5, Box 2635, Ellensburg, WA 98926. Representative: Janice K. Hansen (same address as applicant), (509) 925–1591. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor

vehicle in such vehicle, between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 5 at 202-7275-7289.

Volume No. OP5-024

Decided: January 21, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 2698, (Sub-6), filed January 14, 1983. Applicant: VANDALIA BUS LINES, INC., 312 West Morris St., Caseyville, IL 62232. Representative: B.W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105, (314) 727-0777. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 12739, (Sub-5), filed January 11, 1983. Applicant: PEAK TOURS, INC., 134 North Franklin Street, Hempstead, NY 11550. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048 (212) 466-0220. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 36788 (Sub-4), filed January 14, 1983. Applicant: DILLON'S BUS SERVICE, INC., 8383 Elvaton Rd., Millersville, MD 21108. Representative: Steven L. Weiman, 444 N. Frederick Ave., Suite 200, Gaithersburg, MD 20877, (301) 840-8565. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 116068 (Sub-8), filed January 13, 1983. Applicant: D & F TRANSIT, INC., 4747 Genesee St., Buffalo, NY 14225. Representative: Daniel B. Johnson, 4304 East-West Highway, Bethesda, MD 20814, (301) 654-2240. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 147208 (Sub-3(A)), filed January 10, 1983. Applicant: BLUE RIDGE LINES, LTD., One Stoner Road, P.O. Box 5692, Asheville, NC 28813-5692. Representative: Kingsland Hobein, Jr. (same address as applicant), (704) 274-1190. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—(1) Applicant seeks to provide privately-funded charter and special transportation. (2) Applicant also seeks authority to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route, in MC-147208 (Sub-3[B] published in this same issue.

MC 164078 (Sub-1), filed January 12, 1983. Applicant: EXECUTIVE COACH, INC., P.O. Box 88, Belford, NJ 07718. Representative: Owen B. Katzman, 1828 L St., NW., Suite 1111, Washington, DC 20036, (202) 822-8200. Transporting *passengers*, in special and charter operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165458, filed December 30, 1982. Applicant: MCE, INC., 9318 South Hamlin, Evergreen Park, IL 60642. Representative: Anthony E. Young, 29 So. LaSalle St., Suite 350, Chicago IL 60603, (312) 782-8880. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 165679, filed January 14, 1983. Applicant: JAMES R. CARR, Route 2, Cross Plains, IN 37049. Representative: Robert W. Wright, Jr., 5711 Ammons St., Arvada, CO 80002, 303-424-1761. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 165708, filed January 11, 1983. Applicant: FOUR STAR TOURS WORLDWIDE, LTD., 6958 Patterson Ave., Burnaby, B.C., Canada V5J 3N6. Representative: George LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055, (206) 228-3807. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2559 Filed 1-28-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carrier of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property,

freight forwarder, and household goods broker—that the transportation will be consisted with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Engery Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.–All applications are for authority as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly.

Please direct status inquiries to Team One at (202) 275–7992.

Volume No. OP1–35

Decided: January 23, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF–650, filed January 12, 1983. Applicant: ABBOTT TRANSPORTATION, INC., 1068 Pine Bluff Ct., Port Charlotte, FL 33950. Representative: Alan F. Wohlstetter, 1700 K St ., N.W., Washington, DC 20006, (202) 833–8884. Transporting *used household goods, unaccompanied baggage,* and *used automobiles,* between points in the U.S.

W–381 (Sub-21), filed January 5, 1983. Applicant: FEDERAL BARGE LINES, INC., 7501 South Broadway, St. Louis, MO 63111. Representative: Howard E. Mueller (same address as applicant), (314) 638–9500. To operate as a *common carrier,* by water, by non-self-propelled vessels with the use of separate towing vessels in the transportation of general commodities and by towing vessels in the performance of general towage, (1) between points and ports along the Cumberland, Green, Kanawha, Licking and Tennessee rivers and their tributaries (including the Barkley Canal), and (2) between points and ports along the Cumberland, Green, Kanawha, Licking and Tennessee rivers, on the one hand, and, on the other, the Allegheny, Arkansas-Verdigris, Mississippi, Missouri, Monongahela, Ohio, Alabama, Black Warrior, Mobile, and Tombigbee rivers, the Illinois Waterway, the Gulf Intracoastal Waterway-East (between New Orleans, LA and Mobile, AL), Lake Michigan and their tributaries.

Note.—This application contemplates operations which should result in decreased energy consumption in comparison with existing energy consumption in the affected area. To the extent traffic will be diverted from existing transportation modes, greater energy efficiencies may be obtained without disruption to existing patterns of energy distribution or to development of energy resources. The application is, in all respects, consistent with prevailing goals and objectives of the National Energy Policy.

MC 22611 (Sub-4), filed January 6, 1983. Applicant: SUE ROBERTS and ROBERT K. DIEHL, d.b.a. GEORGE F. ROBERTS TRUCKING, 119 Railroad St., P.O. Box 51, Walnutport, PA 18088. Representative: Robert K. Diehl (same address as applicant), (215) 767–2201. Transporting *general commodities* (except classes A and B explosives and household goods), between points in Northhampton County, PA, on the one hand, and, on the other, points in NJ.

MC 87451 (Sub-20), filed January 13, 1983. Applicant: CARGO TRANSPORT, INC., P.O. Box 31, Sterling Road, N. Billerica, MA 01862–0031. Representative: Samuel A. Bithoney, Jr. (same address as applicant), (617) 663–4300. Transporting *metal products and machinery,* between points in CT, DE, IN, MA, MD, ME, NC, NH, NJ, NY, OH, PA, RI, TX, VT, and DC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 105501 (Sub-57), filed January 10, 1983. Applicant: TERMINAL TRANSPORT, INC., 1851 Raddison Rd. N.E., Blaine, MN 55434. Representative: Joseph J. Dudley, W–1260 First National Bank Bldg., St. Paul, MN 55101, (612) 291–1717. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with the Pillsbury Company and its subsidiaries, of Minneapolis, MN.

MC 111540 (Sub-10), filed January 4, 1983. Applicant: LOYD TRUCK LINE, INC., P.O. Box N, Wellington, MO 64097. Representative: Charles J. Fain, 333 Madison St., Jefferson City, MO 65101, (314) 635–4115. Transporting *metal products,* between points in the U.S., under continuing contract(s) with Wheeling Corrugating Company, of Lenexa, KS.

MC120910 (Sub-58), filed January 13, 1983. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, AL 35401. Representative: Donald B. Sweeney, Jr., P.O. Box 2366, Birmingham, AL 35201, (205) 254–3880. Transporting (1) *forest products,* (2) *lumber and wood products,* (3) *pulp, paper and related products, (4) printed matters,* (5) *clay, concrete, glass or stone products,* and (6) *chemicals and related products,* between points in the U. S. (except AK and HI).

MC141951 (Sub-7), filed January 6, 1983. Applicant: MARY DICK and HOLLIS DICK, d.b.a. H.O. DICK TRANSFER CO., P.O. Box 307, Bethany, IL 61914. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with U.S. Industrial Chemicals Company, a division of National Distillers & Chemical Corp., of Tuscola, IL.

MC145271 (Sub-4), filed January 5, 1983. Applicant: SCHULTZ CARRIERS, INC., 6038 Linden Lane, Dallas, TX 75230. Representative: Richard R. Shultz (same address as applicant). Transporting *food and related products, rubber and plastic products, transportation equipment, and pulp, paper and related products,* between points in TX, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, MS, NE, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, VT, VA, WV, WI, and DC.

MC147000 (Sub-4), filed January 11, 1983. Applicant: BOB LOPAZ, d.b.a. EL BANDIDO TRUCKING, 6622 Manchester, Buena Park, CA 90620. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945–2745. Transporting *general commodities* (except classes A and B

explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with The Pillsbury Company, and its subsidiaries; Burger King Corporation, Green Giant Company, Poppin Fresh Pies, Inc., and Steak & Ale Restaurants of America, Inc., all of Minneapolis, MN.

MC148791 (Sub-37), filed January 10, 1983. Applicant: TRANSPORT-WEST, INC., 2125 N. Redwood Rd., Salt Lake City, UT 84116. Representative: Rick J. Hall, P.O. Box 2465, Salt Lake, City, UT 84110, (801) 531-1777. Transporting *such commodities* as are dealt in or used by department, discount or variety stores, between points in the U.S. (except AK and HI), under continuing contract(s) with Target Stores, of Minneapolis, MN.

MC 150221, (Sub-15), filed January 12, 1983. Applicant: CENTRAL SOUTHERN, INC., P.O. Box 375, Drayton, SC 29333. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687, (803) 244-9314. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, AR and LA.

MC 151401 (Sub-6), filed January 13, 1983. Applicant: TRI-SERVICE, INC., P.O. Box 1419, West Chester, PA 19380. Representative: Daniel B. Johnson, 4304 East-West Hwy., Bethesda, MD 20814, (301) 654-2240. Transporting *such commodities* as are dealt in by retail, department, mail order and discount stores, between points in the U.S. (except AK and HI).

MC 153550 (Sub-7), filed January 5, 1983. Applicant: MEXICAN ORIGINAL TRANSPORTATION, INC., P.O. Box 1368, Fayetteville, AR 72701. Representative: Paul M. Daniell, 235 Peachtree St., N.E., Suite 1200, Atlanta, GA 30303, (404) 522-2322. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 158960 (Sub-2), filed January 11, 1983. Applicant: MILLER TRUCKING, INC., South Star Route, Chambers, NE 68725. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501 (402) 475-6761. Transporting *fertilizer*, between points in Eddy, Lea and Chaves Counties, NM, on the one hand, and, on the other, points in CO, KS, IA, MO, and NE.

MC 165430, filed January 3, 1983. Applicant: SAN SIMEON STAGES, INC., 639 Market Street, Suite 900, San Francisco, CA 94105. Representative: Henry J. Luna (same address as applicant), (415) 777-5795. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 165480, filed January 3, 1983. Applicant: GERALD LAMBIRTH, d.b.a. GERALD LAMBIRTH TRUCKING, P.O. Box 3516, Bakersfield, CA 93385. Representative: Earl N. Miles, 3704 Candlewood Drive, Bakersfield, CA 93306, (805) 872-1106. Transporting (1) *Mercer commodities*, between points in CA, on the one hand, and, on the other, points in NV, ND, WA and WY, and (2) *food and related products*, between points in CA, on the one hand, and, on the other, points in SD and WY.

MC 165650, filed January 11, 1983. Applicant: DELTA SOUTHERN TRANSPORTATION CO., INC., P.O. BOX 78215, Shreveport, LA 71137-8215. Representative: Gerald W. Beene, (same address as applicant), (318) 687-4891. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AR, LA, MS, OK and TX.

MC 165661, filed January 13, 1983. Applicant: BOBBIE J. STUART, d.b.a. GENERAL EXPRESSWAYS, INC., 23 Richmond Industrial Village, Harbor Way and Wright Ave., Richmond, CA 94804. Representative: Chas. G. Weiss, 24035 Edloe Drive, Hayward, Ca 94541, (415) 785-1797. Transporting *gereral commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 2 at (202) 275-7030.

Volume No. OP2-037

Decided: January 24, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 114492 (Sub-17), filed December 21, 1982. Applicant: TRANSPORT TRUCKING CO. OF TEXAS, P.O. Box 327, Texico, NM 88135. Representative: Wilmer B. Hill, Suite 366, 1030 Fifteenth St., NW., Washington, DC 20005, (202) 296-5188. Transporting *motor vehicles*, between points in the U.S. (except AK and HI), under continuing contract(s) with persons who are engaged in business as manufacturers, distributors, dealers or forwarders of motor vehicles.

MC 147553 (Sub-19(a)) (correction), filed November 24, 1982, published in the **Federal Register**, issue of December 20, 1982, and republished, as corrected, this issue. Applicant: DENNIS MOSS AND GARY MOSS, d.b.a. MOTOR WEST, P.O. Box 1405, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343-3071. Transporting (1)(a) *general commodities* (except classes A and B explosives and household goods), between points in the U. S. (except AK and HI), under continuing contract(s) with Fleming Companies, Inc., (Salt Lake City Division), of Salt Lake City, UT; (2)(b) shipments weighing 100 pounds *or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U. S., (including AK and HI), and (3)(b) as a *broker or general commodities* (except household goods), between points in the U.S. (including AK and HI).

Note.—The purpose of this republication of part (1)(a) is to reflect the change of name of the contracting shipper.

MC 152392 (Sub-4), filed December 22, 1982. Applicant: TDS TRUCKING, INC., P.O. Box 1612, Grand Forks, ND 58201. Representative: Todd W. Foss, 15 Broadway, Suite 502, Fargo, ND 58102, 701-235-4487. Transporting (1) *petroleum products*, between points in Cass and Grand Forks Counties, ND, on the one hand, and, on the other, points in Polk, Norman, Pennington, Red Lake, and Mahonmen Counties, MN, and (2) *building materials*, between points in CA, WA, OR, ID, and MT, on the one hand, and, on the other, points in MN and ND.

MC 153113 (Sub-2), filed January 10, 1983. Applicant: MENASHA TRANSPORT, INC., P.O. Box 367, Neenah, WI 54956. Representative: Joseph F. Kellett, (same as applicant), (414) 729-0380 Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 160862 filed December 22, 1982. Applicant: CORSAIR FREIGHTWAYS CORP., 8415 Envoy Ave., Philadelphia, PA 19153. Representative: Richard Rueda, 135 N. 4th St., Philadelphia, PA 19106, 215-627-1923. Transporting *such commodities* as are dealt in or used by retail department stores, between points in OH, on the one hand, and, on the other, points in OH, PA, NY, GA, KY, NC, TN, VA, CT, NJ, MA, DE, MD, WV, SC, AL, MS, IN, IL, and WI, under continuing contract(s) with Gold Circle Stores, of Worthington, OH.

For the following, please direct status calls to team 3 (202) 275-5223.

Volume No. OP3-33

Decided: January 19, 1983.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

FF-434 (Sub-9), filed January 5, 1983. Applicant: TRANSCONEX, INC., 3000 N.W. 74th Ave., Miami, FL 33152.

Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006, (202) 833–8884. As a *freight forwarder*, in connection with the transportation of *general commodities* (except household goods, commodities in bulk, and classes A and B explosives), (1) between points in TX, LA, GA, and FL; and (2) between points in TX, LA, GA, and FL, on the one hand, and, on the other, points in CA.

MC 56244 (Sub-113), filed January 10, 1983. Applicant: KUHN TRANSPORTATION COMPANY, INC., P.O. Box 98, R.D. 2, Gardners, PA 17324. Representative: J. Bruce Walter, 410 N. Third St., P.O. Box 1146, Harrisburg, PA 17108, (717) 233–5731. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 59124 (Sub-25), filed January 5, 1983. Applicant: MAIERS MOTOR FREIGHT COMPANY, 875 East Huron Ave., Vassar, MI 48768. Representative: Ronald J. Mastej, 900 Guardian Bldg., Detroit, MI 48226, (313) 963–3750. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI).

MC 67234 (Sub-76), filed January 6, 1983. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO. 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with International Business Machines Corporation, of Armonk, NY.

MC 67234 (Sub-77), filed January 7, 1983. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Holiday Inns, Inc., of Memphis, TN.

MC 115855 (Sub-5), filed January 5, 1983. Applicant: KHS AIR FREIGHT, INC., 255 N. 28th St., Battle Creek, MI 49015. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, (517) 482–2400. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MI, IL, IN, and OH.

MC 146215 (Sub-4), filed January 7, 1983. Applicant: WOLF, TRUCKING, INC., 1333 E. 7th St., Los Angeles, CA 90021. Representative: Milton W. Flack, 8484 Wilshire Blvd., No. 840, Beverly Hills, CA 90211, (213) 655–3573. Transporting *general commodities* (except classes A & B explosives, household goods, and commodities in bulk), (a) between points in CT, IL, ME, MA, NH, NJ, NY, and VT, on the one hand, and, on the other, Portland, OR, and points in CA, and (b) between Los Angeles, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI.)

MC 146765 (Sub-9), filed January 6, 1983. Applicant: DAYTON ENTERPRISES, INC., 110 First Ave., Clarence, IA 52216. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298–1094. Transporting *metal products*, between points in Dallas County, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI.)

MC 147494 (Sub-14), filed January 10, 1983. Applicant: BOBBY KITCHENS, INC., P.O. Drawer 5690, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, (601) 355–3543. Transporting *chemicals and related products*, between points in AL, AR, CO, FL, GA, LA, MS, MO, NC, NM, OK, SC, TN, and TX.

MC 150275 (Sub-6), filed January 7, 1983. Applicant: UPPER CUMBERLAND FREIGHT, INC., Route 5, Box 122, Cookeville, TN 39501. Representative: Wayne E. Klinckhardt, 378 Scenic Drive, St. Louis, MO 63137, (314) 868–7027. Transporting *general commodities* (except classes A & B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Colonial Corp. of America, of Woodbury, TN, Gold Medal, Inc., of Baxter, TN, and Burks Distributing Co., and Upper Cumberland Oil, Inc., both of Cookeville, TN.

MC 154674 (Sub-2), filed January 7, 1983. Applicant: ELMER BUTCHTA TRUCKING, INC., 414 Washington St., Otwell, IN 47564. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting (1) *coal* (a) between points in IN, IL, and KY, and (b) between points in IN, IL, and KY, on the one hand, and, on the other, points in IA, MO, WI, and MI, and (2) *fertilizer*, between points in IN, on the one hand, and, on the other, points in IN, IL, KY, and MO.

MC 161924, filed January 6, 1983. Applicant: PENN MOUNTAIN TRUCKING CO., P.O. Box 258, R.D. 1, Hunlock Creek, PA 18621. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505, (717) 342–7595. Transporting (1) *lumber and wood products*, between points in CT, DE, IN, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VA, VT, WV, and DC, and (2) *ores and minerals, clay, concrete, glass or stone products*, between points in Elbert, De Kalb, Fulton, and Pickens Counties, GA, Monroe County, IN, Berkshire, Hampden and Middlesex Counties, MA, Hillsborough and Merrimack Counties, NH, Niagara County, NY, Rowan and Surry County, NC, Holmes County, OH, and Knox County, TN, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, and DC.

MC 164465, filed January 10, 1983. Applicant: JOSEPH J. ZAPUTIL, JR., d.b.a. JOE ZAPUTIL TRUCKING, Route 1, Box 1A, Mystic, IA 52574. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting (1) *lumber and wood products*, (a) between points in Mahaska County, IA, on the one hand, and, on the other, points in IL, MN, NE, SD, and WI, and (b) between points in Chilton, Marion, Winston, and Clarke Counties, AL, Grenada, Hinds, Radkin, Perry, Calhoun, and Lauderdale Counties, MS, Texas and Howell Counties, MO, and AR, on the one hand, and, on the other, points in IA, and (2) *metal products and machinery*, between points in Appanoose County, IA, on the one hand, and, on the other, points in IL, MO, NE, and WI.

MC 165565, filed January 5, 1983. Applicant: DAVES CATTLE COMPANY, INC., Route 3, Box 83–B, York, SC 29745. Representative: Bruce M. Poore, P.O. Box 919, York, SC 29745, (803) 684–3131. Transporting (1) *pulp, paper and related products*, between points in VA, NC, SC, GA, FL, TX, LA, MS, and AL, on the one hand, and, on the other, points in the U.S. (except AK and HI); (2) *printed matter*, between Baltimore, MD, and Atlanta, GA, and points in Mecklenburg County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI); and (3) *metal products*, between points in Mecklenburg County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165575, filed January 6, 1983. Applicant: ADIOS MOTOR FREIGHT, INC., 4th and Bakewell, Covington, KY 41011. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except classes A and B

explosives and household goods), between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 4 at (202) 275–7669.

Volume No. OP4–035

Decided: January 24, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 2796 (Sub-12), filed January 5, 1983. Applicant: FULLINGTON AUTO BUS COMPANY, 316 Cherry St., Clearfield, PA 16830. Representative: Christian V. Graf, 407 N Front St., Harrisburg, PA 17101, (717) 236–9318. Over regular routes, transporting *passengers*, between Williamsport and State College, PA: (1) from Williamsport over U.S. Hwy. 220 to junction PA Hwy. 120, then over PA Hwy. 120 to junction PA Hwy. 150, then over PA Hwy. 150 to junction PA Hwy. 144/150, then over PA Hwy. 144/150 to Bellefonte, PA, then over PA Hwy. 550 to junction PA Hwy. 150, then over PA Hwy. 150 to junction PA Hwy. 26, then over PA Hwy. 26 to State College, and return over the same route, serving all intermediate points, and (2) from Williamsport over U.S. Hwy. 220 to junction PA Hwy. 120, then over PA Hwy. 120, to junction PA Hwy. 150 then over Hwy. 150 to junction PA Hwy. 64, then over PA Hwy. 64 to junction PA Hwy. 26, then over PA Hwy. 26 to State College, and return over the same route, serving all intermediate points.

Note.—Applicant intends to tack, and seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same routes.

MC 153897 (Sub-3), filed January 14, 1983. Applicant: MONTEZUMA WEST, INC., 11884 Ehlen Rd. NE., Aurora, OR 97002. Representative: Donna Purdum (same address as applicant), (503) 678–2509. Transporting *chemicals*, between points in the U.S., under continuing contract(s) with Crown Zellerbach Corporation, of Portland, OR.

Volume OP4–038

Decided: January 24, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 119226 (Sub-129), filed January 17, 1983. Applicant: LIQUID TRANSPORT CORP., R.R. No. 10, Box 100B, Greenfield, IN 46104. Representative: Edward G. Bazelon, 135 S. LaSalle St., Chicago, IL 60604, (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 121496 (Sub-82), filed January 17, 1983. Applicant: ENTERPRISE TRANSPORTATION COMPANY, P.O. Box 4324, Houston, TX 77210. Representative: John E. Smith II (same address as applicant), (713) 880–6562. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Texaco Chemical Company of Bellaire, TX.

MC 144776 (Sub-19), filed January 17, 1983. Applicant: APACHE TRANSPORT, INC., 833 Warner St., Atlanta, GA 30310. Representative: Virgil H. Smith, 74 Highway N, Box 245, Tyrone, GA 30290, (404) 969–1980. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 146596 (Sub-4), filed January 13, 1983. Applicant: FRED McCALL TRUCKING, INC., 2079 Railroad St., Ontario, NY 14519. Representative: James E. Brown, 36 Brunswick Rd., Depew, NY 14043, (716) 681–7190. Transporting *building materials*, between points in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV and WI.

MC 147066 (Sub-6), filed January 17, 1983. Applicant: LUCKY THIRTEEN, TRANSPORTATION CO., INC., P.O. Box 3547, Hayward, CA 94540–3547. Representative: William D. Taylor, 100 Pine St., Suite 2550, San Francisco, CA 94111, (415) 986–1414. Transporting *such commodities as are dealt in or used by manufacturers of polyester base, chemicals, electrical equipment and electrical cable*, between points in AL, AZ, CA, CT, IL, ME, MA, MI, MN, NE, NH, NJ, NY, NC, OH, PA, SC, TN, TX, WA and WI, under continuing contract(s) with Memorex Corp. of Santa Clara, CA.

MC 151136 (Sub-3), filed January 17, 1983. Applicant: CYCLE TRANSPORT, INC., 1418 E. Lake St., Minneapolis, MN 55407. Representative: William J. Gambucci, 525 Lumber Exchange Blvd., Minneapolis, MN 55402, (612) 340–0808. Transporting *motorcycles*, between (1) Chicago, IL, on the one hand, and, on the other, points in ND, NE and WI, and (2) Lansing and Douglas Counties, NE, on the one hand, and, on the other, points in ND, WI, SD, and MN.

MC 156236 (Sub-1), filed January 17, 1983. Applicant: G & L TRUCKING, INC., 165 Locke Rd., Locke, NY 13092. Representative: Murray J.S. Kirshtein, 118 Bleeker St., Utica, NY 13501, (315) 797–1970. Transporting *salt and salt products*, between ponts in Tompkins County, NY, and points in PA, NJ and MA, under continuing contract(s) with Cargill, Inc., of Lansing, NY.

MC 153416 (Sub-3), filed January 14, 1983. Applicant: ACCORD SERVICES, INC., 301 S. 5th ST., Kansas City, KS 66110. Representative: Alex M. Lewandowski, 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105, (816) 221–1464. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Alpha Marketing Co., Inc., of Kansas City, KS.

MC 160987 (Sub-1), filed January 13, 1983. Applicant: PIEDMONT MAINTENANCE COMPANY, d.b.a. THE PIEDMONT COMPANY, 1822 Wendell, Dalton, GA 30720. Representative: C. Jack Pearce, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0048. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Dalton Carpet Consolidators, Inc., of Dalton, GA. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 USC 11343(A), or a petition for exemption under 49 USC 11343(e), or submit an affidavit indicating why such approval is unnecessary to the Secretary's Office. In order to expedite any issuance of authority please submit a copy of the affidavit or proof of the filing the application(s) for common control to Team 4, Room 2410.

MC 165728, filed January 17, 1983. Applicant: FLEETWAY TRANSPORTATION, INC., 3949 Lyman Dr., Hilliard, OH 43026. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, (614) 876–8016. Transporting *general commodities* (except classes A and B explosives and household goods), between Lancaster, PA; Indianapolis, IN; Kansas City, KS; St. Louis, MO; Sacramento, CA; Memphis and points in Rone County, TN; and Macomb County, MI, and points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 5 (202) 275–7289.

Volume No. OP–023

Decided: January 21, 1983.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

MC 41098 (Sub-91), filed January 11, 1983. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., N.W., Washington, DC 20006 (202) 833-8884. Transporting *household goods and machinery*, between points in the U.S. under continuing contract(s) with Compugraphic Corporation of Wilmington, MA, and its subsidiaries, One Systems, Inc., of Oceanside, CA, and Quadex, Inc., of Cambridge, MA.

MC 79658 (Sub-48), filed January 13, 1983. Applicant: ATLAS VAN LINES, INC.,; 1212 St. George Road, P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills, (same address as applicant), (812) 424-2222. Transporting *household goods*, between points in the U.S. under continuing contract(s) with A.C. Nielsen Co., of Northbrook, IL.

MC 99808 (Sub-9), filed January 12, 1983. Applicant: C-LINE EXPRESS, INC., P.O. Box 540, 525 Silverado Trail, Napa, CA 94559. Representative: George James (same address as applicant), (707) 255-7644. Transporting *newsprint paper*, between San Francisco and Oakland, CA, and points in Yuba, Sacramento, San Joaquin, Butte, Solano, Contra Costa, Alameda, Sutter and Yolo Counties, CA.

MC 123169 (Sub-14), filed January 13, 1983. Applicant: McKEVITT TRUCKING, LTD., P.O. box 2567, Thunder Bay, Ontario, Canada P7B 5G1. Representative: Val M. Higgins, 1600 TCF Tower, 121 South 8th St., Minneapolis, MN 55402, (612) 333-1341. Transporting *general commodities* (except classes A and B explosives household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Abitibi-Price of Toronto, Ontario, Canada.

MC 123579 (Sub-6), filed January 11, 1983. Applicant: HARBOURT AIR FREIGHT SERVICE, INC., 3570 Quakerbridge Road, P.O. Box 3215, Trenton, NJ 08619. Representative: James F. Bromley, 1625 K Street, N.W., Washington, DC 20006, (202) 393-3390. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MA, RI, CT, VT, NY, NJ, PA, DE, MD, VA and DC.

MC 141758 (Sub-20), filed January 14, 1983. Applicant: LYDALL EXPRESS, INC., 615 Parker St., Manchester, CT 06040. Representative: Robert J. Dunbar (same address as applicant), (203) 646-1233. Transporting *pulp, paper and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Virginia Fibre Corporation of New Canaan, CT.

MC 146438 (Sub-19), filed January 13, 1983. Applicant: ETV, INC., P.O. Box 393, Comstock Park, MI 49321. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685-0801; (616) 941-5313. Transporting (1) *rubber and plastic products*, between points in Charlevoix County, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *furniture and fixtures, and metal products*, between points in Allegan and Ottawa Counties, MI, DeKalb County, GA, and Collin County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147208 (Sub-3(B)), filed January 10, 1983. Applicant: BLUE RIDGE LINES, LTD., One Stoner Road, P.O. Box 5692, Asheville, NC 28813-5692. Representative: Kingsland Hobein, Jr. (same address as applicant), 704-274-1190. Over *regular routes*, in intrastate, interstate or foreign commerce, transporting *passengers*, (1) between junction U.S. Hwy 25 and SC Hwy 290 and Jacksonville Beach, FL, from juction U.S. Hwy 25 and SC Hwy. 290 over U.S. Hwy 25 to Greenville, SC, then over Interstate Hwy 85 to junction Interstate Hwy 85 and SC Hwy 81, then over SC Hwy 81 to junction SC Hwy 81 and SC Hwy 28, then over SC Hwy 28 to SC/GA State line, then over GA Hwy 28 to Augusta, GA, then over U.S. Hwy 25 to Brunswick, GA then over U.S. Hwy 17 to junction U.S. Hwy 17 and Interstate Hwy 95, then over Interstate Hwy 95 to Jacksonville, FL, then over U.S. Hwy 90 to Jacksonville Beach, FL and return over the same routes, also (a) between junction U.S. Hwy 25 and GA Hwy 67 and Ludowici, GA from junction U.S. Hwy 25 and GA Hwy 67 over GA Hwy 67 to Pembroke, GA, then over GA Hwy 119 to Hinesville, GA. Then over U.S. Hwy 82 to Ludowici, GA, and return over the same routes, (b) between junction GA Hwy 67 and Interstate Hwy 16, and Savannah, GA, over Interstate Hwy 16, (c) between junction Interstate Hwy 16 and Interstate Hwy 95 and Junction Interstate Hwy 95 and U.S. Hwy 17 (south of Brunswick), over Interstate Hwy 95 and (d) between junction Interstate Hwy 95 and GA Hwy 25Sp, and Brunswick, GA, from junction Interstate Hwy 95 and GA Hwy 25Sp over GA Hwy 25Sp to junction GA Hwy 25 Sp and U.S. Hwy 17, then over U.S. Hwy 17 to Brunswick, and return over the same routes, serving the off-route points of Abbeville, SC, Woodbine, Kingsland and Kingsbay Trident Base, GA, Yulee and Jacksonville International Airport, FL, (2) between Asheville, NC, and Newport, TN, from Asheville over Interstate Hwy 40 to junction Interstate Hwy 40 and Tennessee Hwy 32, then over Tennessee Hwy 32 to Newport, serving the off-route points of West Asheville, Canton and Clyde, NC, (3) between Anderson, SC, and Augusta, GA, from Anderson over U.S. Hwy 29 to junction U.S. Hwy 29 and Georgia Hwy 316, then over Georgia Hwy 316 to junction Georgia Hwy 316 and Interstate Hwy 85, then over Interstate Hwy 85 to Atlanta, then over Interstate Hwy 20 to Augusta, serving the off-route points of Decatur, Fort Gordon and Lawrenceville, GA (4) between Greenville, SC, and Sandy Springs, GA, from Greenville over Interstate Hwy 85 to junction Interstate Hwy 85 and Interstate Hwy 285, then over Interstate Hwy 285 to junction Interstate Hwy 285 and Georgia Hwy 400, then over Georgia Hwy 400 to Sandy Springs, serving the off-route point of Anderson, SC, (5) between Toccoa, Ga. and Myrtle Beach, SC, from Toccoa over U.S. Hwy 123 tp Greenville, SC, then over U.S. Hwy 276 to junction U.S. Hwy 276 and Interstate Hwy 26, then over Interstate Hwy 26 to Columbia, SC, then over U.S. Hwy 76 to Sumter, SC, then over U.S. Hwy 378 to Conway, SC, then over U.S. Hwy 501 to Myrtle Beach, serving the off-route points of Seneca, Clemson, Pendleton, Laurens, Clinton and Newberry, SC, (6) between Charlotte, NC, and Augusta, GA, from Charlotte, over Interstate Hwy 85 to Gastonia, NC, then over U.S. Hwy 321 to york, SC, then over South Carolina Hwy 49 to Union, SC, then over U.S. Hwy 176 to Whitmire, SC, then over South Carolina Hwy 121 to junction South Carolina Hwy 121 and U.S. Hwy 25, then over U.S. Hwy 25 to Augusta, serving the off-route point of Charlotte Douglas Airport, NC, (7) between Kingsport, TN, and Bristol, VA from Kingsport over U.S. Hwy 23 to Norton, VA, then over U.S. Hwy 58A to Abingdon, VA, then over Interstate Hwy 81 to Bristol, serving the off-route points of Lebanon, VA, and (8) between Erwin, TN, and Newport, TN, from Erwin over Tennessee Hwy 81 to junction Tennessee Hwy 81 and Tennessee hwy 107, then over Tennessee Hwy 107 to Tusculum, then over U.S. Hwy 11E To Greeneville, then over Hwy 411 to Newport, serving all intermediate points in (1) through (8) above.

Notes.—(1) Applicant intends to tack to existing authority and to interline at Grenville, Anderson, Abbeville, Columbia, Sumter, Conway, Myrtle Beach, Laurens, Newberry and Union, SC, Augusta,

Statesboro, Millen, Claxton, Jesup, Savannah, Brunswick, Athens, Atlanta and Toccoa, GA, Newport and Greeneville, TN, Asheville, Charlotte and Gastonia, NC and Jacksonville, FL.

(2) Applicant seeks to provide regular-route service in interstate or foreign commerce and intrastate commerce under 49 U.S.C. 10922 (c)(2)(B) over the same route.

(3) Applicant also seeks authority to provide privately-funded charter and special transportation, in MC-147208 Sub 3 (A) published in this same issue.

MC 148899 (Sub-5), filed January 13, 1983. Applicant: BARLOW TRUCK LINES, INC., Box 224, Faucett, MO 64448. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068, (816) 781–6000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AR, IA, IL, KS, MN, MO, NE, OK, SD, and TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165639, filed January 11, 1983. Applicant: T & B TRUCKING CO., INC., 5812 Webster Ave., Downers Grove, IL 60516. Representative: Anthony T. Thomas, 2619–B Ridgeland Ave., Berwyn, IL 60402, (312) 242–2676. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IA, IL, IN, MI, OH, and WI.

MC 165698, filed January 14, 1983. Applicant: ALASKA MOTOR FREIGHT, INC., 3285 Cushman, Fairbanks, AK 99701. Representative: James T. Johnson, 1610 IBM Building, Seattle, WA 98101, (206) 624–2832. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AK, on the one hand, and, on the other, Seattle and Tacoma, WA, and Portland, OR.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2560 Filed 1-28-83; 8:45 am]

BILLING CODE 7035-01-M

[39035 [1]]

Allied Van Lines, Inc.—Petition for Exemption From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Allied Van Lines, Inc., has requested exemption from the requirements of 49 U.S.C. 10702, 10761, and 10762. The sought relief is provisionally granted.

DATES: Comments are due on February 15, 1983. The sought relief will become effective on March 2, 1983, unless, in response to timely filed adverse comments, the Commission issues a further decision withdrawing the relief.

ADDRESS: Send an original and, if possible, 15 copies of comments to: Room 2139, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Eric S. Davis, (202) 275–7941
or
Howell I. Sporn, (202) 275–7691

SUPPLEMENTARY INFORMATION: Section 10702(b) of the Interstate Commerce Act requires contract carriers to file with the Commission actual and minimum rates for the transportation they provide. Section 10761 prohibits transportation without a tariff on file with the Commission, and section 10762 sets forth general tariff requirements including contract carrier authority to file only minimum rates. Each of these sections authorizes the Commission to grant exemptions to contract carriers when relief is consistent with the public interest and the transportation policy of section 10101. 49 U.S.C. 10702(b), 10761(b), and 10762(f).

Allied Van Lines, Inc., has filed these petitions requesting exemptions under the three exemption provisions mentioned above. Inasmuch as the issues presented and the relief sought by these petitions are substantially similar, we are consolidating them for notice purposes.

Petitioner currently holds contract carrier authority and has been granted an exemption from the tariff filing requirements for that authority. See No. 38998, *Allied Van Lines, Inc.—Petition for Exemption from Tariff Filing Requirements* (not printed), decided December 10, 1982.

Allied now seeks exemption from the statutory requirements noted above for recently granted temporary authorities which authorize the transportation of household goods. [No. MC–15735 (Sub-Nos. 39TA, 40TA, 4–41TA, 4–42TA, 43TA, 4–44TA, 4–45TA, 46TA, and 47TA]. Allied argues that the volume of household goods traffic has declined due to the recession and this necessitates a reduction in expenses wherever possible. Therefore, it desires to eliminate the costs and time delays inherent in fulfilling the tariff filing requirements which further drain its resources. It maintains that a grant of the requested relief would better allow it to perform its function of serving its contract shippers.

Petitioner's requests are well grounded. We see no reason to deny Allied the savings to be realized from a tariff filing exemption. It appears that the requirement that petitioner file schedules is not in the public interest and that relief will promote the transportation policies of 49 U.S.C. 10101.

We, therefore, provisionally grant the sought exemptions. If we receive timely filed adverse comments, we will issue a further decision addressing them and deciding whether this tentative approval ought to be made final.

This decision does not appear to have a significant effect on either the quality of the human environment or conservation of energy resources. However, comments may be submitted on these issues.

(49 U.S.C. 10702(b), 10761(b), and 10762(f))

Decided: January 25, 1983.

By the Commission, Division 1, Commissioners Andre, Taylor, and Sterrett. Commissioner Sterrett concurred with a separate expression. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

Commissioner Sterrett, Concurring

Allied's petition illustrates both the legitimacy of, and the need for, relief for future contracts. I see no reason why contract carriers should be required to return to the Commission for relief each time a new contract is entered into.

[FR Doc. 83-2554 Filed 1-28-83; 8:45 am]

BILLING CODE 7035-01-M

[MC-F-15038]

Kreider Truck Service, Inc.—Control Exemption—Cryogenic Transportation, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e) and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1) *Procedures for Handling Exemptions Filed by Motor Carriers of Property under 49 U.S.C. 11343, 47 Fed. Reg.* 53303 (November 23, 1982), Kreider Truck Service, Inc.,

[1] This proceeding embraces four petitions for exemption filed by Allied Van Lines, Inc.: No. 39035, No. 39036, No. 39047, and No. 39052.

(Kreider) (MC–114194) Cryogenic Transportation, Inc., (Cryogenic) (MC–160798) and, in turn, Behnken Truck Service, Inc., (Behnken MC–19945) which controls Kreider, and, in turn, Equity Capital Corporation, John A. Behnken and Ora Mae Behnken, who control Behnken, seeks an exemption from the requirement under section 11343 of prior regulatory approval for Kreider's proposed acquisition of control of Cryogenic through the purchase by Kreider of 50 percent of the latter's stock.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESS: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423
and

(2) Petitioner's representative: Marshall Kragen, 1919 Pennsylvania Avenue, NW., Suite 300, Washington, D.C. 20006

Comments should refer to No. MC–F–15038.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 24, 1982.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2562 Filed 1–28–83; 8:45 am]

BILLING CODE 7035–01–M

[MC–F–15077]

Gene F. Lacaeyse—Purchase Exemption—Wenger Truck Line, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property under 49 U.S.C. 11343,* 363 I.C.C. 113 (1982), Gene F. Lacaeyse, doing business as G. F. Lacaeyse Transport (Lacaeyse), seeks an exemption from the requirement under section 11343 of prior regulatory approval of the purchase of authorities issued to Wenger Truck Line, Inc., in No. MC–109818 [Sub-Nos. 25, 34, 44, 55, 56, and paragraphs (1) an (3) of Sub-No. 95X]. Lacaeyse also seeks to tack the authority to be acquired with portions of his existing authority but has not filed a directly related application seeking such authority, as required.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423
and

(2) Petitioner's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309

Comments should refer to No. MC–15077.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275–7949.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 24, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2561 Filed 1–28–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket AB–35 (Sub-6)]

Los Angeles & Salt Lake Railroad Company—Abandonment—and Discontinuance by Union Pacific Railroad Company in Lincoln County, NV; Findings

The Commission has found that the public convenience and necessity permit Los Angeles & Salt Lake Railroad Company to abandon, and Union Pacific Railroad Company to discontinue service over, a rail line between milepost 0.10 near Prince Junction, NV, and milepost 8.81 near Prince, NV; and between milepost 0.268 near Caliente, NV, and milepost 32.94 near Pioche, NV, a distance of about 41.38 miles in Lincoln County, NV, subject to conditions. A certificate will be issued authorizing abandonment unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis E. Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this notice. Any offer previously made must be resubmitted within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are set forth at 49 U.S.C. 10905 and 49 CFR 1152.27 (formerly 49 CFR 1121.38).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2555 Filed 1–28–83; 8:45 am]

BILLING CODE 7035–01–M

[Docket AB–3 (Sub-32)]

Missouri Pacific Railroad Company—Abandonment Between Collinston and Clayton Junction, LA; Findings

The Commission has found that the public convenience and necessity permit Missouri Pacific Railroad Company to abandon its 76.9-mile rail line between milepost 560.4 near Collinston, LA and milepost 637.3 at Clayton Junction, LA, in Morehouse, Richland, Franklin, Catahoula and Concordia Parishes, LA. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83–2556 Filed 1–28–83; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte 387]

Exemptions for Contract Tariffs; Grand Trunk Western Railroad Co. et al.

AGENCY: Interstate Commerce Commission.

ACTION: Notices of provisional exemptions.

SUMMARY: Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the Federal Register.

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Douglas Galloway; (202) 275-7278

or

Tom Smerdon, (202) 275-7277

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505 (a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) not that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract number, and specifics	Review board[1]	Decided date
664	Grand Trunk Western Railroad Co., ICC-GTW C-0084 (liquified petroleum gas)	1	Jan. 21, 1983.
667	Ashley, Drew & Northern Railway Co., ICC-AND-C-0001-B (paper and paper products)	1	Do.
677	Southern Railway Co., ICC-SOU-C-0123 (woodpulp)	1	Do.
678	Pittsburgh and Lake Erie Railroad Co., ICC-PLE-C-06, Supplement 1 (scrap iron or steel)	2	Jan. 24, 1983.
679	Grand Trunk Western Railroad Co., ICC-GTW-C-0092 (iron or steel, sheet or strip)	3	Jan. 21, 1983.
680	Missouri Pacific Railroad Co., ICC-MP-C-0213 (chemicals)	2	Jan. 24, 1983.
681	Missouri Pacific Railroad Co., ICC-MP-C-0229 (sodium silicate)	1	Do.
682	Seaboard System Railroad, Inc., ICC-SBD-C-0009, (woodpulp)	2	Jan. 24, 1983.
683	The Atchison, Topeka and Santa Fe Railway Co., ICC-ATSF-C-0171 (potash)	3	Jan. 21, 1983.
684	Consolidated Rail Corp., ICC-CR-C-0196 (scrap iron and steel)	1	Do.
685	Consolidated Rail Corp., ICC-CR-C-0258 (grain and grain products)	2	Jan. 24, 1983.
686	Consolidated Rail Corp., ICC-CR-C-0290 (alcoholic liquors)	3	Jan. 21, 1983.
687	Union Pacific Railroad Co., ICC-UP-C-0248 (sodium bicarbonate compounds)	1	Do.
688	Burlington Northern Railroad Co., ICC-BN-C-0157-A, Supplement 2 (chlorine)	2	Jan. 24, 1983.
694	Consolidated Rail Corp., ICC-CR-C-0178 (caustic soda, chlorine)	1	Do.
695	St. Louis Southwestern Railway Co., Supplements 1, ICC-SSW-C-0022, 0037, 0038, 0051, and 0190 (various commodities).	2	Do.
696	St. Louis Southwestern Railway Co., Supplements 1, ICC-SSW-C0024, 0032, 0033, 0043, 0050, 0057, 0065, 0066, 0067, 0068, 0069, 0071, 0072, 0073, 0077, 0078, 0095, 0102, 0129, 0170, and 0175 (various commodities).	3	Do.
697	Missouri Pacific Railroad Co., ICC-MP-C-0226, 0227, and 0228 (lumber, plywood and particleboard).	1	Do.
698	Soo Line Railroad Co., ICC-SOO-C-0156 (cranes or derricks and/or parts thereof) via all ports in the Canadian Provinces of New Brunswick, Newfoundland, Nova Scotia, Ontario, Prince Edward Island, Quebec and the States of DE, FL, GA, Baton Rouge and New Orleans, LA, ME, MD, MA, MS, NH, NY, NJ, NC, RI, PA, SC, and VA.	2	Do.
699	The Denver and Rio Grande Western Railroad Co., ICC-DRGW-C-0073 (bituminous coal) via the Ports of Long Beach, Los Angeles Harbor or San Pedro, CA.	3	Do.
700	Missouri Pacific Railroad Co., ICC-MP-C-0201 (lumber, plywood and particleboard)	1	Do.
701	Seaboard System Railroad, Inc., ICC-SBD-C-0060, Supplement 1 (phosphate rock)	1	Do.

[1] Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 2, Members Carleton, Williams, and Ewing. Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2360 Filed 1-28-83; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30097]

Rail Carriers; The Baltimore and Ohio Railroad Co.—Trackage Rights Exemption—Over Norfolk and Western Railway Co.; Notice of Exemption

January 25, 1983.

The Baltimore and Ohio Railroad Company (B&O) filed a notice of exemption for its acquisition of only overhead trackage rights over a 38.10-mile segment of track of the Norfolk and Western Railway Company (N&W) between Decatur and Springfield, IL. Presently, B&O operates a 43.4-mile route between Decatur and Springfield which is composed of existing trackage rights over N&W between Decatur and Boody, IL, B&O's own line between Boody and Springfield, and trackage rights over other carriers' lines in the Springfield area. B&O's line between Boody and Springfield is not suitable for efficient overhead operations between Decatur and Springfield, because the Boody-Springfield segment requires considerable rehabilitation. There is only one patron on this line, and it allegedly makes only minor use of B&O's service. B&O has placed its existing Decatur to Springfield route in Category 1 of its System Diagram Map for abandonment purposes.

Because of the conditions of its present route, B&O has had to detour its overhead operations from its present route to the N&W's parallel route between Decatur and Springfield. This N&W line and B&O's present route between Decatur and Springfield are approximately 8 miles apart at their farthest point of separation. B&O's operations over the N&W line are very limited; they average one round trip every 2.8 days, and the volume of traffic averages 5 loaded cars per westbound train and 9 loaded cars per eastbound train.

This transaction is a joint project of the two rail carriers involving a relocation of an operation which does not disrupt service to shippers. Thus, it is an exempt transaction pursuant to 49 CFR 1180.2(d)(5). *Railroad Consolidation Procedures,* 366 I.C.C. 74, 94 (1982). It results in the continuation of virtually the same service as before. Indeed, overhead and bridge service may be improved, since B&O uses N&W's parallel but shorter and superior route which allows faster service. While B&O does have one patron on its own line between Boody and Springfield and has placed its route in Category 1 on its System Diagram Map, this action will not actually result in an abandonment of, or discontinuance of service over, its own Boody-Springfield line. B&O will continue local service to its one patron on that line—at least for the near future. CF. *D. T. & I. R.—Trackage Rights,* 363 I.C.C. 878 (1981); and *Southern Pac. Transp. Co. & SSW Ry. Co.—Exemption,* 363 I.C.C. 848 (1981). Since B&O will continue service to the patron, this transaction itself should have no appreciably adverse impact on shippers or communities. Instead, it will allow

B&O to continue service between Decatur and Springfield.

As a condition to use of the exemption, any B&O or N&W employees affected by the transaction will be protected by the conditions set forth in *Norfolk and Western Ry. Co.-Trackage Rights-BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.-Lease and Operate*, 360 I.C.C. 653 (1980), *aff'd sub nom. Railway Labor Executives' Ass'n* v. *United States*, 675 F. 2d 1248 (D.C. Cir. 1982). This satisfies the statutory requirements for protection of employees under 49 U.S.C. 10505(g)(2), which may not be avoided through the exemption process.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-2551 Filed 1-28-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Proposed Consent Decree in Action To Enforce the Clean Water Act

In accordance with Departmental policy 28 CFR 50.7, 38 FR 19029, notice is hereby given that on January 11, 1983, a proposed consent decree in *United States* v. *Diamond Shamrock Corporation*, No. CA3-830046R was lodged with the United States District Court for the Northern District of Texas, Dallas Division.

The proposed consent decree provides for compliance with both an NPDES permit and the Clean Water Act Section 311 prohibition against discharges in "harmful quantities." The proposed consent decree requires that the company pay a penalty of $10,000.00 for prior discharges.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Diamond Shamrock*, D.J. Ref. No. 90-5-1-1-1602.

A proposed consent decree may be examined at the Office of the United States Attorney, Northern District of Texas, U.S. Federal Building and Courthouse, Room 16G28, 1100 Commerce Street, Dallas, Texas 75242; and the Environmental Protection Agency, First International Building, 1201 Elm Street, Dallas, Texas 75270; and the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-2564 Filed 1-28-83; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL SCIENCE FOUNDATION

Physiology, Cellular and Molecular Biology Advisory Panel; Subpanel on Genetic Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Genetic Biology of the Advisory Panel for Physiology, Cellular and Molecular Biology.

Date and time: February 17—19, 1983 and 9:00 a.m.—5:30 p.m.

Place: Room *643*, National Science Foundation, 1800 G Street, NW. Washington, D.C. 20550

Type of meeting: Closed

Contact person: Dr. Philip D. Harriman, Program Director, Genetic Biology Program, Room 329, National Science Foundation, Washington, D.C. 20550, telephone (202) 357-9687.

Purpose of subpanel: To provide advice and recommendations concerning support for research in genetic biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

Dated: January 26, 1983.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 83-2604 Filed 1-28-83; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Physiology, Cellular, and Molecular Biology; Subpanel on Cell Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Cell Biology, of the Advisory Panel for Physiology, Cellular, and Molecular Biology.

Date and time: February 16, 17, and 18, 1983; 9:00 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. John S. Cook, Program Director, Cell Biology Program, Room 332, National Science Foundation, Washington, DC 20550. Telephone: 202/357-747.

Purpose of subpanel: To provide advice and recommendations concerning support for research in Cell Biology.

Agenda: To review and evaluate research proposals as part of the selection process of awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemption (4) and (6) of 5 U.S.C. 552b(c) Government in the Sunshine Act.

Authority to close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: January 26, 1983.

M. R. Winkler,

Committee Management Coordinator.

[FR Doc. 83-2605 Filed 1-28-83; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Class-9 Accidents and Reactor Radiological Effects; Meeting

The Combined ACRS Subcommittees on Class-9 Accidents and Reactor Radiological Effects will hold a meeting on February 22, 1983, Room 1046 at 1717 H Street, NW, Washington, DC. Notice of this meeting was published January 18, 1983.

In accordance with the procedures outlined in the Federal Register on October 1, 1982 (47 FR 43474), oral or written statements may be presented by members of the public, recordings will

be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Tuesday, February 22, 1983—8:30 a.m. Until the Conclusion of Business

The Subcommittees will review the Source Term Program with various members of the NRC/RES Staff.

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Gary Quittschreiber or Mr. Don Bucci (Telephone 202/634-3267) or Ms. R. C. Tang (202/634-1414) between 8:15 a.m. and 5:00 p.m., EST.

Dated: January 25, 1983.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 83-2580 Filed 1-28-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 82b. of the Atomic Energy Act (42 U.S.C 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on February 10-12, 1983, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the Federal Register on January 18, 1983.

The agenda for the subject meeting will be as follows:

Thursday, February 10, 1983

8:30 A.M.–8:45 A.M.: Opening Remarks (Open)—The ACRS Chairman will report briefly on matters of current interest regarding ACRS activities.

8:45 A.M.–11:30 A.M.: Skagit/Hanford Nuclear Projects Units 1 and 2 (Open)—The members will hear and discuss the report of the ACRS project subcommittee and consultants who may be present regarding the request for a Construction Permit for this facility.

Members of the NRC Staff and representatives of the Applicant will make presentations and respond to questions regarding this matter.

Portions of this session will be closed as necessary to discuss Proprietary Information related to this project.

11:30 A.M.–12:30 P.M.: NRC Safety Research Program (Open)—The ACRS members will discuss the proposed ACRS annual report to the U.S. Congress regarding the proposed NRC safety research program and budget for FY 1984–85.

1:30 P.M.–2:30 P.M.: ACRS Activities (Open/Closed)—The members will discuss the basis for reappointment of ACRS members to the Committee.

The members will also discuss proposed and anticipated subcommittee and full Committee assignments as well as the scope and nature of ACRS activities.

The members will also discuss their report of January 10, 1983 on SECY-82-1B: Proposed Commission Policy Statement on Severe Accidents and Related Views on Nuclear Reactor Regulation.

A portion of this session will be closed as necessary to discuss matters that relate solely to the internal personnel rules and practices of the agency.

2:30 P.M.–4:00 P.M.: Meeting with NRC Commissioners (Open)—The members will meet with the NRC Commissioners to discuss the recommendations of the Committee in its report of January 10, 1983 on SECY-82-1B: Proposed Commission Policy Statement on Severe Accidents and Related Views on Nuclear Reactor Regulation.

4:00 P.M.–6:00 P.M.: NRC Safety Research (Open)—The Committee members will discuss the proposed ACRS annual report to the U.S. Congress regarding the proposed NRC safety research program and budget for FY 1984–85.

Friday, February 11, 1983

8:30 A.M.–12:30 P.M. and 1:30 P.M.–8:00 P.M.: Clinch River Breeder Reactor (Open) —The members will hear and discuss the report of the CRBR Subcommittee and designated working groups, and ACRS consultants who may be present regarding the request for a Construction Permit for the CRBR. Representatives of the NRC Staff and the Applicant will report to the Committee regarding the proposed facility design and respond to related questions.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

Saturday, February 12, 1983

8:30 A.M.–10:30 A.M.–ACRS Reports to NRC and the U.S. Congress (Open/Closed)—The Committee will complete its reports to the NRC and the U.S. Congress regarding matters discussed during this meeting.

Portions of this meeting will be closed as necessary to discuss information which will be involved in an adjudicatory proceeding.

10:30 A.M.–12:00 Noon and 1:00 P.M.–3:00 PM.—Reports of ACRS Subcommittees (Open/Closed)—The Committee will hear and discuss reports of designated subcommittees regarding ongoing safety related activities including proposed reform of the regulatory process, repair of the Three Mile Island Nuclear Station Unit 1 steam generators, proposed NRC action plan regarding steam generator tube integrity, consideration of Class 9 accidents in the regulatory process, and decay heat removal provisions in nuclear power plants..

3:00 P.M.–3:30 P.M.: Miscellaneous (Open)—The members will complete action regarding items considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 1, 1982 (47 FR 43474). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropirate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose

may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information (5 U.S.C. 552b(c)(4)), and information which will be involved in an adjudicatory proceeding (5 U.S.C. 552b(c)(10)) and information that relates solely to the internal personnel rules and practices of the agency (5 U.S.C. 552b(c)(2)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M. EST.

Dated: January 25, 1983.

John C. Hoyle,

Advisory Committee Management, Officer.

[FR Doc. 83–2579 Filed 1–28–83; 8:45 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

[Docket No. A83–13; Order No. 480]

Mrs. Lola Allen, Petitioner; Notice and Order of Filing of Appeal

January 24, 1983.

On January 18, 1983, the Commission received an appeal letter from Mrs. Lola Allen (hereinafter "Petitioner"), Reed, Oklahoma 73563 concerning the United States Postal Service's decision to consolidate the Reed, Oklahoma, post office. The appeal letter appears to request the review provided for by section 404(b) of the Postal Reorganization Act [39 U.S.C. 404(b)].[1]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "ensure that such persons will have an opportunity to present their views."[2]

The petition requests that the decision to consolidate the Reed post office be reconsidered.

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal service be insured to residents of both urban and rural communities.[3]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to consolidate post offices. The effect on the community is also a mandatory consideration under section 404(b)(2)(A) of the Act.

The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the consolidation of post offices.[4]

Upon preliminary inspection, this case appears to involve the following issues of law:

1. Did the Postal Service properly consider the effect on the community under 39 U.S.C. 404(b)(2)(A)?

2. Did the Postal Service adequately consider the effect on employees under 39 U.S.C. 404(b)(2)(B)?

Other issues of law may become apparent when the Commission has had the opportunity to examine further the determination made by the Postal Service. The determination may be found to resolve adequately one or more of the issues involved in the case.

In view of the above, and in the interest of expediting this proceeding under the 120-day decisional deadline imposed by section 404(b)(5), the Postal Service is advised that the Commission reserves the right to request a legal memorandum from the Service on the issues described above and/or any further issues of law disclosed by the determination made in this case. In the event that the Commission finds such memorandum necessary to explain or clarify the Service's legal position or interpretation on any such issue, it will make the request therefor by order, specifying the issues to be addressed.

When such a request is issued, the memorandum shall be filed within 20 days of the issuance, and a copy of the memorandum shall be served on the Petitioner by the Service.

In briefing the case or in filing any motion to dismiss for want of prosecution, in appropriate circumstances the Service may incorporate by reference all or any portion of a legal memorandum filed pursuant to such an order.

The Act does not contemplate appointment of an Officer of the Commission in section 404(b) cases,[5] and none is being appointed. The Commission orders:

(A) The appeal letter from Mrs. Lola Allen of the Reed post office be accepted as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the Federal Register.

By the Commission.

David F. Harris,

Secretary.

APPENDIX

Docket No. A83–13	
Jan. 18, 1983	Filing of Petition.
Jan. 24, 1983	Notice and Order of Filing of Appeal.
Feb. 2, 1983	Filing of Record by Postal Service (*see* 39 CFR 3001.113(a)).
Feb. 7, 1983	Last day for filing of petitions to intervene (*see* 39 CFR 3001.111(b)).
Feb. 17, 1983	Petitioner's Initial Brief (*see* 39 CFR 3001.115(a)).
Mar. 4, 1983	Postal Service Answering Brief (*see* 39 CFR 3001.115(b)).
Mar. 21, 1983	(1) Petitioner's Reply Brief should petitioner choose to file one (*see* 39 CFR 3001.115(c)). (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interest of prompt and just decision may require, in scheduling or dispensing with oral argument.
May 18,1983	Expiration of 120 day decisional schedule (*see* 39 U.S.C. 404(b)(5).

[FR Doc. 83–2565 Filed 1–28–83; 8:45 am]

BILLING CODE 7715–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12985 (812–5380)]

Alliance Tax-Exempt Reserves, Inc.; Filing of an Application

January 21, 1983.

Notice is hereby given that Alliance Tax-Exempt Reserves, Inc., ("Applicant"), 140 Broadway, New York, NY 10005, a diversified, open-end, management investment company, registered under the Investment Company Act of 1940 (the "Act"), filed an application on November 19, 1982, for an order of the Commission, pursuant to

[1] 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94–421 (September 24, 1976), 90 Stat. 1310–11. Our rules of practice governing these cases appear at 39 CFR 3001.110 *et seq.*

[2] 39 U.S.C. 404(b)(1).

[3] 39 U.S.C. 101(b).

[4] 42 FR 59079–85 (November 17, 1977). The Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

[5] In the Matter of Gresham, S.C., Route #1, Docket No. A78–1 (May 11, 1978).

Section 6(c) of the Act, exempting Applicant (1) from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant (a) to compute its net asset value per share using the amortized cost method of valuation, and (b) to value in the manner described below standby commitments acquired from broker-dealers or banks; and (2) from the provisions of Section 12(d)(3) of the Act to permit the Applicant to acquire standby commitments from broker-dealers. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it propose to operate as a "money market fund" designed for use by individual investors or by organizations such as corporations, partnerships, trusts, and others. Applicant's investment objectives are safety of principal, liquidity, and, to the extent consistent with the first two objectives, maximum current income that is exempt from Federal income taxes. Applicant represents that its shares are sold without a sales charge. Applicant states that Alliance Capital Management Corporation will act as its investment adviser. The application further states that although Applicant initially will have only one investment portfolio, Applicant's board of directors may in the future establish additional portfolios. Applicant states that it will pursue its investment objectives principally by investing in a diversified portfolio of high-grade, short-term municipal securities (obligations issued by or on behalf of states, territories, and possessions of the United States and its political subdivisions, agencies and instrumentalities, the interest from which is exempt from Federal income tax).

Applicant states that it may at times invest up to 20 percent of its total assets in a variety of high quality taxable money market securities. Applicant states that it may also enter into repurchase agreements pertaining to the types of securities in which it may invest. Also, while it has no plans to do so, Applicant states that it may enter into reverse repurchase agreements. Applicant may also invest in commitments to purchase municipal securities on a "when-issued" basis. Applicant represents that it may not purchase any security which has a maturity date more than one year from the date of purchase.

Within the categories of municipal and taxable securities in which Applicant may invest are variable rate demand instruments. The variable rate demand instruments in which Applicant may invest will be payable on not more than seven days notice. The interest rates of the instruments will be adjustable at invervals of up to one year. Applicant states that its board of directors will reevaluate, at least quarterly, any variable rate instruments Applicant holds to determine that such instruments are of high quality. In the event that proposed Rule 2a–7 under the Act, as adopted, requires a different reevaluation period, Applicant states that it will conform to such period. The maturity of a variable rate demand instrument will be calulated as provided in proposed Rule 2a–7.

Applicant states that it intends to improve its portfolio liquity through the acquisition of "standby commitments". A standby commitment is a right acquired by Applicant, when it purchases a municipal security for its portfolio from a broker-dealer or a bank, to sell the same principal amount of the securities purchased back to the seller, at Applicant's option, at a specified price. Applicant asserts that its investment policies permit the acquisition of standby commitments solely to facilitate portfolio liquidity. It is further asserted that the acquisition or exercisability of a standby commitment will not affect the valuation or maturity of the underlying portfolio security which will be valued in accordance with the amortized cost exemptive order requested.

Applicant states that the standby commitments it acquires will have the following features:

1. Standby commitments will be in writing and will be physically held by Applicant's custodian;

2. Standby commitments may be exercisable by Applicant at any time prior to the maturity of the underlying security;

3. Applicant's right to exercise standby commitments will be unconditional and unqualified;

4. Applicant will enter into standby commitments only with broker-dealers or banks which, in the investment adviser's opinion, present a minimal risk of default;

5. Although standby commitments will not be transferable, municipal securities purchased subject to standby commitments could be sold to a third party at any time, even though the standby commitments remain outstanding; and

6. The exercise price of each standby commitment will be (i) the cost of the municipal securities which are subject to the standby commitment (excluding any accrued interest which Applicant paid on their purchase), less any amortized market premium or plus any amortized market or original issue discount during the period the Fund owned the securities, plus (ii) all interest accrued on the underlying municipal securities since the most recent interest payment date during the period the securities were held by Applicant.

Applicant states that because it will value its municipal securities on an amortized cost basis, the amount payable under a standby commitment will be substantially the same as the value assigned by Applicant to the underlying municipal securities. Morever, Applicant asserts that there is little risk of an event occurring which would make the amortized cost valuation of its portfolio securities inappropriate. In the unlikely event that the market or fair value of municipal securities in its portfolio were not substantially equivalent to their amortized cost value, however, Applicant represents that it would value the municipal securities on the basis of available market information and would hold them to maturity. Applicant expects tht it would refrain from exercising the standby commitments in such a situation to avoid imposing a loss on a broker-dealer or bank, which could jeopardize Applicant's business relationship with that entity.

The application states that standby commitments may be available without the payment of any direct or indirect consideration. If deemed necessary or advisable, however, Applicant states that it will pay for standby commitments, either separately in cash or by paying a higher price for the municipal securities that are acquired subject to the standby commitment.

Applicant states that it is difficult to evaluate the likelihood of the use or the potential benefit of a standby commitment. Accordingly, Applicant's board of directors intends to determine that standby commitments have a "fair value" of zero, regardless of whether any direct or indirect consideration was paid. Where Applicant has paid for a standby commitment, its cost will be reflected as unrealized depreciation for the period during which the commitment is held. In addition, for purposes of computing the dollar weighted average maturity of Applicant's portfolio, Applicant represents that the maturity of a portfolio security shall not be considered shortened or otherwise

affected by any standby commitment to which such security is subject.

Applicant requests an order pursuant to Section 6(c) of the Act exempting it from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its portfolio securities using the amortized cost valuation method and to value in the manner described above the standby commitments acquired from banks or broker-dealers. Applicant further requests an order pursuant to Section 6(c) of the Act, exempting it from the provisions of Section 12(d)(3) of the Act to the extend necessary to permit it to acquire standby commitments from broker-dealers.

Applicant argues that the requested relief is appropriate in the public interest and consistent with the protection of investors. Applicant asserts that its acquisition of standby commitments will not affect the calculation of its net asset value per share and will merely improve its liquidity. Applicant asserts that use of the amortized cost valuation method will benefit its shareholders by enabling Applicant to maintain a constant net asset value of $1.00 per share while providing shareholders with the opportunity to receive a relatively steady flow of investment income. Moreover, because Applicant will invest only in high-grade securities with a remaining maturity of one year or less, Applicant believes there will normally be a negligible discrepancy between the market value and the amortized cost value of Applicant's portfolio securities. Accordingly, Applicant has determined that the amortized cost method of valuing its portfolio securities will reflect the fair value of such securities, absent unusual or extraordinary circumstances, and is appropriate and in the best interests of its shareholders.

Applicant states that it will adhere to the following conditions to any order granting its application, so long as it utilizes the valuation method permitted by the requested order:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stablilize Applicants net asset value per share, as computed for the purposes of distribution and redemption, at $1.00 per share.

2. Included within the procedures to be adopted by Applicant's board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share of Applicant, as determined by using available market quotations, from the $1.00 amortized cost price per share of Applicant, and the maintenance of records of such review.[1]

(b) In the event that such deviation from Applicant's $1.00 amortized cost price per share should exceed ½ of 1 percent, a requirement that the board of directors promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes that the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or reduce, to the extent reasonably practicable, such dilution or unfair results which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the average portfolio maturity of Applicant; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant states that it will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days.[2]

4. Applicant asserts that it will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in Paragraph 1 above. Applicant will also record, maintain, and preserve for a period of not less than six years (the first two in an easily accessible place) a written record of its board of directors' considerations and actions taken in connection with the discharge of its responsibilities as set forth above, to be included in the minutes of the board of directors meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the board of directors determines present minimal credit risks and which are of "high quality" as determined by any major rating service, or, in the case of any instrument that is not rated, of comparable quality as determined by the board.

6. Applicant will include in each of its quarterly reports, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any such action was taken, will describe the nature and circumstances of such action.

Section (6) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 15, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the

[1] To fullfill this condition, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of directors in the exercise of its discretion to be appropriate indicators of value which may include, among other things: (1) Quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] Should the disposition of a portfolio instrument result in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant, in fulfilling this condition, will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2572 Filed 1-28-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22827 (70-6698)]

American Electric Power Co., Inc., et al.; Proposal To Amend Revolving Credit Agreement and Capital Funds Agreement

January 21, 1983.

In the matter of American Electric Power Company, Inc., AEP Generating Company, 180 East Broad Street, Columbus, Ohio 43215; Indiana & Michigan Electric Company; One Summit Square, P.O. Box 60, Fort Wayne, Indiana 46801.

American Electric Power Company, Inc. ("AEP"), a registered holding company, Indiana & Michigan Electric Company ("I&MECo"), an electric utility subsidiary of AEP, and AEP Generating Company ("AEGCo"), a wholly owned generating subsidiary of AEP, have filed post-effective amendments to their application-declaration in this proceeding pursuant to Sections 6(a), 7, 9, 10 and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 thereunder.

By order dated March 24, 1982 (HCAR No. 22429), AEGCo was authorized to issue, and AEP was authorized to acquire, 100 shares to AEGCo's common stock, par value $1000 per share, for $1 million. AEGCo and I&MECo were also authorized to enter into an owners agreement ("Owners' Agreement") pursuant to which AEGCo will acquire a 35% undivided ownership interest as tenant in common in the Rockport Generating Plant ("Rockport Plant"), a coal-fired steam electric generating station currently being built by I&MECo. By order dated February 18, 1982 (HCAR No. 22392), Kentucky Power Company ("KPCo"), an electric utility subsidiary of AEP, was authorized to purchase a 15% undivided interest in the Rockport Plant. Upon completion of the Rockport Plant, I&M, AEGCo and KPCo would own, respectively, as tenants in common, 50%, 35% and 15% undivided interests. The March 24, 1982 order also authorized AEP and AEGCo to enter into a capital funds agreement ("Capital Funds Agreement") pursuant to which AEP agreed to supply, or cause to be supplied, such amounts of capital as may be required to maintain stockholder's equity at not less than 35% of the capitalization of AEGCo and such amounts of capital as shall be required in order for AEGCo to continue to own and to increase to 35% its undivided ownership in the Rockport Plant. By that order, AEGCo also was authorized to enter into a revolving credit agreement ("Agreement") with a group of banks ("Banks") pursuant to which notes in an aggregate principal amount outstanding at any time up to, but not to exceed, $300 million could be issued and delivered by AEGCo; the proceeds to be used by AEGCo for the construction of its interest in and the acquisition of, equipment, materials and supplies for the Rockport Plant and other corporate purposes. Each borrowing under the Agreement shall be made ratably from the Banks in proportion to their respective commitments and for the same period of time, and shall be evidenced by a note of AEGCo dated the date of such borrowings and bearing interest on the unpaid principal amount thereof from the date of each such note to the date of payment in full, payable quarterly on the last day of each March, June, September and December, at the maturity thereof (whether by acceleration or otherwise) and after such maturity on demand. Interest on the principal amount of a note shall be: (a) Prior to maturity, and at AEGCo's option, equal to either (i) a fluctuating rate per annum equal at all times to the prime rate, as defined in the Agreement, or (ii) the appropriate London Interbank Offered ("LIBO") Rate in accordance with the tenor of the advance, and (b) from maturity (whether by acceleration or otherwise), at a fluctuating rate per annum equal at all times to the sum of (i) 1% plus (ii) the prime rate until payment in full.

The Agreement further provides that AEGCo will be obligated to pay to each bank for its commitment a fee computed at the annual rate of ⅜ of 1% per annum on the average daily unused amount of the commitment for such bank from the effective date of the Agreement to the date of expiration or termination of such commitment. AEGCo may prepay notes bearing interest at the prime rate in whole at any time, or in part from time to time, without premium or penalty, and may terminate in whole or reduce in part the unused commitments of the Bank. LIBO Rate notes are not prepayable.

Under the Agreement, AEGCo may not incur indebtedness (other than short-term indebtedness) in an aggregate principal amount not exceeding 10% of AEGCO's capitalization, exclusive of short-term debt, if, immediately after incurring such indebtedness, the total principal amount of all indebtedness (other than short-term debt to the extent specified) shall exceed 65% of AEGCo's capitalization. The Agreement further provides that AEGCo shall take all necessary steps to maintain its equity capital at not less than 35% of AEGCo's capitalization (exclusive of short-term debt).

AEGCo now proposes to enter into an amendment ("Amendment No. 1") to its Agreement with the Banks that will have the effect of permitting AEGCo to incur indebtedness under the Agreement during each period indicated below in an amount that is not greater than the percentage of AEGCo's capitalization ("Applicable Debt Percentage") indicated opposite each such period:

Period	Applicable debt percentage
Jan. 1 to Dec. 31, 1983	85
Jan. 1 to Dec. 31, 1984	85
Jan. 1 to Dec. 31, 1985	80
Jan. 1 to June 30, 1986	75
July 1 to Dec. 31, 1986	65
Jan. 1 to Dec. 31, 1987	65

Amendment No. 1 to the Agreement, as well as a proposed amendment to the Capital Funds Agreement between AEGCo and AEP, would permit a corresponding reduction in the equity component of AEGCo's capitalization (exclusive of short-term debt) during each period indicated below that is not less than the percentage ("Applicable Equity Percentage") indicated opposite each such period:

Period	Applicable equity percentage
Jan. 1 to Dec. 31, 1983	15
Jan. 1 to Dec. 31, 1984	15
Jan. 1 to Dec. 31, 1985	20
Jan. 1 to June 30, 1986	25
July 1 to Dec. 31, 1986	35
Jan. 1 to Dec. 31, 1987	35

AEP's projected equity requirements during the period 1983 through 1986 are largely influenced by the level of construction costs associated with the two units of the Rockport Plant. The level of construction costs associated with the Rockport Plant is expected to peak during 1983 and 1984. Thereafter, in 1985 and 1986, construction related

expenditures are expected to drop substantially. The proposed amendments to the two basic agreements under which AEGCo is funding its obligations under the Rockport Plant Owners' Agreement will enable AEP to defer, from 1983 and 1984 to 1985 and 1986, a substantial part of its projected equity investment in AEGCo and thereby spread total AEP System capital requirements over this four-year period of construction on the Rockport Plant. In this manner, AEP projects that, during the four-year period, it will be able to satisfy the AEP System's capital requirements from the proceeds of Common Stock sales through AEP's Dividend Reinvestment and Employee Savings Plan, without the need for additional public offerings of Common Stock which would otherwise be necessary in 1983 and possibly 1984.

At September 30, 1982, AEP's consolidated common equity, including the effect of the public offering of 3,500,000 shares of Common Stock issued on October 6, 1982, represented 34.5% of total capitalization. AEP projects that deferral of equity investment in AEGCo, and the increased borrowings by AEGCo under the Agreement during 1983 and 1984, would not result in a material decrease in AEP's consolidated equity capitalization for the period through 1986.

At December 31, 1982, AEGCo's construction related expenditures associated with the two units of the Rockport Plant totaled approximately $145,000,000 which includes AEGCo's proportionate share of equalization payments made to its associate company, I&MECo, in 1982 with respect to previous construction costs incurred by I&MECo. To finance its proportionate share of construction expenditures, AEGCo has issued and reissued notes under the Agreement from time to time, of which $105,000,000 principal amount remained outstanding at December 31, 1982. On September 6, 1982, AEGCo's associate company, Kentucky Power Company ("KPCo"), suspended further performance of its obligation to make construction related expenditures under the Owners' Agreement pending the resolution of legal challenges to its authorization by the Kentucky Public Service Commission to acquire and own an undivided interest in the two units of the Rockport Plant. Since then, and until such time as KPCo shall resume the performance of its obligations under the Owners' Agreement, AEGCo has and shall continue to pay all construction related expenses associated with the Rockport Plant.

In 1983, it is estimated that construction related expenditures for the Rockport Plant will total $275 million, as follows:

Quarter	Dollars in millions
First quarter	$47
Second quarter	50
Third quarter	59
Fourth quarter	119
Total	275

On the assumption that AEGCo shall continue to pay all construction costs associated with the Rockport Plant during 1983, and that AEGCo shall finance such construction with the proceeds of borrowed funds to the extent permitted under the Agreement, AEGCo projects that it will have utilized the full amount of the Banks' commitments at some point during the fourth quarter of 1983. Accordingly, AEGCo proposes herein to enter into a further amendment to the Agreement ("Amendment No. 2") pursuant to which the Banks would agree to make additional loan commitments ("Second Commitments") to AEGCo totaling $150 million.

Under Amendment No. 2 to the Agreement, each of the Banks would agree to make loans to AEGCo pursuant to each Bank's Second Commitment in the amounts set forth opposite each Bank's signature thereto. The terms and conditions of loans made pursuant to the Second Commitments of the Banks with respect to interest rate, maturity and repayment and prepayment will be in all respects identical to the terms and conditions of loans made pursuant to the original commitment of the Banks. Under Amendment No. 2, however, ADGC would be obligated to pay to the Banks a combination of availability fees ("Availability Fees") and commitment fees ("Commitment Fees") with respect to the Second Commitments, as follows: (i) An Availability Fee equal to ⅜ of 1% per annum on the entire amount of the Second Commitments of each Bank from the date of the Order of the Commission granting and permitting this Post-Effective Amendment to become effective through September 30, 1983, if such Second Commitments are not utilized prior to that date, and a Commitment Fee equal to ⅜ of 1% per annum of the average unused daily balance of such Second Commitments thereafter; and (ii) in the event that AEGCo should utilize, in whole or in part, the Second Commitments of the Banks, prior to September 30, 1983, then a combination of a Commitment Fee equal to ⅜ of 1% per annum of the average unused daily balance of the Second Commitments from the date of such initial utilization, plus a Commitment Fee of ⅜ of 1% per annum applied to the full amount of the Second Commitments retroactively for a period of six months (180 days) preceding the date of such first utilization of the Second Commitments, or for the period from such date to the date of this Commission Order, if less than six months, such Commitment Fee to be offset by the amount of any Availability Fee paid in accordance with (i) above.

The amended application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 14, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall indentify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the amended application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2566 Filed 1-28-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22828; (70-6198)]

Kentucky Power Co. and Indiana and Michigan Electric Co; Proposed Amendment of Revolving Credit Agreement

January 21, 1983.

In the matter of Kentucky Power Company, 1701 Central avenue, P.O. Box 1428, Ashland, Kentucky 41101; Indiana and Michigan Electric Company, One Summit Square, P.O. Box 60, Fort Wayne, Indiana 46801.

Kentucky Power Company ("KPCo") and Indiana & Michigan Electric Company ("I&M"), electric utility subsidiaries of American Electric Power Company ("AEP"), a registered holding company, have filed a post-effective

amendment to the application-declaration filed with this Commission pursuant to Sections 6(a), 7, 9(a)(1), 10 and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43, 45, and 50(a)(2) thereunder.

By order dated February 18, 1982 (HCAR No. 22392), KPCo was authorized among other things, to enter into a revolving credit agreement ("Agreement") with a group of banks ("Banks"). Under that Agreement KPCo may issue its promissory notes in the aggregate principal amount of up to $150,000,000 at any one time outstanding through December 31, 1987, such notes to bear interest prior to maturity at a rate equal at all times to the prime rate, as defined in the Agreement ("Prime Rate"). As of December 13, 1982, KPCo has issued notes in the aggregate principal amount of $15,000,000 under the Agreement.

KPCo and the Banks now propose to enter into an amended and restated revolving credit agreement, to be dated as of January --, 1983 ("Restated Agreement"). Under the Restated Agreement, KPCo would have the option to issue and reissue notes bearing interest at the Prime Rate or at a fixed rate determined with reference to the applicable London Interbank Offering ("LIBO") Rate. A fixed rate note would bear interest at ½ of 1 percent above the LIBO Rate if issued prior to January 1, 1986, and ¾ of 1 percent if issued between January 1, 1986 and December 31, 1987. KPCo may exchange LIBO Rate notes for notes evidencing borrowings previously made and bearing interest at the Prime Rate, and, upon maturity of any LIBO Rate note, to resubstitute a Prime Rate Note or issue a new LIBO Rate note.

All borrowings evidenced by a promissory note or notes of KPCo bearing interest at a fixed rate above the applicable LIBO Rate shall mature 30, 60, 90, or 180 days after the date thereof. The Restated Agreement provides that the exchange of LIBO Rate notes for Prime Rate notes, or resubstitution of Prime Rate notes for LIBO Rate notes, shall not constitute prepayment of any outstanding note or notice to the Banks of a termination or partial reduction of the Banks' commitments under the Restated Agreement. KPCo shall pay no fee, premium or penalty in the event of any exchange or resubstitution of notes.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 14, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2570 Filed 1-28-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22829; (70-6834)]

Louisiana Power & Light Co. and Middle South Utilities, Inc.; Proposal

January 21, 1983.

In the matter of Louisiana Power & Light Company, 142 Delaranda Street, New Orleans, Louisiana 70174; Middle South Utilities, Inc., 225 Baronne Street, New Orleans, Louisiana 70112.

Middle South Utilities ("Middle South"), a registered holding company, and its public utility subsidiary, Louisiana Power & Light Company ("Company"), have filed an application-declaration with this Commission pursuant to Sections 6, 7, 9, 10, and 12 of the Public Utility Holding Company Act of 1935 and Rules 43 and 50 thereunder.

The Company proposes to establish one or more new series of its class of Preferred Stock, $25 par value, which shall consist in the aggregate of not more than 3,000,000 shares ("New Preferred Stock"), and to issue and sell, in one or more sales from time to time not later than December 31, 1983, the New Preferred Stock, subject to competitive bidding. If market conditions change so that, in the opinion of the Company, the market for $100 par value preferred stock is more favorable than that for $25 par value preferred stock, the Company may amend this application-declaration to propose the issuance and sale, in one or more series, of an aggregate of not more than 750,000 shares of its Preferred Stock, $100 par value, in lieu of the New Preferred Stock.

The dividend rate of each series of the New Preferred Stock (other than series with provisions for an adjustable dividend rate, as described below) will be a multiple of ¼ of 1% and the price to be paid to the Company for each series of the New Preferred Stock will not be less than $25 nor more than $25.70 per share, plus accumulated dividends, if any.

The terms of each series of the New Preferred Stock (other than series with provisions for an adjustable dividend rate, as described below) will include a prohibition for five years after the first day of the month of issuance of the respective series against redeeming such series, directly or indirectly, with funds derived from the issuance of debt securities at a lower effective interest cost or from the issuance of other stock, which ranks prior to or on a parity with such series as to dividends or assets, at a lower effective dividend cost.

The Company may include provisions for an adjustable dividend rate for one or more series of the New Preferred Stock. The dividend rate for the initial dividend payment period will be a fixed percentage (which will be a multiple of ¼ of 1%), to be determined by competitive bidding. Thereafter, the adjustable dividend rate will be determined quarterly on the basis of a certain percentage (to be determined by competitive bidding) above or below, generally, the highest of (1) the average of the two most recent weekly per annum market discount rates for three-month U.S. Treasury bills, as published by the Federal Reserve Board during a specified period prior to each dividend payment period, (2) the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of ten years) during a specified period prior to each dividend payment period, or (3) the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of twenty years) during a specified period prior to each dividend payment period; provided, however, that in no event will the effective annual dividend rate, as adjusted in any quarter, be less than 6% per annum or greater than 15% per annum. The maximum and minimum dividend rate for a series of New Preferred Stock will either be set by the Company prior to a bidding on the basis of then market conditions or will be established by competitive bidding. In the event that provisions for an adjustable dividend rate are included for any series, of the New Preferred Stock the terms of such series will include a prohibition for five years after the first day of the month of issuance of such series against

redeeming such series, directly or indirectly, with funds derived from the issuance of debt securities at a lower effective interest cost or from the issuance of other stock, which ranks prior to or on a parity with such series as to dividends or assets, at a lower effective dividend cost, than the effective annual dividend cost to the Company based upon the initial dividend rate for the New Preferred Stock of such series.

The Company may include provisions for a sinking fund for any series of the New Preferred Stock designed to redeem annually, commencing five years or later after the date of issuance, at $25 per share, plus accumulated dividends, a number of shares equal to 5% of the total number of shares issued and sold in each respective transaction, with the Company having a non-cumulative option to redeem annually an additional number of shares up to 5% of the total number of shares issued and sold in the transaction.

The Company also proposes to issue and sell, subject to competitive bidding, not more than $200,000,000 in principal amount of its first mortgage bonds ("Bonds") to be issued in one or more series from time to time not later than December 31, 1983. The interest rate of each series of the Bonds will be a multiple of ¼ of 1% and the price, exclusive of accrued interest, to be paid to the Company for each series of the Bonds will be not less than 98% nor more than 101¾% of the principal amount thereof.

The Bonds are to be issued under the Company's Mortgage and Deed of Trust, dated as of April 1, 1944, to the Chase Manhattan Bank (National Association), as Trustee, as supplemented and to be further supplemented by supplemental indentures each to be dated as of the first day of the month in which a particular series of Bonds is issued. Each series of Bonds will mature not earlier than five years from the first day of the month in which the series is issued and not later than 30 years from the issuance date.

Each supplemental indenture will provide that none of the Bonds of that respective series will be redeemed for a period of four or five years depending upon the term of that series, commencing with the first day of the month of issuance, at a regular redemption price if such redemption is for the purpose or in anticipation of refunding such bond through the use, directly or indirectly, of funds borrowed by the Company, at an effective interest cost to the Company of less than the effective interest cost to the Company of the respective series of Bonds.

The Company believes that the sale(s) of the new Preferred Stock and/or the Bonds may require the assistance of underwriters, dealers or agents if market conditions at the time of the offering of the securities are unfavorable. Accordingly, the Company may amend this application-declaration to seek an exemption from Rule 50 so that it may offer the New Preferred Stock and/or the Bonds through either a negotiated or a private sale(s).

The Company proposes to use the alternative competitive bidding procedures in accordance with the Commission's delayed or continuous offering and sale procedures contained in Rule 415, 17 C.F.R. 230.45, for the sale(s) of the New Preferred Stock and the Bonds. Pursuant to Rule 50(a)(5) of the Act, the Commission has issued a statement of policy (HCAR No. 22623, September 2, 1982), authorizing until definitive Commission action on Rule 415, the use of alternative competitive bidding procedures in lieu of the procedures prescribed by Rule 50(b).

The Company presently has outstanding 89,383,100 shares of its common stock, without par value, having an aggregate stated value on its books, as of September 30, 1982, of $588,900,000, all of which shares are owned by Middle South. The Company proposes to issue and sell to Middle South, and Middle South proposes to acquire from the Company, from time to time through December 31, 1983 up to 15,152,000 additional shares of the Company's common stock ("Additional Common Stock") for an aggregate cash consideration of up to $100,000,000. Upon the issuance and sale by the Company and the acquisition by Middle South of the Additional Common Stock, the Company proposes to credit its Common Stock Capital Account with the amount (in the aggregate up to $100,000,000) received by it for the Additional Common Stock, and Middle Stock proposes to debit its Investment Account with the amount (in the aggregate up to $100,000,000) of its cash investment in the Additional Common Stock.

To the extent funds are required by Middle South from external sources to acquire the Additional Common Stock, Middle South expects to obtain such funds through the issuance and sale of its unsecured promissory notes pursuant to its revolving credit agreement with a group of banks, as authorized by order dated June 17, 1980 (HCAR. No. 21623), or through such other forms of financing as may be approved by the Commission.

The Company proposes to use the net proceeds derived from the issuance and sale of the New Preferred Stock, the Bonds and the Additional Common Stock for the financing in part of the Company's construction program, for the payment in part of short-term borrowings and for other corporate purposes, including the use of a portion thereon in connection with the possible refunding to customers of the proceeds of a recent settlement entered into between the Company and a gas supplier.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Any interested persons wishing to comment or request a hearing should submit their views in writing by February 14, 1983, to the Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2571 Filed 1-28-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12976 (812-5295)]

Southeastern Capital Corp.; Filing of an Application

January 20, 1983.

Notice is hereby given that Southeastern Capital Corporation ("Applicant"), 100 Northcreek, Suite 600, 3715 Northside Parkway, NW, Atlanta, GA 30327, registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified, management investment company, filed an application on August 30, 1982, and amendments thereto on November 9, and 24, and December 16, 1982, for an order pursuant to Sections 17(b) and 17(d) of the Act and Rule 17d-1 thereunder, exempting Applicant from the provisions of Section 17(a)(3) of the Act and permitting under Section 17(d) of the Act, consummation of a proposed loan transaction between the Applicant

and The Considine Company, Inc. ("Company"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, beginning in 1978, Applicant has entered into six secured loan transactions totaling $1,115,000 with the Company. Applicant represents that when these loan transactions were entered into, it was not affiliated with the Company. Of these loans, only two remain outstanding. The remaining obligations of the Company to Applicant presently outstanding relate to the Note Purchase Agreement dated August 29, 1980 (the "Note Agreement"), which agreement is the subject matter of this application. Applicant states that, pursuant to the Note Agreement three separate notes were given by the Company to Applicant in 1980 and 1981 totaling $220,000. Of this amount, $45,000 was prepaid in early 1982 and the remaining $175,000 was due and payable on August 1, 1982. The interest rate on this obligation is fifteen percent (15%) per annum, payable quarterly.

Applicant represents that under the Note agreement proceeds from the notes sold pursuant thereto may be used by the Company only for the purposes of: (i) Making payments under the lease ("Lease") which was entered into contemporaneously with the Note Agreement by the Company, as lessee, and Great Southern Enterprises, Inc., a Georgia corporation, as lessor (the "Lessor"), for real estate in Atlanta, Georgia, consisting of a 35 unit apartment building on approximately three acres of land ("Atlanta Property"), and (ii) making improvements to the Atlanta Property. The Lease is a net lease with a term of five years commencing on September 1, 1980. Applicant states that the Lease grants to the Company an option to purchase the Atlanta Property (the "Option"), exercisable at any time during the term of the Lease. The Lease may not be assigned or hypothecated without the prior written consent of the Lessor.

Applicant further represents that, pursuant to the Note Agreement, the Company has agreed to pay to Applicant as additional interest, a sum equal to 10 percent of the net profits realized by the Company in connection with the Lease and the Atlanta Property. The term "net profits" is defined to mean the gross revenues derived in any matter whatsoever, including but not limited to, by way of management, rental development, conversion or sale, less direct expenses. Applicant further states that the additional interest shall continue to be due and payable until the Company shall no longer retain any interest in the Atlanta Property, or until the Company's option under the Lease to acquire the Atlanta Property shall lapse, whichever shall last occur irrespective of the prior payment of the obligations of the Company under the Note Agreement.

As collateral security for the remaining obligations of the Company to Applicant pursuant to the Note Agreement, the Company has assigned to Applicant the Company's rights to purchase the Atlanta Property pursuant to the Option. Applicant represents that the Lessor has agreed with Applicant to allow it to exercise the Option provided the Company is then in default under the Lease and Applicant first cures the outstanding default of the Company under the Lease.

Applicant further represents that the obligations of the Company to Applicant under the Note Agreement are also secured by security interests granted to the Applicant by the Considine Company of Georgia, Inc., a subsidiary of the Company, in certain real estate management contracts pertaining to two apartment complexes located in Athens, Georgia. Applicant states that the notes issued pursuant to the Note agreement are further secured by the unconditional guaranty of Terence M. Considine ("Mr. Considine"), the sole shareholder of the Company, and The Considine Company of Georgia, Inc. and certain other corporate subsidiaries of the Company.

Applicant now proposes to extend the maturity, and modify the terms, of the remaining loan outstanding between Applicant and the Company ("Proposed Loan"). Applicant represents that the basic terms of the proposed loan transaction are that Applicant will extend for one year the maturity of the existing $175,000 loan to the Company, originally due August 1, 1982, and lend an additional $90,000 to the Company which will mature on the same date. Applicant states that the total indebtedness of $265,000 will be callable by Applicant on February 1, 1983. Applicant states that it was not an affiliate of the Company when the original loan was entered into. Applicant further represents that additional security for the proposed loan is being given in the form of a subordinate lien on real estate in Escondido, California owned by the Company (the "California Property"). Applicant represents the primary security for the proposed loan will continue to be the Company's collateral assignment of its option on the Atlanta Property. Applicant further states that a guaranty of payment by Mr. Considine and certain subsidiaries of the Company will continue to secure the proposed loan as extended and modified. Applicant states that additional consideration is also being given by the Company to Applicant in the form of a modification of the terms of the existing loan by which the Company will receive 15 percent, as opposed to 10 percent as set forth in the existing loan agreement, of the net profits realized on the development and/or sale of the Atlanta Property.

Applicant states that subsequent to the filing of this application, the $90,000 rental payment, for which the proceeds of the proposed loan transaction were intended, became due under the Lease. Applicants further represent that, in order to insure that its security interest in the Option with respect to the Atlanta Property be maintained pending Commission approval of the loan, Applicant has provided the funds necessary to make the $90,000 rental payment due under the Lease. At that time, the Applicant and the Company executed all documentation necessary to close the proposed loan transaction, which documents are being held in escrow by Applicant's counsel. Applicant asserts that should the Commission grant the exemptive order requested by this application, those papers will be delivered, the loan modification and extension which constitutes the proposed loan transaction will close, and the various security documents in connection therewith shall be recorded. Should the Commission not grant the exemption order requested hereby, Applicant states that the outstanding loan pursuant to the Note Agreement, which is in default, will be called and Applicant will seek to realize on its collateral. Applicant represents that in such event, the funding of the Lease payment by Applicant will inure to its benefit since it could not exercise the Option before curing any default under the Lease. If, on the other hand, the Commission permits the loan, the Lease payment will be deemed by the Applicant and the Company to constitute the funding of the $90,000 loan.

Applicant states that the proposed loan transaction is necessary to terminate its relationship with the Company in a manner consistent with the best economic interests of Applicant. Applicant believes that to require the Company to pay all amounts due on the remaining loan outstanding and to deny the Company additional funds to make the next annual rental

payment would precipitate a premature disposition of the Atlanta Property by the Company. According to the application, the Company would be compelled to sell the Atlanta Property immediately upon its exercise of the option to raise capital to exercise the option and pay off the loan. Alternatively, Applicant asserts the Company would be forced to go into default with respect to the Lease. Applicant further states that such action would be counterproductive to its business goals in that it would end a stream of income the loan has been producing for the Applicant in the form of interest payments and would deny Applicant an opportunity to realize fully the potential profit on the appreciation of the Atlanta Property.

Applicant represents that a disinterested majority of the executive committee of its board of directors has approved the proposed loan transaction with the Company, which action has been ratified by a disinterested majority of the board. Applicant further believes that it should enter into the proposed loan transaction because its terms are in its best economic interests, Applicant, the continuation of the outstanding loan was within the contemplation of the parties at the time of the initial lending, and the proposed modification of the loan is consistent with the Applicant's business practice prior to its affiliation with the Company. Applicant further represents that the Company has represented to Applicant that the Company will not seek any further extentions or modifications of any loans outstanding to Applicant; that the Company will not seek any additional credit from Applicant; and that the Company will pay all sums due Applicant as they mature in a timely manner.

According to the application, Considine Securities Corporation ("Considine") owns 141,000 shares, or 20.67 percent of Applicant's outstanding common stock. Applicant represents that both the Company and Considine are under the common control of Mr. Considine as the sole shareholder of Considine Investment Co., which owns all the outstanding capital stock of the Company and Considine. Applicant further represents that Mr. Considine serves as chairman of the executive committee of Applicant's board of directors. In addition, pursuant to a shareholders' agreement with Mr. C. Edward Hansell, chairman of Applicant's board, and certain relatives of Mr. Hansell, who together own 110,000 shares of Applicant's common stock ("Hansell Block"), Mr. Considine, along with the Hansell Block, indirectly controls 251,000 shares, or 36.8 percent of Applicant's stock. Applicant and the Company are under the common control of Mr. Considine and, thus, are affiliated persons of each other within the meaning of Section 2(a)(3) of the Act.

Section 17(b) of the Act provides, that the Commission, upon application, may exempt a transaction from the provisions of Section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investement company concerned and with the general purposes of the Act.

Section 17(d) of the Act and Rule 17d-1 thereunder, taken together, provide in pertinent part, that it shall be unlawful for an affiliated person of a registered investment company, acting as principal, to participate in, or effect any transaction in connection with any joint enterprise or arrangement in which any such registered investment company is a joint participant, unless an application regarding the transaction is filed and an order is granted by the Commission approving the joint enterprise or arrangement. In passing upon such an application, the Commission will consider whether the participation of the registered company in such an arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which its participation is on a basis different from or less advantageous than that of other participants.

Applicant asserts that the proposed loan transaction is reasonable and fair and involves no overreaching on the part of any party, and is consistent with Applicant's policies and the provisions, policies and purposes of the Act. In support of these assertions, Applicant represents that its directors made an evaluation of Applicant's present position with respect to the remaining indebtedness owed to it by the Company and found that Applicant's original goals in entering into the Note Agreement would be best served by extending the maturity of the existing indebtedness and lending the additional $90,000 to enable the Company to make the next rental payment, which is an annual installment on the Lease.

In connection with the payment to Applicant of a percentage of the net profits generated by the Atlanta Property as additional interest, Applicant argues that its participation with the Company is not, except with respect to the percentage due, on a basis different from or less advantageous than that of the Company. According to the application, the net profits of the Atlanta Property are computed in the same manner for Applicant as it is for the Company. Applicant further asserts the allocation of net profits (85% to the Company and 15% to Applicant) is based upon services performed and degree of risks taken by the participants.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 14, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2567 Filed 1-28-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22833 (70-6830)]

The Southern Co., Southern Company Services, Inc.; Proposed Issuance of Unsecured Notes; Request for Exception From Competitive Bidding

January 24, 1983.

The Southern Company ("Southern"), a registered holding company, and Southern Company Services, Inc. ("Services"), a service company subsidiary of Southern, 64 Perimeter Center East, P.O. Box 720071, Atlanta, Georgia 30346, have filed an application-declaration pursuant to Sections 6(a), 7 and 12 of the Public Utility Holding Company Act of 1935 and Rules 45 and 50(a)(5) promulgated thereunder.

By prior orders, Services has been authorized to have outstanding at any one time $50 million in maximum aggregate principal amount of unsecured notes (HCAR No. 21063, May 25, 1979).

Such notes consist of up to $22 million of notes to Aetna Life Insurance Company ("Aetna Notes") (HCAR No. 20157, August 31, 1977), up to $20 million of notes to Credit Lyonnais ("Credit Lyonnais Notes") (HCAR No. 21063, May 25, 1979) and the balance in notes to Southern.

Services seeks authorization to issue and sell up to an aggregate principal amount of $150 million of unsecured notes outstanding at any one time through June 30, 1984. The notes would consist of the Aetna Notes, Credit Lyonnais Notes, up to $100 million of new notes to lenders other than Southern ("Proposed Notes") and the unborrowed balance of the $150 million proposed maximum in notes to Southern.

The Proposed Notes may have terms of up to twenty years, contain sinking funds and bear interest rates not to exceed 3½ percentage points per annum over the rate for 20-year maturity United States Government Bonds at the time lenders commit to purchase the issue. Services may employ an agent to place the Proposed Notes for a commission not in excess of ½ of 1% of the principal amount borrowed, payable upon the closing. Assuming the maximum rate of interest were applicable and a rate of 10¾% per annum for 20-year maturity United States Government Bonds at the time of borrowing, the maximum rate of interest on the Proposed Notes would be 14¼% per annum. The notes to Southern will be upon terms heretofore authorized.

Services' capital additions for 1983 and for the first half of 1984 are projected to be approximately $47 million and $49 million, respectively. Such additions for the 18 month period include approximately $46 million for office and miscellaneous equipment, computer equipment for engineering design, system load dispatching and a centralized information services data center. Services will spend approximately an additional $50 million for the initial design, engineering and construction costs of a proposed office building in Birmingham, Alabama, which will enable Services to consolidate its five Birmingham locations into one central location. Until construction financing is obtained, Services will utilize some of the proposed additional unsecured note proceeds for construction. Upon completion of construction, Services may seek long-term financing for the building. In addition, the proceeds will be applied to repay maturing Aetna Notes and Credit Lyonnais Notes, to increase Services' working capital and to reduce Services' outstanding borrowings from Southern and for other corporate purposes.

Services seeks an exemption for the issuance and sale of the Proposed Notes from the competitive bidding standards of Rule 50 pursuant to paragraph (a)(5) in connection with the proposed issuance and sale of the Proposed Notes. Services proposes and is hereby authorized, forthwith, to select one or more agents, and to negotiate the terms in which the Proposed Notes will be issued and sold. Services states that the exception is justified because competitive bidding is impracticable for such unsecured notes.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by February 16, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarants at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2589 Filed 1-28-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12988 (812-5394)]

USAA Mutual Fund, Inc.; Filing of Application

January 24, 1983.

Notice is hereby given that USAA Mutual Fund, Inc., ("Applicant"), 9800 Fredericksburg Rd., San Antonio, TX 78288, a registered, open-end, diversified, management investment company, filed an application on December 13, 1982, for an order pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"): (1) Granting exemptions from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to value the portfolio securities of USAA Federal Securities Money Market Fund ("Federal") using the amortized cost method of valuation, and (2) amending an order ("Prior Order") issued by the Commission on January 30, 1981 (Investment Company Act Release No. 11595), to permit Applicant to purchase variable rate or floating rate obligations for the portfolio fo USAA Money Market Fund ("Money"), consistent with the terms of the Prior Order. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which ar summarized below.

According to the application, Applicant, a Maryland corporation, has authority to issue shares in separate classes or "Funds." Applicant states that five such Funds have been established. Money was established in the fall of 1980 and Applicant commenced a public offering of its shares on February 2, 1981. Federal was established by the board of directors on July 28, 1982 and Applicant anticipates commencing the public offering of Federal's shares on January 31, 1983.

Applicant states that Federal is a "Money market" fund that will seek high current income while maintaining liquidity and the highest degree of safety by investing in securities issued or guaranteed by the United States Government and repurchase agreements secured by such obligations. Applicant states that all securities purchased by Federal will have less than one year remaining until maturity. Applicant represents that the repurchase agreements in which Federal will invest will normally mature in seven or fewer days. Applicant further represents that Federal may not invest more than 5% of its assets in securities that are not readily marketable, including repurchase agreements maturing in more than seven days. Federal may also invest in variable rate or floating rate obligations.

Applicant states that at the time it filed the previous application (File No. 812-4772) on behalf of Money, it did not intend to purchase variable rate or floating rate obligations for Money's portfolio. Applicant's board of directors has now determined, however, to add variable rate and floating rate obligations to the list of permissible investments for Money's portfolio.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction or

any class or classes of persons, securities, or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that for Federal to be in a position to meet the needs and expectations of potential investors and to offer its shareholders relative stability of principal and a relatively smooth stream of investment income at currently competitive rates, it must be able to price Federal's portfolio at amortized cost. Further, with respect to its request for an amendment to the Prior Order, Applicant states that its board of directors has determined that variable rate and floating rate obligations are appropriate investments for Money in that, like the other obligations it may now purchase for Money, such obligations that are able to satisfy the board of directors' criteria of presenting minimal credit risks and being of high quality. Applicant states tha variable rate and floating rate obligations purchased for the portfolios of Federal and Money will satisfy the requirements of, and that it will determine the maturity of such instruments in accordance with the procedures set forth in, proposed Rule 2a-7 (Investment Company Act Release No. 12,206, February 1, 1982) or, if the rule should ultimately be adopted, in accordance with the procedures set forth in the rule as adopted. Applicant further represents that it will comply with Investment company Act Release No. 10666 (April 18, 1979) when entering into repurchase agreements on behalf of Federal and Money with banks as well as brokers or dealers.

Applicant has agreed that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

1. In supervising Federal's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of directors undertakes—as a particular responsibility within the overall duty of care owed to Federal's shareholders—to establish procedures reasonably designed, taking into account current market conditions and Federal's investment objectives, to stabilize Federal's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share, as determined by using available market quotations, from Federal's $1.00 amortized cost price per share, and the maintenance of records of such review; [1]

(b) In the event such deviation from Federal's $1.00 amortized cost price per share exceeds ½ of 1%, a requirement that the board of directors will promptly consider what action, if any, should be initiated; and

(c) Where the board of directors believes the extent of any deviation from Federal's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten Federal's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will cause Federal to maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not on Federal's behalf (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity that exceeds 120 days.[2]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modification thereto) described in condition 1 above. Applicant will also record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of its meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit the portfolio investments of Federal, including repurchase agreements, to those United States dollar-denominated instruments that the board of directors determines present minimal credit risks, and that are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board of directors.

6. Applicant will include in each quarterly report for Federal, as an attachment to Form N–1Q, a statement indicating whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 18, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-2568 Filed 1-28-83; 8:45 am]

BILLING CODE 8010-01-M

[1] To fulfill this condition, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value, which may include, among other things, (1) Quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] Should the disposition of a portfolio instrument result in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant, in fulfilling this condition, will invest Federal's available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular on Airworthiness Certification Procedures for Imported Civil Aeronautical Products and Components

AGENCY: Federal Administration (FAA), DOT.

ACTION: Proposed Advisory Circular (AC) 21- ; comments invited.

SUMMARY: Proposed AC 21- is intended to provide information on the Federal Aviation Administration's (FAA) objectives and guidance on FAA regulations and general procedures for U.S. airworthiness certification or acceptance of civil aeronautical products imported to the U.S. This AC cancels AC 21-7A, "Certification and Approval of Import Products," dated November 24, 1969.

Availability of Proposed AC: Copies of the proposed AC 21- are available at the address listed below.

DATES: Comments invited: Comments are invited on all aspects of the proposed AC. Commenters must identify file number AC 21- , and comments must be received on or before June 2, 1983.

ADDRESS: Send all comments and requests for copies of the proposed AC to: Federal Aviation Administration; Office of Airworthiness; Aircraft Enginering Division (Attention: AWS-102), 800 Independence Avenue; SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Robert Allen, Aircraft Engineering Division, (Attention: AWS-101); Office of Airworthiness; Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone: (202) 426-8161.

SUPPLEMENTARY INFORMATION: The guidance material contained in this AC reflects import practices and procedures updated as necessary to reflect current international procedures.

Issued in Washington, D.C., on January 11, 1983.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 83-2327 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-13-M

Office of the Secretary

[Notice 82-3]

Agreement Between the United States and Venezuela on Ocean Shipping

AGENCY: Department of Transportation; Office of the Secretary.

ACTION: Notice.

SUMMARY: On January 14, 1983, the United States and Venezuela entered into a Memorandum of Understanding pursuant to which their respective national flag lines are ensured access to reserve cargoes moving in trade between the two countries. The Memorandum of Understanding, in paragraph 5, requires the two government to give notice of its provisions to the shipping community, including importers and exporters which participate in the trade between the United States and Venezuela. This notice is published in keeping with that requirement.

FOR FURTHER INFORMATION CONTACT: Franklin K. Willis, Deputy Assistant Secretary for Policy and International Affairs, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, (202) 426-4540; or Reginald A. Bourdon, Director, Office of International Activities, Maritime Administration, 400 Seventh Street SW., Washington, D.C. 20590, (202) 426-5772.

SUPPLEMENTARY INFORMATION: The United States and Venezuela, on January 14, 1983, entered into a Memorandum of Understanding relating to the carriage by their respective national flag lines of reserve cargoes moving in trade between the two countries. The Memorandum of Understanding is reproduced herewith in its entirety:

"Memorandum of Understanding

"During the course of the consultations held in Washington on January 13 and 14, 1983, delegations representing the Government of Venezuela and the Government of the United States of America agreed that before May 1, 1983, negotiations between the two governments will start with the purpose of reaching an agreement on maritime transport relations between both countries. The parties also agreed to the following, while these conversations are held:

"(1) Within a period of thirty days, starting from the date of this Memorandum of Understanding, discussions between CAVN and the shipping companies CCT and Delta will take place with the purpose of ensuring CCT and Delta status for access to the reserve cargo moving in trade between Venezuela and the United States, based on Article 14 of the Venezuela Law of Development and Protection of the Merchant Marine.

"(2) The Government of Venezuela will ensure that, not later than thirty days from the date of this Memorandum of Understanding, CCT and Delta are permitted to compete for reserve cargoes moving in trade between Venezuela and the United States on the same basis as Venezuelan-flag carriers and will take all implementing measures that are necessary, including giving official notice of United States carriers' eligibility to Venezuelan exporters, importers, and related credit facilities.

"In reciprocity, subject to the provisions of Public Resolution 17, the United States Maritime Administration will ensure that Venezuelan-flag carriers are permitted to carry Export-Import Bank cargoes destined for Venezuela.

"The cargoes generated by the U.S. Department of Defense and the Ministry of Defense of Venezuela will be excluded from the above mentioned understanding.

"(3) All concerned Executive Branch agencies of the Government of the United States will immediately urge the Federal Maritime Commission to suspend all action in tis rulemaking proceeding relating to conditions in the United States-Venezuelan trade (Docket No. 82-58), pending the actions referred to in paragraphs 1 and 2 above.

"(4) In the course of the consultations held on January 13 and 14, 1983, both delegations acknowledged as desirable the continued active presence of third-flag carriers in the United States/Venezuelan trades.

"(5) Both Governments will notify the shipping community, including importers and exporters which participate in the trade between both countries, of the contents of this Memorandum of Understanding, on the date of signature of this document.

"For the Government of Venezuela
[Signature]
"Rear Admiral Jose Jesus Villafana, General Director of Maritime Transportation

"For the Government of the United States of America
[Signature]
"Matthew V. Scocozza, Deputy Assistant Secretary for Transportation and Telecommunications, Department of State

[Signature]
"Franklin K. Willis, Deputy Assistant Secretary for Policy and International Affairs, Department of Transportation

"January 14, 1983"

Issued in Washington, D.C., on January 26, 1983.

Jeffrey N. Shane,

Assistant General Counsel for International Law.

[FR Doc. 83-2609 Filed 1-28-83; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 447, Reference: ATF 0 1100.95A]

Authority To Settle Alcohol, Tobacco and Firearms Tax Claims; Correction

In FR Doc. 83-921 appearing on page 1587, in the issue of Thursday, January 13, 1983, make the following corrections:

1. On page 1587, third column, the line which reads "refund of taxes or penalties, of for" should read "refund of taxes or penalties, or for".

2. On page 1588, first column, the line which reads "authorities in paragraph 3a may be" should read: "authorities in paragraph a. may be".

Signed: January 24, 1983.

Stephen E. Higgins,

Acting Director.

[FR Doc. 83-2537 Filed 1-28-83; 8:45 am]

BILLING CODE 4810-31-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 21
Monday, January 31, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

CIVIL AERONAUTICS BOARD

[M–372, Amdt 1; January 25, 1983]

Addition To the January 27, 1983 Meeting

TIME AND DATE: 10:00 a.m., January 27, 1983.

PLACE: Room 1027 (open), room 1012 (closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

23a. Docket 37531, Insurance requirements for U.S. on-demand and Canadian Charter air taxi operators. (Memo 803–B, OGC, BDA, BIA, OEA, OCCCA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673–5068.

[S–134–83 Filed 1–26–83; 4:07 pm]

BILLING CODE 6320–01–M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

January 26, 1983.

TIME AND DATE: 10:00 a.m., Wednesday, February 2, 1983.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Secretary of Labor, *ex rel.* Stephen Smith, *et al.* v. Stafford Construction Company, Docket Nos. WEST 80–155–DM, WEST 80–156–DM, WEST 80–165–DM. (Issues include whether three employees were discharged in violation of Section 105(c) of the Mine Act.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–135–83 Filed 1–27–83; 3:44 pm]

BILLING CODE 6735–01–M

federal register

Monday
January 31, 1983

Part II

Department of Transportation

Federal Aviation Administration

Rotorcraft Regulatory Review Program; Amendment No. 1

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 27, and 29

[Docket No. 21180; Amdts. 1-31, 27-19, and 29-21]

Rotorcraft Regulatory Review Program; Amendment No. 1

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule adopts airworthiness standards for type certification of normal and transport category rotorcraft. It revises the applicability of Part 29 and incorporates standards for instrument flight rule (IFR) and icing certification in both Parts 27 and 29. This revision establishes a clear relationship between the number of passenger seats and the required performance level for transport category rotorcraft. For cargo configurations and configurations of less than 10 passengers, the rule relaxes requirements in the areas of height-velocity and maximum weight and will result in increased productivity for roles which are special and unique to rotorcraft. This change also adopts IFR standards for rotorcraft handling qualities and systems design with minor revisions from the current requirements which have been successfully administered for a number of years through IFR interim standards. The icing standards which are adopted by this change incorporate the same natural environment recognized in Part 25 transport airplane rules for many years, and provide considerable flexibility for demonstrating safe flight capability. This amendment affects only new civil rotorcraft models for which an application for a new type certificate is received after the adoption of the rule. The existing rotorcraft certification rules have not undergone a comprehensive reassessment in over 25 years. In the intervening period, significant improvements in rotorcraft capabilities have been made and rotorcraft usage has evolved somewhat differently than that originally envisioned. The Rotorcraft Regulatory Review Program was initiated at the request of industry. This amendment, which is the result of an extensive review of rotorcraft certification requirements by industry and Government, updates the existing rules to recognize these improvements, current uses, current technology, and future projections. The rule provides increased safety benefits to passengers traveling in rotorcraft. A thorough assessment of potential benefits and burdens has been made in accordance with Executive Order 12291. It has been judged that the benefits of this amendment, in providing an increased level of safety to passengers traveling in rotorcraft while at the same time recognizing and providing for the unique qualities and capabilities of rotorcraft, far outweigh the burdens.

EFFECTIVE DATE: March 2, 1983.

FOR FURTHER INFORMATION CONTACT: Tommie S. Plummer, Regulations Program Management (ASW-111), Aircraft Certification Division, Mailing address: P.O. Box 1689, Fort Worth, Texas 76101 and offic e location at 4400 Blue Mound Road, Fort Worth, Texas 76106, telephone (817) 624-4911, ext. 504.

SUPPLEMENTARY INFORMATION:

Discussion of Comments

Section 29.1 Applicability

All changes in applicability of the rule are contained in revised § 29.1. However, this change influences other portions of the current rule which may be summarized in the following three areas:

(1) Transport category rotorcraft certificated with 10 or more passenger seats must comply with the category A design requirements of Subparts C, D, E, and F of Part 29 and the category A final segment climb requirement of § 29.67(a)(2). (2) In Part 29, height-velocity (HV) is removed as an operating limitation for category B rotorcraft with nine or less passenger seats. HV information for these models must be placed in the performance section of the Rotorcraft Flight Manual. (3) In Part 29, the 20,000-pound weight limit for category B is removed for rotorcraft with less than 10 passenger seats.

This adopted applicability rule is the same as that in Notice 80-25 with the exception of relaxed requirements for 10 or more passenger rotorcraft having a maximum certificated weight of 20,000 pounds or less. The proposal in Notice 80-25 would have required rotorcraft with 10 or more passengers to be fully certificated to category A standards of design and performance. To attain full category A performance capability, future rotorcraft would have been required to incorporate additional power with resultant higher cost. The FAA, in Notice 80-25, estimates this cost at $12.5 million over the first three years of production for each new model in this range of weight and passenger seating. One commenter estimates a $1.35 billion impact on the total world economy over a 5-year production period for all affected models. Another commenter estimates a $1 billion impact for the world market in a similar 5-year period. While these economic analyses should have included only the impact on the U.S. economy, and the impacts were not calculated in a manner similar to that in which a new model would enter the market, the impact is nevertheless significant. Additional clarifying data were obtained from these commenters and were docketed to allow the FAA to more accurately assess the economic impact of this proposal. This additional information was of great benefit to the FAA. Discounting the previously mentioned features of the commenters' analyses and eliminating certain double counting of purchase price increases, the FAA estimates that the economic impact on the U.S. economy of providing full category A capability for 10 or more passenger configurations would be $1.18 billion over the first 10 years of production. This 10-year production period would begin approximately 5 years after adoption of the proposed rule.

While the concept of full category A protection for 10 or more passengers is a worthwhile goal which FAA hopes will be ultimately achieved, the safety benefits are difficult to quantify through existing accident statistics and, therefore, do not appear to clearly outweigh the cost as required by Executive Order 12291.

The significant cost impact in this portion of the proposed rule was alleviated by requiring only a portion of the category A performance requirements. The existing requirement in §29.67(a)(2) for category A final segment climb has been adopted instead of the full category A performance package. This change alleviates the large one-engine-inoperative (OEI) power requirements needed when an engine fails at low speed, yet the change retains category A performance capabilities throughout a large portion (climb, cruise, and descent) of the flight regime. It is realized that in many cases the traveling public associates twin-engine helicopters with the capability to continue flight when an engine fails. The performance requirement adopted in this rule will assure that capability for 10 or more passenger configurations in only a portion of the flight envelope; nevertheless, it is considered a significant increase in the minimum performance level for certification of civil rotorcraft. At the same time, it must be recognized that engine-out performance capability will not be assured during takeoff or landing at low-speed conditions from hover to near-best rate-of-climb speed. FAA is

encouraged by the increases in power-to-weight which have resulted from technological changes over the last 15 years in transport category rotorcraft, and it is hoped that increased technology will ultimately lead to full category A performance capability for these transport category designs.

Six commenters made docket submittals on applicability. One commenter fully supports the proposed applicability change. This commenter states that a review of safety records found the fatal accident rate of transport helicopters to be significantly higher than that of comparable fixed-wing transport aircraft. The commenter states that "the attainment of a high level of airworthiness in fixed-wing transports has been, in part, achieved by means of high standards of reliability and the provision of redundancy in aeroplane design, and there is no reason why similar approaches to the design of helicopters should not be adopted * * *." FAA agrees with these comments and this "fail safe" concept for transport rotorcraft is partially addressed through the category A provisions of this rule. Other design aspects of this comment were outside the scope of Notice 80-25. These additional aspects will be considered in aircraft systems, powerplants, and structures areas for incorporation in future notices under this Rotorcraft Review Program.

A second commenter recommends a separate FAR part for utility helicopter certification rules and recommends incorporating standards similar to those proposed in Notice 80-25 for transport category B. This comment is considered outside of the scope of Notice 80-25. The second commenter also recommends retaining height-velocity as a limitation for category B, but having it mandatory only when carrying passengers. This comment is more properly an operating consideration and will be addressed in a later notice as part of this review.

A third commenter recommends that the category A design standards currently in Subparts D, E, and F of Part 29 be required for 10 or more passengers. This commenter argues that many multiengine helicopters recover "category A performance" in cruise conditions, and that certification to the "category A, technology" of Subparts D, E, and F offers a sufficient level of safety for transport category rotorcraft carrying more than nine passengers. The recommendations of this commenter regarding category A design standards have been considered and are adopted as a portion of the applicability rule.

The remaining three commenters oppose the category A requirement for 10 or more passengers on the basis that added safety benefits do not offset the large costs of full category A performance. One of these commenters strongly supports removing the category B, 20,000-pound weight limit, but feels that this group of rotorcraft should be allowed to carry large numbers of passengers. Another commenter proposes retaining the present 20,000-pound category B weight limit and requiring all multiengine rotorcraft to incorporate full category A design features. This commenter's proposal could have significant adverse impacts on future large helicopter designs similar to a recently certified configuration in the 50,000-pound weight class, which can show an increase in payload of approximately 12,000 pounds under category B performance standards for missions such as transporting oil drilling or exploratory equipment into inaccessible, confined areas. It would also unnecessarily restrict those small-scale applicants engaging in aircraft alteration who may wish to replace a large engine with two smaller engines and continue to certify a helicopter to category B performance standards. The commenter's proposal could be reasonably met by an original manufacturer, but does not treat the small-scale applicant equally because that applicant would not typically have the capability to fully redesign rotorcraft systems to category A standards. Single-engine category B rotorcraft are designed with suitable flight characteristics and sufficient rotor inertia to safely tolerate total power failure. For single-engine rotorcraft which are modified to incorporate a twin-pack or an additional engine, the remaining category A isolation features are not needed to assure freedom from total power failure because that condition has already been safely substantiated for the design. For FAA to require full category A design for this condition as its minimum safety standard would impose a crippling economic burden which is not warranted.

At the same time, however, these category B designs are not considered appropriate for transporting large numbers of passengers. In Notice 80-25, the manufacturers' and operators' responsibilities to protect large numbers of people were explained in some detail. Current certification rules differentiate between levels of design by rotorcraft weight only. It is necessary and appropriate for minimum safety standards to be clearly related to the number of persons affected. The philosophy behind this rule is that the higher the potential level of danger and the more people who fall within the endangered class, the higher the level of safety should be. The greater the number of passengers, the greater the potential loss of life in an accident; the greater the size and inertia of an aircraft, the greater the potential hazard to persons on the ground in the event of an accident. These two features, size and number of passengers, combine to determine the level of safety required by this rule.

Three commenters question the need for category A performance due to the lack of engine failure accident statistics in multiengine category B rotorcraft. One commenter states that the FAA does not recognize the safety record of large multiengine category B helicopters. FAA accident statistics show an impressively low number of accidents due to engine-related failures in multiengine category B rotorcraft. Approximately 30 percent of all rotorcraft accidents over the past several years have been related to engine failure. In multiengine rotorcraft, only about 10 percent of the accidents have been related to engine failure. This is due, in part, to the fact that at moderate weights and low-density altitudes, many current category B twin-engine rotorcraft have performance capabilities equivalent to category A standards throughout a significant portion of their operating envelope. Many engine failures have not become accident statistics due to this one-engine-inoperative performance capability. These FAA accident statistics serve even more clearly to highlight the need to prohibit future single-engine rotorcraft designs from carrying 10 or more passengers. During the period from 1966 to 1979, there were 44 accidents in twin-engine helicopters carrying 10 or more passengers. Of those accidents, 9 percent were related to engine failure. During that same period there were 81 accidents in single-engine rotorcraft carrying 10 or more passengers. Of those accidents, 33 percent were related to engine failure. The FAA determined that up to eight of these accidents may have been prevented through the multiengine, category A requirements of this rule. Upgrading the requirement for rotorcraft with 10 or more passenger seats to the multiengine category A configuration establishes an appropriate level of safety for civil certification.

There were no adverse comments submitted to the docket regarding category A design standards for 10 or more passenger rotorcraft. To the contrary, one commenter who opposes the economic aspects of the full category

A performance requirement states, "Without exception, new helicopters capable of carrying 10 or more passengers have gone to twin engines for both safety and reliability reasons." It is also true that all new twin-engine designs in that seating range have met category A standards of design. At the NASA-FAA Advanced Rotorcraft Technology Workshop in December 1980, the helicopter users expressed a strong desire to have full category A performance capability in future designs. These desires are summarized in SAE Technical Paper 810589, which states, in part:

> Concerns relating to powerplants appeared to top the lists of all the users. A true one-engine-inoperative capability was referred to repeatedly and in a variety of ways. The operators were unanimous in their endorsement of twin engine helicopters, but less happy with available single engine performance. Ideally, an out-of-ground-effect hover capability with one-engine-inoperative was desired. In general, operators would like to see a non-emergency outcome for any single failure of any helicopter component.

This rule satisfies a portion of those industry needs and desires. Let us now consider the cost factors involved in adopting the category A climb requirement.

Figure A represents the approximate climb performance capabilities of existing twin-engine models capable of carrying 10 or more passengers. The ordinate, or vertical axis, is the change in power that would be required to comply with the added performance requirement of this rule at the weights originally certificated on existing twin-engine category B models. The abscissa, or horizontal axis, represents the year each model was initially certified for civil use. Where final flight test data were not available for one projected model, manufacturers' estimates were utilized. The necessary power increase is based on an average of two hot day ambient takeoff conditions: (1) Sea level 40°C (ISA + 25°C) and (2) 5,000 feet 30°C (ISA + 25°C). The data were generated through computations shown in Table I. Necessary horsepower increases were referenced to sea level standard conditions by averaging factors of .8 and .73, respectively. Data for these factors are shown in Table II. These cases include a major portion of the typical helicopter operating envelope but are in no way limiting. A similar trend results when other ambient conditions are used. A curve through the data in Figure A reflects a trend toward lighter components and more powerful engines in transport category rotorcraft. Assuming this trend continues, the added costs of complying with this minimum performance standard will cross the zero cost line in the mid-1980's. This corresponds to the time period during which the first new model could conceivably be impacted by this rule. It may, therefore, logically be concluded that the economic impact of the 10 or more passenger requirement incorporated for new models under this rule is approximately zero. The remaining aspects of the applicability rule change are relieving. FAA received no adverse comments on the removal of height-velocity as a limitation for under 10-passenger seat applications. This will provide additional flexibility to operators, with an unquantifiable potential revenue benefit. FAA, likewise, received no adverse comments on the removal of the 20,000-pound weight limit for category B. This provision could result in increased revenues for operators of new or requalified rotorcraft at the higher weights allowable for category B operations. It is estimated that industry revenue increases of from $5 million to $13 million per year could be achieved in the 1982 through 1989 time frame. Such revenue increases have a net present value of $43 million in 1982 dollars, using a discount rate of 10 percent. Therefore, the overall economic impact upon the helicopter industry of this rulemaking action is to provide moderate to major economic benefit.

BILLING CODE 4910-13-M

Figure A

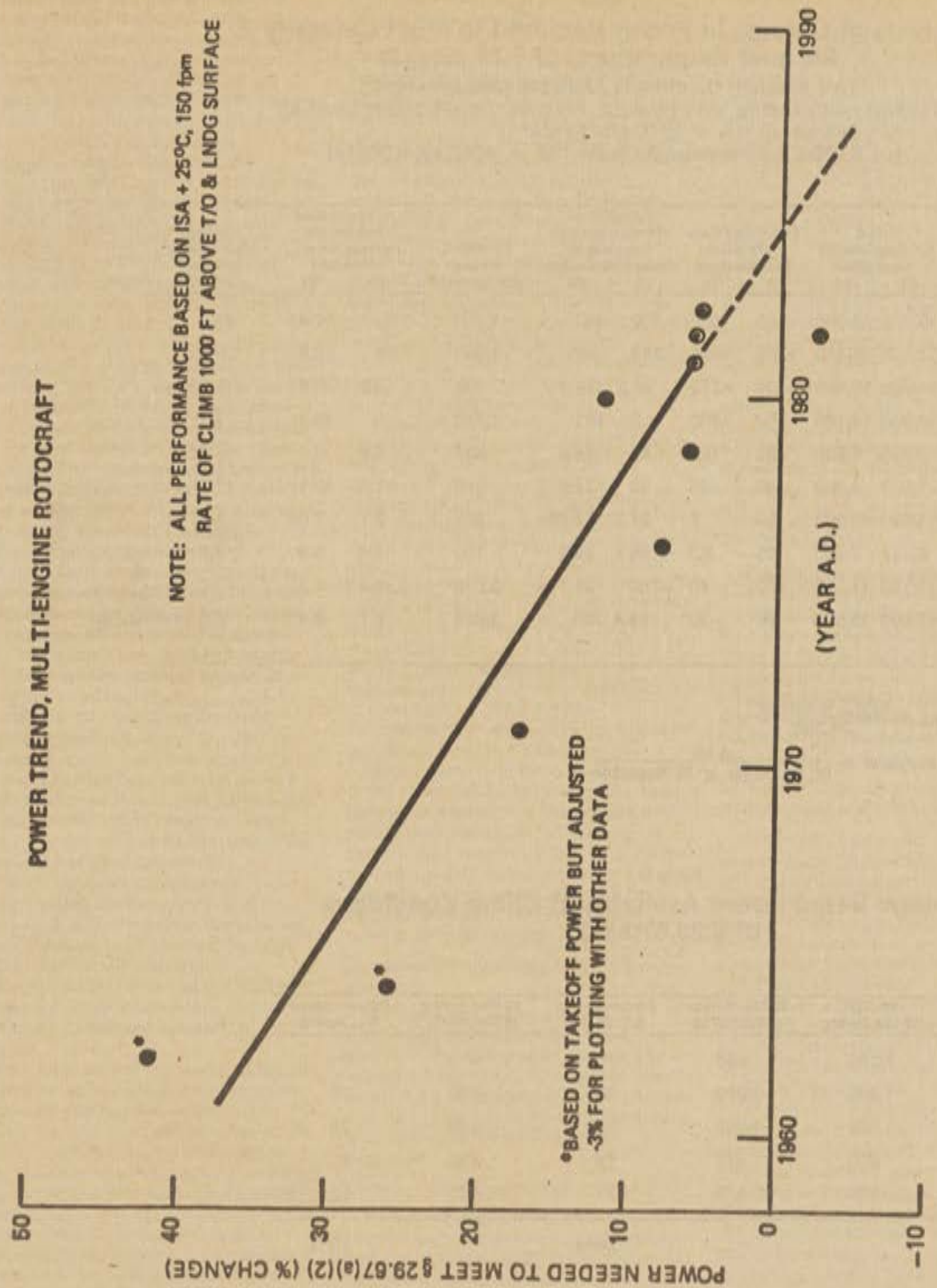
POWER TREND, MULTI-ENGINE ROTOCRAFT
NOTE: ALL PERFORMANCE BASED ON ISA + 25°C, 150 fpm
RATE OF CLIMB 1000 FT ABOVE T/O & LNDG SURFACE
*BASED ON TAKEOFF POWER BUT ADJUSTED
-3% FOR PLOTTING WITH OTHER DATA
POWER NEEDED TO MEET §29.67(a)(2) (% CHANGE)
50
40
30
20
10
0
-10
1960
1970
1980
1990
(YEAR A.D.)

Table I

Analysis of Change in Power Required to Meet Category A Enroute Requirement of § 29.67(a)(2)

Two Ambient Conditions Analyzed (and averaged):
Takeoff and Landing WAT [Weight, Altitude, Temperature] Limit at:
(1) Sea Level: ISA + 25°C (40°C/104°F)
(2) 5,000 Feet Pressure Altitude: ISA + 25°C (30°C/86°F)

Helicopter Model	T/O & Landing Weight Limit (lbs) (1)	(2)	OEI Climb Rate 1,000' Above Surface (fpm) (1)	(2)	*Additional Horsepower (hp) Required to Meet § 29.67(a)(2) (1)	(2)	30 Minute Rating (horsepower)	**Percentage Increase in Horsepower Required (1)	(2)	Average Percentage Increase Required
A	19,000	17,750	-460	-620	390	460	1,250	39	50.4	44.7
B	18,330	16,810	-286	-306	269	258	1,250	28	29.5	28.75
C	11,200	10,450	-105	-219	96.2	129.8	900	13.9	20.6	17.25
D	16,300	16,180	150	-200	0	191	1,742	0	15.4	7.7
E	9,800	8,800	25	100	41	14.8	627	8.5	3.4	5.95
F	7,650	6,980	-80	-95	59	57.6	650	11.3	12.1	11.7
G	11,600	10,600	80	5	27.3	51.75	925	3.7	7.66	5.7
H	8,487	7,400	25	50	35.7	24.9	700	6.4	4.9	5.6
I	17,190	17,190	420	40	-156	63.7	2,078	-9.4	4.2	-2.6
J	17,500	16,550	90	-30	35.4	100	1,625	2.7	8.4	5.5 (estimated)

(*) Δ hp required $= \frac{\Delta R/C \times \text{Weight}}{29{,}700}$

(**) percentage increase $= \frac{\Delta \text{ hp}}{\text{SL Rated hp} \times \% \text{ Available}}$

Table II

Percentage Rated Power Available at Climb Conditions of § 29.67(a)(2)

Engine Model	SL-STD 30 Min Rating	30 Min Rating (1,000'/38°C)	Percentage of S.L. Rating	30 Min Rating (6,000'/28°C)	Percentage of S.L. Rating
1	1,250	950	76	890	71
2	1,380	1,099	80	988	72
3	1,625	1,365	84	1,230	76
4	600	475	79	426	71
5	660	535	81	480	73
Average Percentage of Rated Power Available			**80%**		**73%**

BILLING CODE 4910-13-C

Two of the three commenters who oppose the 10 or more passenger rule argue that this rule discriminates against U.S. helicopters and gives foreign manufacturers a distinct advantage. This is not true for helicopters to be certificated and registered in the United States. To obtain an FAA type certificate, foreign designed and manufactured helicopters must meet the same or equivalent standards that must be met by helicopters designed and manufactured in the United States. Section 21.29 makes this point clear. Foreign airworthiness regulating agencies currently recognize Parts 27 and 29 of the Federal Aviation Regulations as the world's leading civil airworthiness standard. Moreover, these standards and their predecessor parts have been used for certification of all civil models which have major impact on the marketplace worldwide. These standards will continue to be recognized and used throughout the free world as long as they reflect appropriate, up-to-date safety standards that clearly prescribe an appropriate safety standard for current technology. If the remaining portion of these certification standards can be updated to reflect an appropriate minimum level of design, they will endure as a world standard, and there will be no gross benefit or competitive advantage to manufacturers, foreign or domestic.

Two commenters state that the proposed applicability revision to Part 27 is not needed because rotorcraft of 6,000 pounds or less are not projected to have more than nine passenger seats. The FAA agrees, and this portion of the proposal has been removed.

One commenter recommends incorporating the category A and category B definitions into the rules for standardization and clarity. The FAA agrees and the definitions are incorporated into Part 1 of the FAR as presented in the explanatory portion of Notice 80-25 without substantive change.

Two commenters contend that the 10 passenger safety comparison between rotorcraft and fixed-wing aircraft in Notice 80-25 is not valid because of the slower landing speeds and the lower rate of fatalities in engine-failure-related accidents for helicopters. This capability is recognized. The FAA, however, cannot condone low-speed crashes simply because they kill fewer people. The FAA is hopeful that increased technology and upgraded performance standards can jointly lead to elimination of engine-failure-caused accidents. Future rulemaking actions in the ongoing rotorcraft review will seek to improve safety in structural, systems, and pilot-related areas through similar upgrading and modernization of the standards with the intent that major accidents, both fatal and non-fatal, can be minimized. The period when helicopters will be routinely flying in IFR conditions with large numbers of passengers is at hand. Uncontrolled descent to the surface is not a viable alternative for these operations. A moderate performance capability for future designs which is consistent with these evolving operations is envisioned in this rule. Nevertheless, this rule recognizes significant differences between fixed-wing aircraft and rotorcraft performance levels, and adopts performance standards for engine failure in rotorcraft which are much lower than those for their fixed-wing counterparts.

A general concern over retroactive application of the proposed applicability rule was noted throughout the comments. The full category A requirement in Notice 80-25 for 10 or more passenger configurations is inappropriate for current multiengine designs under 20,000 pounds because those rotorcraft have been designed to achieve reasonable payload capabilities under category B operating conditions. As seen in Figure A, the implications of adopting only the "en route climb" requirements have steadily diminished in recent years. The FAA has determined that retroactive application would not provide a safety benefit commensurate with the cost. In regard to the specified docket comments, even though an applicant is free to seek and obtain certification to full category A performance capability for competitive advantage with existing models, full category A performance will not be required retroactively for existing models of 20,000 pounds or less.

Section 29.79 Limiting Height-Speed Envelope.

No comments were received on proposed § 29.79. The FAA noted, however, that the words, "covered by paragraph (a)(2)(i) of this section," in the proposed § 29.79(a)(2)(ii) are redundant and, therefore, are deleted. Accordingly, § 29.79 is adopted essentially as proposed.

Sections 27.141 and 29.141 General.

No comments were received concerning reference to control system failures proposed in §§ 27.141 and 29.141 and those sections are adopted as proposed.

Section 29.877 Ice Protection.

Notice 80-25 proposed deleting § 29.877 and establishing updated icing requirements in a new § 29.1419. One commenter suggests retaining § 29.877 along with additional certification guidance material. Section 29.877 inadvertently implies the possibility of limited icing certification. The FAA cannot endorse limited certification because of the inability of the crew to control the limiting conditions, the difficulty in forecasting the severity of icing, and the inability to relate the effects of reported icing among different types of aircraft. This would create the potential for unsafe conditions beyond the capability of the rotorcraft without viable escape alternatives. Although the commenter would like to retain § 29.877 and allow limited icing approvals, the limited icing concerns and objections raised in Notice 80-25 have not been satisfied. Accordingly, § 29.877 is removed and marked "reserved," and § 29.1419 is adopted. Specific comments pertaining to the content of § 29.1419 are addressed elsewhere in this document.

Section 29.1309 Equipment, Systems, and Installations.

One commenter recommends that § 29.1309 be revised to specify requirements relating to probability of failure in a manner similar to that required by § 25.1309 for transport category airplanes. This recommendation is beyond the scope of this rulemaking action, but will be addressed in a subsequent rotorcraft regulatory review notice.

Section 29.1321 Instrument Arrangement and Visibility.

Notice 80-25 proposed grouping and centering specific instruments and, for IFR-certified transport rotorcraft, arrangement and visibility requirements (basic "T" concept) comparable to those for transport category airplanes. One commenter recommends that the grouping and centering requirement be "consistent with the VFR and IFR approach and touchdown visibility needs of the particular helicopter." The commenter contends that exterior visibility requirements are different for rotorcraft than for airplanes, and implies that good exterior visibility and good instrument arrangement may be mutually exclusive. The requirement for grouping and centering of flight instruments has been in this section of the rules for many years and Notice 80-25 did nothing to change this aspect of the requirement. Successful certification of existing rotorcraft which have satisfactorily demonstrated compliance with instrument and visibility requirements has proven that flight instruments may be centered on

the panel without compromising VFR capabilities. Instrument arrangement and visibility requirements for IFR flight are the same and are equally necessary for airplanes and rotorcraft. Existing rules require satisfactory exterior visibility for rotorcraft and airplanes. The FAA cannot accept the commenter's rationale and recommendation.

The commenter also recommends a change which would provide an exception to the instrument grouping, arrangement, and visibility requirements for centralized displays such as cathode-ray tubes. Specific equipment of this type is more properly addressed on an equivalent safety basis, rather than by attempting in the rule to identify this and other possible variations in equipment that may qualify as exceptions. Approvals by equivalent safety have proven satisfactory in past certifications and the FAA sees no reason why this cannot continue in the future.

Another commenter recommends a change which would have specified an exact size for the movable horizon display in the attitude indicator noted in § 29.1321(b)(1). The readability of a particular instrument depends on many factors in addition to physical size. Specifying a particular size would not, in itself, assure that the intent of the rule is met. It could, in some cases, be overly burdening. Other factors such as sensitivity, clarity of display, and physical distance from the crew may also be relevant. It would be preferable to allow applicants maximum flexibility in meeting the requirement without specifying size parameters which may not contribute significantly to the overall safety objective.

In view of this and the foregoing discussions, § 29.1321 is adopted as proposed.

Section 29.1517 Limiting Height-Speed Envelope; and Section 29.1587 Performance Information.

Under the proposed applicability requirement (§ 29.1) of Notice 80–25, category B rotorcraft could not be certificated with more than nine passenger seats, and height-velocity would be removed as a category B operating limitation, but retained in the flight manual as performance information. No comments were received objecting to the proposed deletion of height-velocity as an operating limitation for the less-than-10-passenger category B rotorcraft. However, because of economic reasons discussed in the applicability portion of this preamble, this rule permits the certification of a "category B rotorcraft" as defined in Part 1, with 10 or more passenger seats. Because of this difference and in keeping with the concept of protection for the maximum number of passengers, it is necessary to retain height-velocity as an operating limitation for category B rotorcraft with 10 or more passenger seats. This is accomplished in § 29.1(a)(2), which requires compliance with § 29.1517 for category B rotorcraft having 10 or more passenger seats. Section 29.1517 is therefore adopted as proposed. Height-velocity would still be removed as an operating limitation and retained as performance information for category B rotorcraft with less than 10 passenger seats.

The proposed wording for § 29.1587 would have required height-velocity data in the performance information section of category B rotorcraft flight manuals. In view of the revised applicability requirements, this is now pertinent only for category B rotorcraft with less than 10 passenger seats. Slightly different wording than that proposed for § 29.1587(b)(6) is therefore needed. Accordingly, the proposed § 29.1587(b)(6) is adopted with the addition of the words "except for rotorcraft incorporating this as an operating limitation."

Appendix B—Parts 27 and 29, Instrument Flight Rules Certification.

The adoption in Parts 27 and 29 of certification standards and operational limitations related to Instrument Flight Rule (IFR) approval of rotorcraft has no economic impact since there will be little change in current operating practices or procedures. Currently, an IFR interim standard, similar to that adopted in this rule, is applied for applicants seeking instrument flight approval. Adopting this rule, therefore, imposes no significant change from current requirements under which 25 instrument approvals and approximately 200 operating helicopters have shown a perfect safety record. IFR certification is not mandatory, so the applicant has the opportunity to evaluate whether the provisions of IFR capability in a given rotorcraft model will be sufficiently attractive in the market to improve revenues, profits, and market-share objectives. Moreover, many rotorcraft have been approved for IFR under earlier interim standards that are so similar to the proposed standards that this proposal does not materially alter any economic considerations. The formal adoption of the interim standards is considered to benefit manufacturers by providing a more stable design standard.

Eleven comments on the proposed IFR appendices were received. The majority of the comments propose editorial changes or word clarifications from that proposed in Notice 80–25. Commenters favor proceeding with adoption of helicopter IFR standards in a final rule, and there are no objections to incorporating certification standards in IFR appendices as proposed in the notice. The disposition of docketed comments is discussed in sequential order as they affect Appendix A (changed to Appendix B in the adopted rule) to Part 27. Changes may apply to both Parts 27 and 29 appendices although this may not be specifically noted in the discussion. Where only one part is affected, it is so noted. Numbering of the major paragraphs (I through IX) in this discussion refers to that in the final rule and as presented in the IFR appendix of Notice 80–25 for Part 27 rotorcraft. The numbering in the Part 29 IFR appendix of the notice is incorrect due to the inadvertent omission of the heading "II. Definitions."

During the formulation period of Notice 80–25, appendices entitled "Appendix A, Instructions for Continued Airworthiness," were adopted in Parts 27 and 29. It is therefore appropriate to retitle the IFR appendix "Appendix B, Airworthiness Criteria for Helicopter Instrument Flight" and to alter the corresponding reference in §§ 27.141(c) and 29.141(c).

Four commenters express concern regarding the disposition of Special Federal Aviation Regulations (SFAR) 29, and approval of rotorcraft currently operating under the SFAR "limited IFR" concept. One commenter expresses concern with the apparent lack of substantive distinction between the level of safety implied for IFR in Part 27 "Normal Category Rotorcraft" and Part 29 "Transport Category Rotorcraft" proposals. Further, this commenter feels that the equipment, systems, and installation requirements of the proposed notice drew excessively upon transport airplane criteria. This commenter proposes additional consideration of proven SFAR 29 standards into the Part 27 IFR criteria.

At the conference in New Orleans, industry representatives expressed a uniform desire to have identical standards for IFR in both normal and transport category rotorcraft. A desire for relaxed standards in Part 27 normal catgegory rotorcraft was not enumerated at the conference, nor at the August 1980 meeting in Washington, D.C. This commenter raises a valid question for consideration. "Should the IFR standards incorporate differences in level of safety between normal and transport category rotorcraft in a similar

manner to other portions of these rules, and can the SFAR experience be utilized to help in formulating requirements for the Part 27 rule?"

The FAA initiated SFAR 29 as a study to gather data and operating experience necessary to assess various issues affecting helicopter operations in the IFR environment. A limited number of approvals were granted on the basis of individual aircraft modifications, certain specified crewmembers, crew currency restriction, loading and flight envelope restrictions, and geographic limitations which were later removed. These approvals were not generally applicable to the civil helicopter pilot population or to the VFR helicopter fleet as a whole. Although the program began slowly, a moderate amount of IFR flight experience has been gained, particularly during the last two years of his study. During the intervening time period, the interim standard for IFR certification has undergone the final adjustment necessary to incorporate these standards into the rotorcraft certification rules. The explanatory information announcing the renewal of the SFAR on October 30, 1980, stated "it is the intent of the FAA to rescind this SFAR upon adoption of the new rotorcraft IFR certification standards in Parts 27 and 29 * * *." SFAR 29 has served its purpose, and FAA has no need to continue the study.

SFAR 29 has served well as an interim measure to permit joint airworthiness and operational certification of rotorcraft not originally type certificated for IFR operations to engage in IFR operations and, as originally intended, has lead to the adoption of permanent airworthiness certification standards incorporating the airworthiness features developed and the operational lessons learned under the SFAR. Nonetheless, although the SFAR's limited goal of permitting study of rotorcraft IFR operations has reached fruition in the shape of these amendments, a need remains to permit continued operations under SFAR 29 by operators who obtained approvals to operate thereunder prior to the effectiveness of these amendments. Significant amounts of money have already been expended to obtain SFAR 29 approvals, and while eligibility for new applications under the SFAR will expire, FAA considers that blanket termination of these operations would represent a significant economic burden to a number of small entities. For this reason, while future applicants for rotorcraft IFR certification must meet the airworthiness standards contained in these amendments, SFAR 29, as amended, will remain effective for operators holding approvals obtained prior to effectiveness of this amendment. SFAR 29, as amended, will be rescinded when the outstanding approvals granted thereunder have been surrendered, revoked, or otherwise terminated.

IFR flight hours for SFAR 29 operators have been gained since initial drafting of the Part 27 IFR appendix in March 1980, and the FAA has viewed these operations with continuing interest. Certain relaxatory changes in the IFR appendix for Part 27 rotorcraft are adopted in this amendment, partly as a result of the SFAR 29 experience. These changes are primarily in the area of required instruments and equipment. They are discussed below, along with other changes in response to industry comments.

I. *General.* No unfavorable comments were received on this paragraph.

II. *Definitions.* The term V_{MINI} is defined in both appendices as "instrument flight minimum speed. * * *" Some commenters feel this definition applies only to level flight, and further that an IFR approach could be legally flown at a speed below V_{MINI}. These commenters feel an additional term is needed to define minimum authorized approach speed.

The term V_{MINI} constitutes the minimum speed authorized for all instrument flight conditions and is not limited to the level flight condition. The level flight condition is not referred to anywhere in the definition of V_{MINI}. V_{MINI} is the lowest authorized airspeed for IFR climb, cruise, descent, and approach conditions, and it represents the minimum speed at which the helicopter complies with all IFR handling quality requirements, including those during approach. V_{MINI} is by definition "* * * instrument flight minimum speed * * *." It is, therefore, unnecessary to define an additional mimimum speed which is applicable only to approach conditions.

III. *Trim.* Commenters are highly supportive of the IFR trim requirement as worded in the notice. One commenter, however, feels that the wording requires a pilot adjustable control for directional trim. The wording of this requirement does not speak to a pilot adjustable trim control and such a requirement was not envisioned. Several configurations have been approved with no directional trim system as such, but through the use of balance weights and control system friction. Wording of this requirement would permit continued approval of those systems. Additional clarifying information will be provided through FAA handbook guidance.

IV. *Static Longitudinal Stability.* This section of the proposed Part 27 IFR standard contains differing requirements for single-and dual-pilot approvals. One commenter objects to varying standards by the number of crewmembers, primarily because pilot incapacitation in a two-pilot aircraft could result in an unacceptable workload for the remaining pilot. Two commenters object to varying standards by the number of crewmembers only in Appendix B to Part 27. They feel that two-pilot alleviation should be extended to Part 29. SFAR 29 experience has shown that safe operation can result from relaxed levels of stability and design for certain two-crewmember operations. Nevertheless, as stated in Notice 80-25, "It is inappropriate to permit less stringent handling qualities for transport category than for normal category, regardless of crew requirements." In answering these commenters' objections, it is necessary to point out that crew incapacitation is not a consideration in developing IFR flight criteria, and that it is important to retain the highest level of safety through the highest minimum standard for design in transport rules, regardless of the minimum number of crewmembers necessary to operate the aircraft. Therefore, the proposal which relaxes two-pilot requirements only in Part 27 is retained.

One commenter indicates a desire to use control position stability as a basis for static stability instead of control force stability for the two-pilot case. Another commenter proposes use of position stability unilaterally. Numerous studies have been conducted on the subject of static longitudinal control force stability. In addition to NASA and military studies on the subject, the FAA, in recent research and development programs with both the NASA Ames Simulator Facility and the Canadian National Research Council variable stability research helicopter, has conclusively substantiated the need for static longitudinal control force stability in helicopter instrument flight. These most recent results are documented in NASA/FAA Report FAA-RD-80-64 and in "An Evaluation of IFR Handling Qualities of Helicopters Using the NAE Airborne Simulator," April 1, 1981, presented at CASI Flight Test Symposium, Cold Lake, Alberta, Canada. It is, therefore, appropriate to retain this minimum level of safety for single-pilot operation throughout the IFR flight envelope. For a crew of two pilots, the positive static longitudinal control force stability requirement is retained only for conditions of cruise and approach. This will assure a minimum level of stability during a majority of a

typical IFR mission and during the critical approach phase.

Another commenter points out that the 10 percent return-to-trim requirement could apply to two-pilot approvals as well as single-pilot approvals. It was not FAA's intent to require a 10 percent return-to-trim condition for a crew of two pilots in Part 27 helicopters and a satisfactory level of safety can be shown, based partly on the SFAR 29 experience. This feature is being clarified by incorporating the words "For single-pilot approvals," as a lead-in to the last sentence of paragraph IV(a) of Appendix B for Part 27 helicopters.

One commenter points out that if V_H were lower than V_{NEI}, demonstrations of static longitudinal stability in cruise would not include the speed range from 1.1 V_H to 1.1 V_{NEI}. FAA is aware of that fact. FAA and industry representatives, in drafting these requirements, continued a long-standing concept presently in VFR certification rules which removes from consideration speeds substantially exceeding V_H. For helicopters with V_H below V_{NE}, this concept assures stability in a reasonable range either side of the maximum attainable level flight speed. This level of stability has proven to be suitable as a minimum airworthiness standard for helicopter IFR flight in more than 20 engineering approvals for IFR flight over the past 8 years. The FAA can see no need to increase the severity of this requirement and it is adopted as proposed.

Three commenters note that lower helicopter IFR approach speeds are forthcoming, particularly for approaches to heliports or offshore facilities. Under guidelines of previous interim standards, an approach speed of 40 knots would require demonstration of stability down to 20 knots or to ½ of the approved airspeed value. A 20-knot approach speed presumably would require stability to a hover. The requirement, as currently worded, would be inappropriate for very low speed approaches and would be difficult to interpret for recommended speeds below 20 knots. Commenters suggest a factored or ratioed method to accommodate the anticipated lower approach speeds. Two commenters suggest 0.9 V_{APP} as a minimum demonstration speed, where V_{APP} is defined as the instrument flight minimum speed utilized in instrument flight approaches. The third commenter proposes 0.8 V_{APP}. A minimum recommended IFR approach speed for helicopters is typically 60 knots. FAA is not aware of any designs certified with minimum speeds greater than 70 knots. To retain approximately the same stability level as that provided in past versions of the IFR standard, a factor of 0.7 times the minimum recommended approach speed is appropriate. For a 60-knot minimum approach speed, this factored method will require static stability throughout a speed range 18 knots below the minimum approach speed compared to the current requirement of 20 knots. At the same time, this method will decrease the required stability range for lower approach speed conditions. For example, a 30-knot minimum approach speed would result in a positive stability demonstration down to 9 knots below that value. Since this rule contains essentially the same requirements as for current designs and provides significant and appropriate relaxation for low-speed approach conditions anticipated in the near future, it is being adopted without a further comment period.

V. *Static Lateral-Directional Stability.* One commenter objects to deleting the term "substantially proportional" from previous interim standards and substituting "proportional" in the directional stability requirement of Notice 80–25. This change was proposed for the purpose of removing subjective wording from the requirement when drafting the notice. This commenter interpreted the word "proportional" to mean in constant proportion. This was not intended by the FAA in its drafting of the notice. To prevent future difficulties in interpretation, the word "proportional" is being replaced by the phrase "in approximately constant proportion" to allow some curvature in the sideslip response to pedal position while retaining the "approximately constant proportion" necessary for good directional response.

Three commenters suggest that the wording "that at which full directional control is employed" is redundant because this condition also represented a "maximum sideslip angle appropriate to the type." Even though this wording has been carried forward in several versions of the IFR interim standard, FAA agrees that these words are redundant, adding nothing to the content of the rule. Accordingly, these words are deleted from the text as adopted.

One commenter states that the wording of the lateral-directional paragraphs is too subjective because the lack of quantitative parameters frequently causes large economic impact in the design of aircraft systems. The lateral-directional requirements of the IFR interim standards have changed little over the past 10 years. These requirements have been utilized successfully on approximately 25 IFR certification programs. Various research and development efforts, both inside and outside of FAA, have been conducted during this period, but none have successfully tied quantitative values for control force and deflection versus sideslip angle to specific levels which will assure a minimum safety standard for a wide range of helicopter models. It is conceivable that minimum safe values for control motion and force versus sideslip angle vary from model to model because of the wide variations in lateral-directional characteristics among rotorcraft. Therefore, the widest possible latitude has been allowed in establishing the minimum acceptable dihedral (roll due to sideslip) characteristic. To specify purely quantitative standards in this area would exclude a certain number of otherwise acceptable designs from IFR approval. For these reasons, quantitative force and deflection criteria for lateral-directional stability are not adopted in this rule.

Another commenter proposes adding dihedral requirements for sideslip angles which exceed 10°, but this is rejected for the same reasons. This same commenter points out an inconsistency in the use of the word "must" in Part 27 versus "shall" in Part 29 in the last line of paragraph V(b). No difference was intended and "must" is adopted for both.

VI. *Dynamic Stability.* One commenter feels that all dynamic stability criteria for Part 27 helicopters should be stated in qualitative terms because many existing helicopters cannot meet the proposed requirement and operator experience under SFAR 29 does not corroborate the need for a quantitative standard. Another commenter charges that the FAA had "* * * deviated from the objective-type rule concept in one very important area—the periodic response characteristics." The FAA assumes that this comment is meant to apply to the "aperiodic" requirement in proposed IV(a)(4) and (b)(3), because the requirements for damping of "periodic" motion in paragraph VI do not deviate from previous versions of the IFR interim standard. This assumption is supported by a commenter statement in another area of the submittal: "* * * the FAA did not establish a basis in its 'explanation' for the value selected for the quantitative aperiodic response nor was the value selected shown to be compatible with the comparable characteristics of helicopters now approved * * *."

Dynamic response characteristics represent an avenue of vehicle description which by their very nature are specific, quantifiable, and understandable in universal terms. Regardless of the type of vehicle, dynamic response must be controlled to assure satisfactory operation. It has long been recognized that quantitative standards for helicopter instrument flight are needed to assure fair and consistent administration of the requirement. The fact that some current designs approved for flight under visual flight rules (VFR) do not meet a proposed standard for instrument flight rules (IFR) is not justification for concluding that the standard is inadequate. Rotorcraft must be designed to minimum safety standards and those standards should reflect only those requirements necessary for safe flight. The standard, however, must not be formulated simply to comply with characteristics of current rotorcraft.

A large majority of SFAR 29 operators are approved for a minimum crew of two pilots and a majority of those helicopters are capable of meeting the periodic (oscillatory) damping requirements in paragraph VI(b). The few others were approved largely on the basis of pilot capability and these configurations should not be considered suitable for a national airworthiness standard appropriate for the civil pilot population as a whole. The periodic standards proposed in Notice 80–25 have been applied in over 20 civil certification programs and have been well established as a true "minimum" rather than a "highly desirable" design standard. It is interesting to note that some of these models have met the dynamic stability standards without stability augmentation. Because of this considerable experience and high level of confidence, the periodic portion of this requirement is adopted as proposed.

In helicopters, aperiodic modes are frequently manifest and are of equal importance in defining safe vehicle response. The FAA stated in its explanation to Notice 80–25 that, "pilot perception of aperiodic responses is similar to that for oscillatory responses which exceed a 20-second period and typically result in gradual rates of divergence over the first few seconds of aircraft motion. Although lower in attitude rate and acceleration level than the oscillatory modes, aperiodic requirements have been held to the same level of divergence as oscillations with a 20-second period due to their more insidious nature." This discussion applies well for axes in which both oscillatory and pure divergent modes exist. In pure roll dynamics, however, no oscillatory dynamic mode exists. Instead, an aperiodic spiral mode with low roll damping is typical and must be considered because it falls within the definition of an aperiodic response. As was recommended by the second commenter, FAA researched previously approved IFR models and determined that the most unstable aperiodic spiral divergence currently approved in a normal category rotorcraft had a time to double amplitude of 6 seconds. This level of instability was described as marginal in the FAA flight test report and appears appropriate for consideration as a minimum standard. No transport category helicopters have been certified without stability augmentation. The worst condition shown during testing with single stability augmentation system (SAS) failure, however, has shown an approximate 9-second time to double amplitude. These results indicate a need to limit the larger transport rotorcraft to a level of aperiodic response which is proportionally lower in divergence than is permitted for the lighter, more maneuverable normal category case. For this reason, the 9-second standard is adopted for transport category. For small rotorcraft with a minimum crew of two pilots, no minimum aperiodic criterion is adopted because it is assumed that one pilot will be at the controls and actively flying at all times. The military specification for flying qualities of piloted V/STOL aircraft, Mil–F–83300, defines a level 2 handling quality as one which is "* * * adequate to accomplish the mission Flight Phase, but some increase in pilot workload or degradation in mission effectiveness, or both, exists." For this condition, an allowable time to double amplitude for aperiodic response is 12 seconds. The adopted FAA standard is less stringent than the level 2 requirement. Mil–F–83300 defines a level 3 handling quality, in part, as one "* * * such that the aircraft can be controlled safely, but pilot workload is excessive or mission effectiveness is inadequate, or both." Allowable times to double amplitude for pitch and roll in level 3 are 5 and 4 seconds, respectively. The military standard tends to endorse the 6- and 9-second times to double amplitude previously approved by FAA for civil application. A current FAA research and development program is addressing aperiodic divergence. Initial results support the fixed levels of aperiodic divergence adopted here. This rule, therefore, is relaxed from that proposed in Notice 80–25 to a level of aperiodic instability which allows doubling in amplitude every 6 seconds for single-pilot, normal category rotorcraft and every 9 seconds for transport category rotorcraft. The adopted stability levels are based on existing models which have established an acceptable operating experience in service, previous handling qualities standards for fixed- and rotary-winged aircraft, docketed comments on this rulemaking action, and current FAA research efforts. Suitable methods for testing aperiodic levels of divergence will be included in a forthcoming procedures manual.

VII. *Stability Augmentation System (SAS).* Several commenters recommend that the pilot delay times for SAS failure should be provided. One recommends that maximum allowable helicopter attitudes and rates following SAS failure should also be specified. Stability systems are rapidly becoming more sophisticated and complex. The ability to specify a single minimum standard for attitudes, rates, and pilot time delays which would be suitable for all stability systems in all IFR rotorcraft models is doubtful. Disposition of this information as policy material has worked well in previous fixed-wing experience. In its explanation to Notice 80–25, FAA stated that "Pilot delay times for stability system malfunction testing are excluded from this amendment, as these criteria are more appropriately addressed in flight test guidance material." Guidance on these specific areas has been drafted for a transport helicopter certification guide which will be issued shortly. Draft copies are available from the FAA Helicopter Directorate, ASW–110, Box 1689, Ft. Worth, Texas 76101. No negative comments were received on incorporating this information as guidance material and this feature will remain unchanged in the adopted rule.

One commenter states that a SAS approval based primarily on statistical analysis would not be acceptable to FAA and VII(a) should reflect that philosophy. The basic premise behind the comment is invalid. Paragraph VII states, in part that, "the occurrence of any failure condition which would prevent continued safe flight and landing must be extremely improbable." While compliance with a portion of this requirement may be satisfied by conducting SAS hardover tests, many other failure conditions are not flight tested because they are shown to be extremely improbable through a combination of failure analyses, environmental tests, mock-up tests, or component service experience. In this regard, the appropriate hardover conditions are addressed in paragraph

VII(b), which specifically includes the eligibility of statistical methods.

Two commenters point out that a wording change from the interim standard had occurred in paragraph VII(a)(1) regarding the appropriate failure conditions to be considered. The IFR interim standard limited this requirement to failures "of the primary control system." The intent of this requirement is to assure that probable SAS failures in combination with probable conditions elsewhere in the control system do not combine to prohibit safe flight. This lack of specific reference to the control system in Notice 80–25 is noted and an appropriate revision is made. The requirement is further simplified and clarified by eliminating a redundant reference to "Combinations of Failures" which can be considered within the existing terminology of "Probable Failures."

One commenter states that the flight criteria following SAS failure in paragraph VII(a)(2) should not require continued compliance with all of the flight characteristics requirements of Parts 27 and 29 because, for like conditions in § 25.672(c), fixed-wing transport aircraft are required to comply only with controllability and maneuverability requirements of Part 25. This commenter states that, "Unless the FAA identifies inherent differences between helicopters and transport category airplanes relevant to continued flight following SAS failure and defines how those differences warrant the more stringent flight characteristics being proposed in the NPRM, the same criteria should apply."

Several SFAR 29 IFR interim standards, including the most recent dated December 15, 1978, required continued compliance with not only the flight characteristics portion but the entire Subpart B of Parts 27 and 29. This Subpart B requirement was relaxed to specify only the "Flight Characteristics" portion of Subpart B in Notice 80–25. There are significant differences in handling qualities requirements between helicopters and transport category airplanes and those differences are apparent in the basic rules for these two aircraft types. The differences, however, are more basic than the differences between helicopters and airplanes. The basic Part 25 transport airplane requirements for controllability and maneuverability are IFR requirements which provide suitable characteristics for IFR flight following a SAS failure. The flight characteristics requirements of Part 29 for rotorcraft are VFR requirements intended to provide suitable characteristics for VFR flight. For this reason, sections of Part 29 are not necessarily comparable to sections of Part 25 on a one-to-one basis as urged by the commenter and the requirements referenced in Part 29 are certainly not more stringent than those of Part 25. The less-stringent VFR handling qualities are permitted on the basis of a lower level of stability inherent to helicopters under SAS failure conditions. To further lower the standard would compromise a SAS failure criterion which has been used successfully in approximately 25 IFR approvals.

The commenter states that the full flight characteristics standard had not been met on one particular FAA approval and that the requirement should therefore be further relaxed. This FAA standard should not be structured based on exceptions. Rather, it should provide an appropriate minimum. To lower this standard because of a single case for which the standard did not apply is unwarranted and the wording of this section is adopted as proposed in the notice.

One organization recommends that credit toward meeting the single-pilot IFR stability requirements be given for installing an autopilot. The term "autopilot" has been subject to many definitions and interpretations in the helicopter community. It has been defined as anything from a SAS which would be eligible under paragraph VII, to a conventional autopilot which manipulates the primary flight controls and has no pilot "fly through" capability. The definitions also vary in reliability and complexity from a single-axis, wind-driven, wings-leveler device to a highly reliable, multipath, integrated system which would perform virtually all normal instrument flight maneuvers under probable failure conditions. To allow blanket credit for such a variation in capabilities cannot be permitted. If the system stabilizes the rotorcraft by allowing the pilot to "fly through" and perceive a stable, well-behaved vehicle, it qualifies as a SAS, clearly receives credit under paragraphs III through VII, and may be utilized for compliance with all handling qualities requirements. If a conventional autopilot does not provide "fly through" capability or allow the pilot to perceive a stable, well-behaved vehicle through his manipulation of the flight controls and the related feedback from those controls, then it tends to remove him from active involvement in flying and is eligible primarily as a workload reliever. Credit has been granted on that basis during previous certification programs. Since the commenter does not incude any justification to show why these provisions for "autopilot credit" should be changed, they will continue to be applied as before, and this portion of the rule is being adopted as proposed.

VIII. Equipment, Systems, and Installation. One commenter states that small helicopters should not have to comply with the Category A power supply requirement of § 29.1309(d) as indicated in the lead sentence of paragraph VIII. A category A electrical system requirement was never intended for small helicopters. Upon closer inspection of this paragraph, it is determined that the reference to § 29.1309 was not needed to define basic equipment and installation requirements and is removed. In its place a reference to § 29.1433 is added to the requirement for small helicopters to provide criteria for vacuum systems equivalent to that for electrical systems in § 29.1431. This change also helps clarify a later reference to "power supply" in paragraph VIII(b)(3) which was unclear to two commenters. The addition of a reference to § 29.1433 clearly indicates the eligibility of power sources other than electric for those flight instruments requiring a power supply. The addition of examples of sources used to power required flight instruments in paragraph VIII(b)(3) further aids in clarifying that requirement.

Two commenters feel that the required flight instruments should be clearly defined and listed as is done in § 25.1303. Upon review, it was found that § 25.1303 lists the same flight instruments as § 29.1303 plus a mach meter and speed warning which are currently only in Part 25. A further listing of the required flight instruments in the IFR appendix would be redundant with § 29.1303 and is, therefore, not incorporated.

One commenter feels that a vertical speed indicator should be required for IFR flight and four commenters want to delete the requirement for an instantaneous vertical speed indicator (IVSI), particularly for small rotorcraft. A fifth commenter recommends developing a performance standard for IVSI's.

A vertical speed indicator is specifically required in § 29.1303. As to the remaining comments concerning a vertical speed indicator, it is apparent that considerable confusion exists in the term "IVSI," and that neither industry nor government has defined the term sufficiently to clearly determine its meaning or its appropriate level of performance. Even though the IVSI requirement has been carried forward in renewed versions of the helicopter interim IFR standard, it is inappropriate

for a final rule, lacking a defined standard of performance. For this reason, the proposed requirement for an IVSI in place of the standard vertical speed indicator is not adopted.

Two commenters suggest that the statement in VIII(a)(2) which prohibits the use of standby batteries for engine starting should be removed from the Part 27 requirement. These comments are based primarily on the high cost of existing self-contained standby attitude indicators and on satisfactory operating experience in some SFAR 29 configurations which use standby batteries to assist in engine starting. One of these commenters argues that this is a particular burden for small helicopters because of the high initial capital expenditure and the high percentage loss of payload. FAA has considered these comments in light of the SFAR 29 experience and the difference in intended level of safety for normal and transport categories. FAA agrees with the less stringent requirement suggested by these commenters for normal category. The requirement to exclude the standby batteries from engine starting is therefore removed from the normal category requirement.

One commenter indicates that the requirement for a magnetic gyro-stabilized direction indicator is excessively stringent for normal category rotorcraft. The commenter's opinion is based on SFAR 29 experience with a gyro-stabilized direction indicator set by reference to a magnetic direction indicator (often referred to as a whisky compass). FAA's experience in certifying direction indicators for IFR flight in helicopters reveals that a magnetic direction indicator, used in conjunction with a non-magnetic gyroscopic indicator, is suitable for flight in smooth air. For operation in moderate turbulence, however, the magnetic indicator is unsuitable. The effect is more degrading and much more severe in helicopters than for their fixed-wing counterparts. In Notice 80-25, FAA stated that "* * * the nonstabilized magnetic indicator, which is subject to many errors, is inadequate as the primary source of directional information, but it must remain as an emergency source. The standard directional gyro is also inadequate as the primary source of directional information because of drift and the requirement to set it by reference to some other precise reference. Therefore, a gyro-stabilized magnetic direction indicator would be required." Comments submitted have not addressed the degraded level of navigation performance associated with helicopters operated in turbulence without a magnetic gyro-stabilized indicator. Therefore, the requirement for a magnetic gyro-stabilized direction indicator proposed in Notice 80-25 is considered necessary to assure safe navigation capability and is adopted in the final rule.

One commenter states that the isolation features contained in paragraph VIII(b)(5) (that is, paragraph VIII(b)(6) of Notice 80-25) should not be required for normal category rotorcraft because these were basically transport airplane standards. The commenter feels essentially that independent sources are not necessary. These requirements are intended to assure that, for dual-pilot configurations, the first pilot station has a dedicated source for required flight instruments and that the required flightcrew operations are not compromised by the installation of additional equipment. Handling qualities criteria for normal category two-pilot operation are significantly relaxed from those required for single-pilot approval. Part of this relaxation includes a very limited longitudinal stability requirement and the lack of a return to trim requirement. This low initial level of stability makes it mandatory that accurate airspeed, altitude, and attitude information remain available to the required crew complement during both normal and reasonably anticipated failure conditions. This requirement is much more vital to a helicopter, which barely meets two-pilot helicopter instrument flight criteria, than it would be for small or transport airplane applications or for single-pilot IFR helicopters because all of those configurations have both a static longitudinal stability requirement throughout the flight envelope and a 10 percent return-to-trim requirement. These two requirements greatly aid aircraft control when airspeed indications are lost. Also, power changes in helicopters typically result in significantly greater longitudinal control changes than in fixed-wing airplanes. In the absence of at least one reliable airspeed and altitude indication, airspeed control in IFR helicopters can be quickly lost when performing even moderate power changes. For these reasons, it is necessary to adopt the proposed level of design for configurations requiring two pilots.

For configurations meeting the normal category single-pilot requirement, instruments for a second crew station (for training or at customer request) would not be "required instruments" and could be powered from existing sources which are used for other equipment.

One organization commments that by requiring calibration of the alternate static source in paragraph VIII(b)(5)(iv) (that is, paragraph VIII(b)(5)(ii) of Notice 80-25), this requirement would result in alternate source calibration cards in the cockpit. A calibration card, however, would only be required if the alternative source could not meet the 50-foot accuracy requirement of §§ 27.1325 and 29.1325.

One commenter states that §§ 27.1365 and 29.1365 allow circuit breakers or fuses to be used as protective devices, but in practice FAA has not permitted fuses on flight-critical items due to IFR pilot workload constraints. This commenter recommends a regulation to require circuit breaker protection for all required IFR systems. FAA has found both circuit breakers and fuses acceptable as protective devices for essential systems provided they can be located and identified to allow ready reset or replacement in flight. This requirement is found in §§ 27.1357 and 29.1357. FAA does not prohibit the use of fuses provided they are accessible and replaceable in flight and that sufficient spare fuses are available to the crew. We can find no justification for changing the requirements at this time.

One commenter suggests that autopilots and flight directors be included under the requirements of paragraph VIII(b)(5)(i) and that specific cockpit lighting requirements, switch positions, and annunciation be required for helicopter IFR. Neither flight directors nor autopilots are required for IFR certification in helicopters. They, therefore, do not come under the definition of "required flight instruments" (those listed in §29.1303) and are inappropriate for inclusion in this requirement. Cockpit lighting, switch position, and annunciator requirements are contained in general regulatory requirements and in more specific handbook criteria and policy guidance. Requirements in these areas are generally worded to allow innovation and variation in design. For a design requirement which has as its primary purpose establishing a minimum level of safety, incorporating specific requirements for these areas would not enhance safety or otherwise serve the needs of industry. The freedom to allow innovation in design should be retained and for this reason more specific requirements are not imposed.

Several commenters suggest clarifying the wording of paragraph VIII. Most of the wording was initially derived from

similar requirements for other types of aircraft in other Federal Aviation Regulation parts. These comments have been reviewed and several changes are made to simplify and clarify wording, with no change in intent from Notice 80–25: (1) Examples of typical power supplies are included in paragraph VIII(b)(3) to indicate that the power supply indicator is not intended solely for electrical instruments; (2) Words are added in paragraph VIII(b)(4) to indicate that this requirement is only for multiple systems which perform like functions; (3) The words "the pilots" in paragraph VIII(b)(6)(ii) (of Notice 80–25) were changed to "a pilot" (in paragraph VIII(b)(5)(ii) of the rule) to more clearly indicate that information essential to safety of flight must remain available to at least one pilot following single or probable failures; (4) Wording is added to paragraph VIII(a)(2) in the rule (proposed paragraph VIII(a)(3)) to indicate one pilot's primary attitude indicator could satisfy the standby attitude indicator requirement for two-pilot configurations; (5) Paragraphs VIII(b) (5) and (6) of Notice 80–25 are reorganized, reworded, and simplified. The paragraph designator (6) is eliminated in the final rule. Concepts have been clarified, consolidated, and described by simpler wording throughout these paragraphs, and no change in meaning from Notice 80–25 is intended.

IX. Rotorcraft Flight Manual. One commenter proposes a requirement that new performance data must be presented either in the manufacturer's format or in a format created by the "STC facilities." It is unclear how such a requirement would improve safety. Any flight manual performance presentation which is clear and functional is acceptable to FAA regardless of format. The proposed change offered no rationale to show why other methods of presentation should not be allowed. Therefore, the proposal is not incorporated in this flight manual requirement.

Sections 27.1419 and 29.1419 Ice Protection.

The rule adopted in §§ 27.1419, 29.1419, and Appendix C to Part 29 establishes minimum safety standards for certification of rotorcraft for flight in icing conditions. Compliance with this rule is not required of all rotorcraft; it would be required only for those rotorcraft for which icing certification is requested. This rule simply requires that rotorcraft be capable of operating safely in icing conditions and defines the natural icing environment for certification. The defined icing environment is the same as that utilized and accepted for many years in icing certification of fixed-wing aircraft, except that inherent altitude limitations of helicopters are recognized.

Even though no U.S.-manufactured helicopters have been certified for flight in icing conditions, the need for icing certification criteria for helicopters has been recognized by industry and FAA. The helicopters industry, some time ago, requested that criteria be developed, and the FAA embarked on a program to accomplish this goal. FAA has developed icing special conditions for current rotorcraft programs and these requirements are substantively identical to those incorporated by this rule. Even if formal icing rules were not adopted, icing requirements similar to these would be applied as special conditions in those cases where icing certification is requested. There is, therefore, no economic impact in adopting this icing rule. Certification of rotorcraft in icing is a logical next step to the rapidly increasing usage and projections for increased future operation of rotorcraft in IFR conditions. A foreign-manufactured helicopter was recently approved by that foreign country for flight in icing conditions and developmental flight tests by several U.S. helicopter manufacturers have begun with the intent to obtain icing certification on new and existing models.

This icing rule is in accordance with the economic and regulatory guidelines of Executive Order 12291. As noted in Notice 80–25, the adoption of icing certification standards has no economic impact. Since certification for icing is not required of any rotorcraft, this rule merely offers an additional option for expanding rotorcraft utilization. The manufacturer and operator are not obligated to comply with these icing requirements and they have the option of deciding whether or not adoption of the capability to operate in icing offers an overall economic benefit for their particular application.

If flight in icing conditions is to be attempted, certified ice protection provisions offer positive safety benefits to people traveling in rotorcraft. Flight in icing conditions in any aircraft can entail risk due to increased structural loads and drag, and loss of lift, engine power, aircraft performance, stability, controllability, and forward visibility. Operating rotorcraft in icing can introduce additional risks due to the potential loss of autorotational capability with an iced main rotor and high vibrational stresses with an unbalanced rotor when asymmetrical ice shedding occurs. Certification with adequate ice protection provisions can eliminate these risks and, thereby, enhance safety for people traveling in rotorcraft in icing conditions.

In view of the need, economic viability, and positive safety benefits of rotorcraft icing certification, the FAA participated jointly with the U.S. Army in icing research flight tests involving various helicopters. In consideration of this experience and other pertinent icing data, a rotorcraft icing certification standard was proposed in Notice 80–25. Comments have been received, carefully considered, and are discussed as follows.

Most of the comments submitted on the proposed icing rules, along with the FAA reponses, apply to both the proposed §§ 27.1419 and 29.1419, although this may not be specifically noted in the comments. Where a comment applies to only one specific section, it is so noted.

It was correctly noted by one commenter that an Appendix A had been added to Parts 27 and 29 in the last year. Appendix A, Airworthiness Criteria for Helicopter Instrument Flight, and Appendix B, Icing Certification, as proposed in Notice 80–25, therefore become Appendix B and Appendix C, respectively, in the final rule.

Several commenters suggest changes that would allow limited or partial icing certification, that is, approval of an icing flight envelope which limits the range of natural icing parameters (liquid water content, droplet size, and outside air temperature) in which the rotorcraft can operate, or approvals with an ice protection system which provide only partial capability to operate in natural icing conditions. It is recognized that a specific rotorcraft may not have the capability to operate at the higher altitudes specified in Appendix C. Altitude, unlike other icing parameters (liquid water content, droplet size, and temperature), can be controlled by the flightcrew and therefore may be considered as a limiting condition in icing certification provided an operationally practical altitude envelope is available. It is not the intent of the FAA to require certification to icing parameters which cannot be encountered within the altitude capability of the rotorcraft. However, the concerns and objections to limited icing certification were stated in Notice 80–25. These are based on minimum safety considerations. Although several commenters recommend permitting limited certification, neither the FAA nor the commenters could provide a means of satisfying these concerns and

objections. Therefore, the commenters' suggestion to permit limited or partial icing conditions per se is not adopted at this time. However, limiting a helicopter's altitude will result in changes to associated parameters such as liquid water content and temperature. A pilot would not directly control liquid water content or temperature, but at lower altitudes, the most severe combinations would not be encountered. A suitable icing envelope relating the changes in these parameters will be included in a forthcoming procedures manual.

One commenter recommends that Appendix C, which defines the icing environment for certification, be adopted as an "interim rule" for a fixed period of time, pending verification of the raw data and statistical procedures used to construct the curves. The criteria of Appendix C were developed by NACA (now NASA) and have been used successfully by FAA for over 25 years for certification of fixed-wing aircraft in icing conditions. Special consideration for the limited altitude capability of most rotorcraft is incorporated in the rotorcraft icing rule. However, in response to requests from industry, the FAA is sponsoring a reassessment of the criteria in Appendix C. Initial results of that review do not substantiate a change. In view of this and the long history of successful application, it is inappropriate to apply Appendix C on an interim basis at this time. Should the final results of the reassessment indicate a change is appropriate, such a change would be considered at that time. This effectively accomplishes the intent of the commenter's recommendation without being committed to the effort and expense of further rulemaking at a specified future point when final results may not be available and a change may or may not be warranted. Accordingly, Appendix C is being incorporated in the rule as proposed.

Two commenters recommend that the proposed rule be revised to permit extrapolation, due to the great expense and low probability of encountering extreme conditions during natural icing tests. Considerable analysis to show compliance with extreme conditions has been successfully used in icing certification of fixed-wing aircraft. It may be considered by the certification authority for rotorcraft icing approvals, depending on the similarity of results obtained by flight tests in natural ice with results obtained by analysis. In general, the rules contain minimum safety criteria. Specific means of compliance are not usually specified, in order to allow applicants maximum flexibility in methods of showing compliance. The subject of extrapolation is more appropriately addressed in policy and guidance material and is, therefore, not addressed in these rules.

One commenter recommends a series of changes to Parts 91 and 135 dealing with operation of rotorcraft in icing. It is acknowledged that the operational rules should allow for operation of icing-certified rotorcraft in icing conditions. Notice 80–25 and this amendment deal primarily with certification criteria, and it is planned to address operational proposals in a subsequent notice as described in the background information to Notice 80–25. The commenter's recommendations relative to operation of rotorcraft in icing, therefore, are deferred until issuance of the operations notice.

One commenter states that the wording, "the rotorcraft must demonstrate", in §§ 27.1419(b) and 29.1419(b) gives the impression that the rotorcraft is capable of conducting a demonstration all by itself. The wording is clarified to eliminate this interpretation. This paragraph will begin with the words, "It must be demonstrated that * * *." Although this wording does not appear in comparable sections of Parts 23 and 25, this requirement for demonstration is included in the rotorcraft rules to make it clear that the applicable requirements must be shown by actual demonstration. The commenter also points out that the term "flight envelope" in airplane certification rules refers to the maneuvering and gust envelope. Accordingly, the first sentence of §§ 27.1419(b) and 29.1419(b) is clarified to specify that the icing capability of the rotorcraft must be demonstrated and that this applies within the altitude envelope of the rotorcraft. As noted previously, this altitude envelope must be operationally practical.

Two commenters recommend changes to §§ 27.773, 29.773, 27.1093, 29.1093, 27.1323, 29.1323, 27.1325 and 29.1325 of the certification rules dealing with ice protection. The recommended changes would make these sections compatible with the icing certification requirements of §§ 27.1419 and 29.1419. The icing criteria referenced in §§ 27.1419 and 29.1419 are appropriate for IFR pitot-static system protection, but would be an excessively stringent design criterion for VFR approval under §§ 27.1323, 29.1323, 27.1325, and 29.1325. The compatibility of §§ 27.773, 29.773, 27.1093, and 29.1093 will be addressed in subsequent notices.

One commenter expresses the opinion that the wording of proposed §§ 27.1419(a) and 29.1419(a) could restrict a manufacturer from installing any anti-icing equipment on a helicopter unless complete ice protection certification is obtained for the helicopter. Identical wording as contained in the present fixed wing rules does not restrict manufacturers from installing such equipment. Installing equipment on a "no-hazard" basis has been allowed, even if the installation did not result in an operational approval. Also, the wording proposed by the commenter impinges on operational considerations, while this rule deals with certification requirements. This comment, however, raises a valid issue and wording in §§ 27.1419(a) and 29.1419(a) is changed to more accurately reflect that these requirements apply to rotorcraft for which full certification in icing conditions is desired.

One commenter states that §§ 27.1419(c) and 29.1419(c) imply that "complete" flight testing is required in measured natural atmospheric icing conditions in addition to testing by one or more other methods. The commenter expresses the opinion that this requirement is unreasonable. The rules clearly allow compliance by a variety of methods, provided they include flight tests in measured natural conditions to validate results obtained elsewhere. There is no inference of "complete" flight testing in measured natural conditions in this rule. If complete flight testing were prescribed, there would be no benefit or need to include other methods. The amount of flight testing required in measured natural conditions versus other methods will depend to a large extent on the substantiating data provided by the applicant in each particular certification program. The icing certification rules prescribe minimum safety criteria and permit reasonable flexibility in meeting these requirements. The FAA is aware of the time and expense involved in attaining icing certification. Substantial research and developmental effort and funding have been invested by the FAA over the past several years to reduce the time and cost associated with icing certification, and considerable progress has been made toward this goal. This commenter also proposes revising §§ 27.1419(c) and 29.1419(c) to permit certification by one or more methods, including flight tests in natural conditions. This proposal is unacceptable as it would permit icing certification without flight testing in natural conditions. At our current level of technology, some flight tests in natural conditions are an essential, minimum safety requirement and are

necessary to validate results from other methods. In view of the foregoing considerations, the FAA disagrees that this requirement is unreasonable and this proposal is adopted without substantive change.

It is noted by one commenter that the proposed wording of §§ 27.1419(d) and 29.1419(d) is redundant in that rotors are included in the definition of airframe in Part 1. The FAA concurs and the words "and rotor systems" are deleted in the final rule.

Another commenter indicates that Subpart E presently contains all the icing requirements for the engine installation, and that the wording of the proposed §§ 27.1419(d) and 29.1419(d), which state "certain additional provisions of Subpart E of this part may be applicable", is subject to misinterpretation. The FAA concurs, and the revised wording suggested by the commenter is adopted. It is noted for clarification, however, that the revised wording does not preclude testing the engine installation for actual flight icing conditions that may present a hazard to engine operation, such as ingestion of ice shed from the rotorcraft.

One commenter recommends that the proposed § 27.1419 be written so that, if a small helicopter were to be approved in IFR or icing conditions, the total rotorcraft would be certificated under Part 29 as a transport category rotorcraft. Small helicopters have been successfully certified and operated in IFR conditions. Updated IFR certification rules for Part 27 rotorcraft are adopted as Appendix B of that part. The icing certification rules for Parts 27 and 29 rotorcraft are identical. However, to require small helicopters to comply with Part 29 transport category rules could impose rules which may be inappropriate and unnecessarily burdensome for small rotorcraft. Compliance with the IFR and icing rules of Part 27 would provide an adequate level of safety for small rotorcraft. Accordingly, proposed § 27.1419 is adopted without substantive change.

Economic Summary

The FAA conducted an evaluation of the economic impact of these regulatory changes. A copy of the evaluation has been placed in the docket. The findings of this evaluation are summarized below.

Applicability—Category A Performance Requirements

This change would require new design rotorcraft with 10 or more passenger seats to be multiengine and have category A performance in parts of the flight regime.

The FAA concludes that this change will impose no additional costs on the private sector for the following reasons:

1. Industry sources state there has not been a demand for new design single-engine rotorcraft configured to carry 10 or more passengers and none is expected in the future. Therefore, manufacturers have elected to develop only twin-engine designs for helicopters configured for 10 or more passengers. This rule formalizes current industry practice without restricting either operators or manufacturers since single-engine helicopters are being and will continue to be produced under current type certificates and modifications. Therefore, there will be no economic burden on either manufacturers or operators and passengers will realize additional safety benefits.

2. This change will require an increase in installed power from what is generally available in current models, but any helicopter type certificated under this change would be likely to have the necessary installed power whether or not the change is enacted. No helicopter could be type certificated under this changed rule before 1985, and Figure A shows that, because of the general industry trend toward increased installed power, new model helicopters will meet the requirement before a new helicopter could be type certificated under the change.

The FAA concludes that this rule change will have safety benefits which are difficult to quantify. A review of the available rotorcraft accident data shows that if category A performance had been available, it may have prevented nine past accidents. However, since the change applies only to new model rotorcraft, it would not prevent similar accidents of present model rotorcraft in the future.

Applicability—Other Changes

The removal of height-velocity as a limitation for under-10-passenger-seat applications will provide additional flexibility to helicopter operators at no cost. This change will increase the productivity of rotorcraft in such applications, but the value of that productivity increase is unquantifiable. In some cases, to comply with the current rule, operators have to reduce productivity of a flight by reducing payload or decreasing fuel. This change eliminates the need for such adjustment.

Removal of the 20,000-pound weight limit for category B could result in increased revenues for operators if current rotorcraft models are requalified at higher weights. FAA estimates the value of the revenue increases at $5 million to $13 million per year from 1982 through 1989 for a total of $62.7 million with a net present value of $43.0 million. New large helicopters will also have the benefit of this increased weight capability.

IFR Certification Standards (Parts 27 and 29)

The instrument flight rules (IFR) certification standards will impose no new costs on helicopter operators and manufacturers. IFR certification is currently administered through "Interim Standards" which contain similar requirements to those in this amendment. Moreover, the rule change permits helicopter modifiers and operators to obtain approvals for IFR operation, and approvals under the rule change will reduce the regulatory burden because they will be broader in scope than current SFAR 29 approvals, will be sought less frequently, and will include no recurrent requalification features. This rule change will also permit manufacturers of small helicopters to obtain IFR certification at a slightly lower cost than under the current "Interim Standard" due to relaxation of requirements in some areas. There is, therefore, only a small, unquantified economic benefit in adopting this rule.

Since this rule change essentially formalizes the regulatory mechanism for obtaining IFR certification, it is not expected to result in any quantifiable safety benefits.

Icing Certification Standards (Parts 27 and 29)

The icing certification standards in this amendment provide regulatory guidance on how to obtain an additional level of operational capability. A helicopter operator, therefore, will weigh this increased operations capability against increased production costs that will be factored into the purchase price of the aircraft. In the past, the FAA has developed special conditions to certify rotorcraft for icing conditions. Issuing special conditions is a time-consuming process. Proposed special conditions are published in the **Federal Register**, comments are analyzed, and then a final document is issued and published.

These amendments incorporate standards currently contained in special conditions into the FAR icing certification rules. If this icing rule were not adopted, those special conditions would continue to be administered for icing approval. Therefore, this rule will have only a positive economic impact for manufacturers, operators, and the FAA. A manufacturer will incur the

costs of obtaining icing approval only if it has determined that marketing benefits outweigh production costs and it wishes to have its helicopters certificated for operation in icing conditions. Both manufacturers and operators are likely to find icing certification advantageous from both a marketing and utilization standpoint because it would allow full use of the IFR capabilities of the rotorcraft.

Icing certification will allow increased utilization and will have an unquantifiable safety benefit. It will reduce the risk of accidents during flight in icing conditions. Because of increasing rotorcraft operations, exposure to these conditions may increase greatly in the future.

SUMMARY OF BENEFITS AND COSTS

[Millions of 1983 dollars]

	Benefits	Costs	Benefits/cost ratio
10 or more passengers, category A	Improved Safety	Negligible	Not applicable.
Remove height-velocity limitations	Increased productivity; Unquantifiable Revenue Benefit.	Negligible	Not applicable.
Remove 20,000 lb. limitation	$62.7 (7 years) (or $43.0 present value).	Negligible	Not applicable.
IFR certification	Reduced regulatory burden; Small, unquantifiable economic benefit.	Negligible	Not applicable.
Icing certification	Increased utilization resulting in increased operator revenues.	Negligible [1]	Not applicable.

[1] Cost negligible since icing certification is not mandatory. However, manufacturers' costs of icing certification will be offset by increased sales to operators wishing to utilize rotorcraft in icing conditions.

Regulatory Flexibility Determination

A final regulatory flexibility analysis of this amendment is not necessary since Notice 80-25 was issued before January 1, 1981. However, the overall impact of the amendments should not be adverse for small entities.

List of Subjects

14 CFR Part 1

Airmen, Flights, Balloons, Parachutes, Aircraft pilots, Pilots, Transportation, Agreements, Kites, Air safety, Safety, Aviation safety, Air transportation, Air carriers, Aircraft, Airports, Airplanes, Helicopters, Rotorcraft, Heliports.

14 CFR Parts 27 and 29

Air transportation; Aircraft, Aviation safety, Safety, Tires.

Adoption of the Amendment

Accordingly, Parts 1, 27, and 29 of the Federal Aviation Regulations (14 CFR Parts 1, 27, and 29) are amended as follows, effective March 2, 1983.

PART 1—DEFINITIONS AND ABBREVIATIONS

1. By amending § 1.1 by adding the following definitions after the definitions of "Category:"

§ 1.1 General definitions.

* * * * *

"Category A," with respect to transport category rotorcraft, means multiengine rotorcraft designed with engine and system isolation features specified in Part 29 and utilizing scheduled takeoff and landing operations under a critical engine failure concept which assures adequate designated surface area and adequate performance capability for continued safe flight in the event of engine failure.

"Category B," with respect to transport category rotorcraft, means single-engine or multiengine rotorcraft which do not fully meet all Category A standards. Category B rotorcraft have no guaranteed stay-up ability in the event of engine failure and unscheduled landing is assumed.

* * * * *

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

2. By removing the word "and" at the end of § 27.141(b)(1); by adding a new § 27.141(b)(3); and by adding a sentence to the end of § 27.141(c) to read as follows:

§ 27.141 General.

* * * * *

(b) * * *

(3) Sudden, complete control system failures specified in § 27.695 of this part; and

* * * * *

(c) * * * Requirements for helicopter instrument flight are contained in Appendix B of this part.

3. By adding a new § 27.1419 to read as follows:

§ 27.1419 Ice protection.

(a) To obtain certification for flight into icing conditions, compliance with this section must be shown.

(b) It must be demonstrated that the rotorcraft can be safely operated in the continuous maximun and intermittent. maximum icing conditions determined under Appendix C of Part 29 of this chapter within the rotorcraft altitude envelope. An analysis must be performed to establish, on the basis of the rotorcraft's operational needs, the adequacy of the ice protection system for the various components of the rotorcraft.

(c) In addition to the analysis and physical evaluation prescribed in paragraph (b) of this section, the effectiveness of the ice protection system and its components must be shown by flight tests of the rotorcraft or its components in measured natural atmospheric icing conditions and by one or more of the following tests as found necessary to determine the adequacy of the ice protection system:

(1) Laboratory dry air or simulated icing tests, or a combination of both, of the components or models of the components.

(2) Flight dry air tests of the ice protection system as a whole, or its individual components.

(3) Flight tests of the rotorcraft or its components in measured simulated icing conditions.

(d) The ice protection provisions of this section are considered to be applicable primarily to the airframe. Powerplant installation requirements are contained in Subpart E of this part.

(e) A means must be indentified or provided for determining the formation of ice on critical parts of the rotorcraft. Unless otherwise restricted, the means must be available for nighttime as well as daytime operation. The rotorcraft flight manual must describe the means of determining ice formation and must contain information necessary for safe operation of the rotorcraft in icing conditions.

4. By adding an Appendix B to Part 27 to read as follows:

Appendix B.—Airworthiness Criteria for Helicopter Instrument Flight

I. *General.* A normal category helicopter may not be type certificated for operation under the instrument flight rules (IFR) of this chapter unless it meets the design and installation requirements contained in this appendix.

II. *Definitions.* (a) V_{YI} means instrument climb speed, utilized instead of V_Y for compliance with the climb requirements for instrument flight.

(b) V_{NEI} means instrument flight never exceed speed, utilized instead of V_{NE} for compliance with maximum limit speed requirements for instrument flight.

(c) V_{MINI} means instrument flight minimum speed, utilized in complying with minimum limit speed requirements for instrument flight.

III. *Trim.* It must be possible to trim the cyclic, collective, and directional control forces to zero at all approved IFR airspeeds, power settings, and configurations appropriate to the type.

IV. *Static longitudinal stability.* (a) *General.* The helicopter must possess positive static longitudinal control force stability at critical combinations of weight and center of gravity at the conditions specified in paragraph IV (b) or (c) of this appendix, as appropriate. The stick force must vary with speed so that any substantial speed change results in a stick force clearly perceptible to the pilot. For single-pilot approval, the airspeed must return to within 10 percent of the trim speed when the control force is slowly released for each trim condition specified in paragraph IV(b) of the this appendix.

(b) *For single-pilot approval:*

(1) *Climb.* Stability must be shown in climb throughout the speed range 20 knots either side of trim with—

(i) The helicopter trimmed at V_{Y1};

(ii) Landing gear retracted (if retractable); and

(iii) Power required for limit climb rate (at least 1,000 fpm) at V_{Y1} or maximum continuous power, whichever is less.

(2) *Cruise.* Stability must be shown throughout the speed range from 0.7 to 1.1 V_H or V_{NE}, whichever is lower, not to exceed ±20 knots from trim with—

(i) The helicopter trimmed and power adjusted for level flight at 0.9 V_H or 0.9 V_{NE}, whichever is lower; and

(ii) Landing gear retracted (if retractable).

(3) *Slow cruise.* Stability must be shown throughout the speed range from 0.9 V_{MINI} to 1.3 V_{MINI} or 20 knots above trim speed, whichever is greater, with—

(i) the helicopter trimmed and power adjusted for level flight at 1.1 V_{MINI}; and

(ii) Landing gear retracted (if retractable).

(4) *Descent.* Stability must be shown throughout the speed range 20 knots either side of trim with—

(i) The helicopter trimmed at 0.8 V_H or 0.8 V_{NE} (or 0.8 V_{LE} for the landing gear extended case), whichever is lower;

(ii) Power required for 1,000 fpm descent at trim speed; and

(iii) Landing gear extended and retracted, if applicable.

(5) *Approach.* Stability must be shown throughout the speed range from 0.7 times the minimum recommended approach speed to 20 knots above the maximum recommended approach speed with—

(i) The helicopter trimmed at the recommended approach speed or speeds;

(ii) Landing gear extended and retracted, if applicable; and

(iii) Power required to maintain a 3° glide path and power required to maintain the steepest approach gradient for which approval is requested.

(c) Helicopters approved for a minimum crew of two pilots must comply with the provisions of paragraphs IV(b)(2) and IV(b)(5) of this appendix.

V. *Static lateral-directional stability.* (a) Static directional stability must be positive throughout the approved ranges of airspeed, power, and vertical speed. In straight, steady sideslips up to ±10° from trim, directional control position must increase in approximately constant proportion to angle of sideslip. At greater angles up to the maximum sideslip angle appropriate to the type, increased directional control position must produce increased angle of sideslip.

(b) During sideslips up to ±10° from trim throughout the approved ranges of airspeed, power, and vertical speed, there must be no negative dihedral stability perceptible to the pilot through lateral control motion or force. Longitudinal cyclic movement with sideslip must not be excessive.

VI. *Dynamic stability.* (a) For single-pilot approval—

(1) Any oscillation having a period of less than 5 seconds must damp to ½ amplitude in not more than one cycle.

(2) Any oscillation having a period of 5 seconds or more but less than 10 seconds must damp to ¼ amplitude in not more than two cycles.

(3) Any oscillation having a period of 10 seconds or more but less than 20 seconds must be damped.

(4) Any oscillation having a period of 20 seconds or more may not achieve double amplitude in less than 20 seconds.

(5) Any aperiodic response may not achieve double amplitude in less than 6 seconds.

(b) For helicopters approved with a minimum crew of two pilots—

(1) Any oscillation having a period of less than 5 seconds must damp to ¼ amplitude in not more than two cycles.

(2) Any oscillation having a period of 5 seconds or more but less than 10 seconds must be damped.

(3) Any oscillation having a period of 10 seconds or more may not achieve double amplitude in less than 10 seconds.

VII. *Stability augmentation system (SAS).* (a) If a SAS is used, the reliability of the SAS must be related to the effects of its failure. The occurrence of any failure condition which would prevent continued safe flight and landing must be extremely improbable. For any failure condition of the SAS which is not shown to be extremely improbable—

(1) The helicopter must be safely controllable and capable of prolonged instrument flight without undue pilot effort. Additional unrelated probable failures affecting the control system must be considered; and

(2) The flight characteristics requirements in Subpart B of Part 27 must be met throughout a practical flight envelope.

(b) The SAS must be designed so that it cannot create a hazardous deviation in flight path or produce hazardous loads on the helicopter during normal operation or in the event of malfunction or failure, assuming corrective action begins within an appropriate period of time. Where multiple systems are installed, subsequent malfunction conditions must be considered in sequence unless their occurrence is shown to be improbable.

VIII. *Equipment, systems, and installation.* The basic equipment and installation must comply with §§ 29.1303, 29.1431, and 29.1433 through Amendment 29-14, with the following exceptions and additions:

(a) *Flight and Navigation Instruments.* (1) A magnetic gyro-stablized direction indicator instead of a gyroscopic direction indicator required by § 29.1303(h); and

(2) A standby attitude indicator which meets the requirements of §§ 29.1303(g) (1) through (7) instead of a rate-of-turn indicator required by § 29.1303(g). For two-pilot configurations, one pilot's primary indicator may be designated for this purpose. If standby batteries are provided, they may be charged from the aircraft electrical system if adequate isolation is incorporated.

(b) *Miscellaneous requirements.* (1) Instrument systems and other systems essential for IFR flight that could be adversely affected by icing must be adequately protected when exposed to the continuous and intermittent maximum icing conditions defined in Appendix C of Part 29 of this chapter, whether or not the rotorcraft is certificated for operation in icing conditions.

(2) There must be means in the generating system to automatically de-energize and disconnect from the main bus any power source developing hazardous overvoltage.

(3) Each required flight instrument using a power supply (electric, vacuum, etc.) must have a visual means integral with the instrument to indicate the adequacy of the power being supplied.

(4) When multiple systems performing like functions are required, each system must be grouped, routed, and spaced so that physical separation between systems is provided to ensure that a single malfunction will not adversely affect more than one system.

(5) For systems that operate the required flight instruments at each pilot's station—

(i) Only the required flight instruments for the first pilot may be connected to that operating system;

(ii) Additional instruments, systems, or equipment may not be connected to an operating system for a second pilot unless provisions are made to ensure the continued normal functioning of the required instruments in the event of any malfunction of the additional instruments, systems, or equipment which is not shown to be extremely improbable;

(iii) The equipment, systems, and installations must be designed so that one display of the information essential to the safety of flight which is provided by the instruments will remain available to a pilot, without additional crewmember action, after any single failure or combination of failures that is not shown to be extremely improbable; and

(iv) For single-pilot configurations, instruments which require a static source must be provided with a means of selecting an alternate source and that source must be calibrated.

IX. *Rotorcraft Flight Manual.* A Rotorcraft Flight Manual or Rotorcraft Flight Manual IFR Supplement must be provided and must contain—

(a) *Limitations.* The approved IFR flight envelope, the IFR flightcrew composition, the revised kinds of operation, and the steepest

IFR precision approach gradient for which the helicopter is approved;

(b) *Procedures.* Required information for proper operation of IFR systems and the recommended procedures in the event of stability augmentation or electrical system failures; and

(c) *Performance.* If V_{Y1} differs from V_Y, climb performance at V_{Y1} and with maximum continuous power throughout the ranges of weight, altitude, and temperature for which approval is requested.

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

5. By revising § 29.1 to read as follows:

§ 29.1 Applicability.

(a) This Part prescribes airworthiness standards for the issue of type certificates, and changes to those certificates, for transport category rotorcraft.

(b) Transport category rotorcraft must be certificated in accordance with either the Category A or Category B requirements of this Part. A multiengine rotorcraft may be type certificated as both Category A and Category B with appropriate and different operating limitations for each category.

(c) Rotorcraft with a maximum weight greater than 20,000 pounds and 10 or more passenger seats must be type certificated as Category A rotorcraft.

(d) Rotorcraft with a maximum weight greater than 20,000 pounds and nine or less passenger seats may be type certificated as Category B rotorcraft provided the Category A requirements of Subparts C, D, E, and F of this Part are met.

(e) Rotorcraft with a maximum weight of 20,000 pounds or less but with 10 or more passenger seats may be type certificated as Category B rotorcraft provided the Category A requirements of §§ 29.67(a)(2), 29.79, 29.1517, and of Subparts C, D, E, and F of this Part are met.

(f) Rotorcraft with a maximum weight of 20,000 pounds or less and nine or less passenger seats may be type certificated as Category B rotorcraft.

(g) Each person who applies under Part 21 for a certificate or change described in paragraphs (a) through (f) of this section must show compliance with the applicable requirements of this Part.

6. By revising § 29.79(a) to read as follows:

§ 29.79 Limiting height-speed envelope.

(a) If there is any combination of height and forward speed (including hover) under which a safe landing cannot be made under the applicable power failure condition in paragraph (b) of this section, a limiting height-speed envelope must be established for—

(1) *Category A.* Combinations of weight, pressure altitude, and ambient temperature for which takeoff and landing are approved; and

(2) *Category B.*

(i) Altitude, from standard sea level conditions to the maximum altitude for which takeoff and landing are approved; and

(ii) Weight, from the maximum weight (at sea level) to the highest weight approved for takeoff and landing at each altitude. For helicopters, this weight need not exceed the highest weight allowing hovering out-of-ground-effect at each altitude.

* * * * *

7. By amending § 29.141 by removing the word "and" at the end of § 29.141(b)(1), adding a new § 29.141(b)(3), and adding a sentence to the end of § 29.141(c) to read as follows:

§ 29.141 General.

* * * * *

(b) * * *

(3) Sudden, complete control system failures specified in § 29.695 of this part; and

(c) * * * Requirements for helicopter instrument flight are contained in Appendix B of this Part.

§ 29.877 [Reserved]

8. By removing § 29.877 and marking it "Reserved."

9. By revising § 29.1321(b) to read as follows:

§ 29.1321 Arrangement and visibility.

* * * * *

(b) Each instrument necessary for safe operation, including the airspeed indicator, gyroscopic direction indicator, gyroscopic bank-and-pitch indicator, slip-skid indicator, altimeter, rate-of-climb indicator, rotor tachometers, and the indicator most representative of engine power, must be grouped and centered as nearly as practicable about the vertical plane of the pilot's forward vision. In addition, for rotorcraft approved for IFR flight—

(1) The instrument that most effectively indicates attitude must be on the panel in the top center position;

(2) The instrument that most effectively indicates direction of flight must be adjacent to and directly below the attitude instrument;

(3) The instrument that most effectively indicates airspeed must be adjacent to and to the left of the attitude instrument; and

(4) The instrument that most effectively indicates altitude or is most frequently utilized in control of altitude must be adjacent to and to the right of the attitude instrument.

* * * * *

10. By adding a new § 29.1419 to read as follows:

§ 29.1419 Ice protection.

(a) To obtain certification for flight into icing conditions, compliance with this section must be shown.

(b) It must be demonstrated that the rotorcraft can be safely operated in the continuous maximum and intermittent maximum icing conditions determined under Appendix C of this part within the rotorcraft altitude envelope. An analysis must be performed to establish, on the basis of the rotorcraft's operational needs, the adequacy of the ice protection system for the various components of the rotorcraft.

(c) In addition to the analysis and physical evaluation prescribed in paragraph (b) of this section, the effectiveness of the ice protection system and its components must be shown by flight tests of the rotorcraft or its components in measured natural atmospheric icing conditions and by one or more of the following tests as found necessary to determine the adequacy of the ice protection system:

(1) Laboratory dry air or simulated icing tests, or a combination of both, of the components or models of the components.

(2) Flight dry air tests of the ice protection system as a whole, or its individual components.

(3) Flight tests of the rotorcraft or its components in measured simulated icing conditions.

(d) The ice protection provisions of this section are considered to be applicable primarily to the airframe. Powerplant installation requirements are contained in Subpart E of this part.

(e) A means must be identified or provided for determining the formation of ice on critical parts of the rotorcraft. Unless otherwise restricted, the means must be available for nighttime as well as daytime operation. The rotorcraft flight manual must describe the means of determining ice formation and must contain information necessary for safe operation of the rotorcraft in icing conditions.

11. By revising § 29.1517 to read as follows:

§ 29.1517 Limiting height-speed envelope.

For Category A rotorcraft, if a range of heights exists at any speed, including zero, within which it is not possible to

make a safe landing following power failure, the range of heights and its variation with forward speed must be established, together with any other pertinent information, such as the kind of landing surface.

12. By amending § 29.1587 by removing the word "and" at the end of paragraph (b)(5); by redesignating (b)(6) as (b)(7), and by adding a new (b)(6) to read as follows:

§ 29.1587 Performance information.

* * * * *

(b) * * *

(6) The height-speed envelope except for rotorcraft incorporating this as an operating limitation; and

* * * * *

13. By adding an Appendix B to Part 29 to read as follows:

Appendix B.—Airworthiness Criteria for Helicopter Instrument Flight

I. *General.* A transport category helicopter may not be type certificated for operation under the instrument flight rules (IFR) of this chapter unless it meets the design and installation requirements contained in this appendix.

II. *Definitions.* (a) V_{Y1} means instrument climb speed, utilized instead of V_Y for compliance with the climb requirements for instrument flight.

(b) V_{NE1} means instrument flight never exceed speed, utilized instead of V_{NE} for compliance with maximum limit speed requirements for instrument flight.

(c) V_{MIN1} means instrument flight minimum speed, utilized in complying with minimum limit speed requirements for instrument flight.

III. *Trim.* It must be possible to trim the cyclic, collective, and directional control forces to zero at all approved IFR airspeeds, power settings, and configurations appropriate to the type.

IV. *Static longitudinal stability.* (a) *General.* The helicopter must possess positive static longitudinal control force stability at critical combinations of weight and center of gravity at the conditions specified in paragraphs IV (b) through (f) of this appendix. The stick force must vary with speed so that any substantial speed change results in a stick force clearly perceptible to the pilot. The airspeed must return to within 10 percent of the trim speed when the control force is slowly released for each trim condition specified in paragraphs IV (b) through (f) of this appendix.

(b) *Climb.* Stability must be shown in climb thoughout the speed range 20 knots either side of trim with—

(1) The helicopter trimmed at V_{Y1};

(2) Landing gear retracted (if retractable); and

(3) Power required for limit climb rate (at least 1,000 fpm) at V_{Y1} or maximum continuous power, whichever is less.

(c) *Cruise.* Stability must be shown throughout the speed range from 0.7 to 1.1 V_H or V_{NE1}, whichever is lower, not to exceed ±20 knots from trim with—

(1) The helicopter trimmed and power adjusted for level flight at 0.9 V_H or 0.9 V_{NE1}, whichever is lower; and

(2) Landing gear retracted (if retractable).

(d) *Slow cruise.* Stability must be shown throughout the speed range from 0.9 V_{MIN1} to 1.3 V_{MIN1} or 20 knots above trim speed, whichever is greater, with—

(1) The helicopter trimmed and power adjusted for level flight at 1.1 V_{MIN1}; and

(2) Landing gear retracted (if retractable).

(e) *Descent.* Stability must be shown throughout the speed range 20 knots either side of trim with—

(1) The helicopter trimmed at 0.8 V_H or 0.8 V_{NE1} (or 0.8 V_{LE} for the landing gear extended case), whichever is lower;

(2) Power required for 1,000 fpm descent at trim speed; and

(3) Landing gear extended and retracted, if applicable.

(f) *Approach.* Stability must be shown throughout the speed range from 0.7 times the minimum recommended approach speed to 20 knots above the maximum recommended approach speed with—

(1) The helicopter trimmed at the recommended approach speed or speeds;

(2) Landing gear extended and retracted, if applicable; and

(3) Power required to maintain a 3° glide path and power required to maintain the steepest approach gradient for which approval is requested.

V. *Static lateral-directional stability.* (a) Static directional stability must be positive throughout the approved ranges of airspeed, power, and vertical speed. In straight, steady sideslips up to ±10° from trim, directional control position must increase in approximately constant proportion to angle of sideslip. At greater angles up to the maximum sideslip angle appropriate to the type, increased directional control position must produce increased angle of sideslip.

(b) During sideslips up to ±10° from trim throughout the approved ranges of airspeed, power, and vertical speed there must be no negative dihedral stability perceptible to the pilot through lateral control motion or force. Longitudinal cycle movement with sideslip must not be excessive.

VI. *Dynamic stability.* (a) Any oscillation having a period of less than 5 seconds must damp to 1/2 amplitude in not more than one cycle.

(b) Any oscillation having a period of 5 seconds or more but less than 10 seconds must damp to 1/2 amplitude in not more than two cycles.

(c) Any oscillation having a period of 10 seconds or more but less than 20 seconds must be damped.

(d) Any oscillation having a period of 20 seconds or more may not achieve double amplitude in less than 20 seconds.

(e) Any aperiodic response may not achieve double amplitude in less than 9 seconds.

VII. *Stability augmentation system (SAS).* (a) If a SAS is used, the reliability of the SAS must be related to the effects of its failure. The occurrence of any failure condition which would prevent continued safe flight and landing must be extremely improbable. For any failure condition of the SAS which is not shown to be extremely improbable—

(1) The helicopter must be safely controllable and capable of prolonged instrument flight without undue pilot effort. Additional unrelated probable failures affecting the control system must be considered; and

(2) The flight characteristics requirements in Subpart B of Part 29 must be met throughout a practical flight envelope.

(b) The SAS must be designed so that it cannot create a hazardous deviation in flight path or produce hazardous loads on the helicopter during normal operation or in the event of malfunction or failure, assuming corrective action begins within an appropriate period of time. Where multiple systems are installed, subsequent malfunction conditions must be considered in sequence unless their occurrence is shown to be improbable.

VIII. *Equipment, systems, and installation.* The basic equipment and installation must comply with Subpart F of Part 29 through Amendment 29-14, with the following exceptions and additions:

(a) *Flight and navigation instruments.* (1) A magnetic gyro-stabilized direction indicator instead of the gyroscopic direction indicator required by § 29.1303(h); and

(2) A standby attitude indicator which meets the requirements of §§ 29.1303(g) (1) through (7), instead of a rate-of-turn indicator required by § 29.1303(g). If standby batteries are provided, they may be charged from the aircraft electrical system if adequate isolation is incorporated. The system must be designed so that the standby batteries may not be used for engine starting.

(b) *Miscellaneous requirements.* (1) Instrument systems and other systems essential for IFR flight that could be adversely affected by icing must be provided with adequate ice protection whether or not the rotorcraft is certificated for operation in icing conditions.

(2) There must be means in the generating system to automatically de-energize and disconnect from the main bus any power source developing hazardous overvoltage.

(3) Each required flight instrument using a power supply (electric, vacuum, etc.) must have a visual means integral with the instrument to indicate the adequacy of the power being supplied.

(4) When multiple systems performing like functions are required, each system must be grouped, routed, and spaced so that physical separation between systems is provided to ensure that a single malfunction will not adversely affect more than one system.

(5) For systems that operate the required flight instruments at each pilot's station—

(i) Only the required flight instruments for the first pilot may be connected to that operating system;

(ii) Additional instruments, systems, or equipment may not be connected to an operating system for a second pilot unless provisions are made to ensure the continued normal functioning of the required instruments in the event of any malfunction of the additional instruments, systems, or equipment which is not shown to be extremely improbable;

(iii) The equipment, systems, and installations must be designed so that one display of the information essential to the safety of flight which is provided by the instruments will remain available to a pilot, without additional crew-member action, after any single failure or combination of failures that is not shown to be extremely improbable; and

(iv) For single-pilot configurations, instruments which require a static source must be provided with a means of selecting an alternate source and that source must be calibrated.

IX. *Rotorcraft Flight Manual.* A Rotorcraft Flight Manual or Rotorcraft Flight Manual IFR Supplement must be provided and must contain—

(a) *Limitations.* The approved IFR flight envelope, the IFR flightcrew composition, the revised kinds of operation, and the steepest IFR precision approach gradient for which the helicopter is approved;

(b) *Procedures.* Required information for proper operation of IFR systems and the recommended procedures in the event of stability augmentation or electrical system failures; and

(c) *Performance.* If V_{YI} differs from V_Y, climb performance at V_{YI} and with maximum continuous power throughout the ranges of weight, altitude, and temperature for which approval is requested.

14. By adding an Appendix C to Part 29 to read as follows:

Appendix C

(a) *Continuous maximum icing.* The maximum continuous intensity of atmospheric icing conditions (continuous maximum icing) is defined by the variables of the cloud liquid water content, the mean effective diameter of the cloud droplets, the ambient air temperature, and the interrelationship of these three variables as shown in Figure 1 of this appendix. The limiting icing envelope in terms of altitude and temperature is given in Figure 2 of this appendix. The interrelationship of cloud liquid water content with drop diameter and altitude is determined from Figures 1 and 2. The cloud liquid water content for continuous maximum icing conditions of a horizontal extent, other than 17.4 nautical miles, is determined by the value of liquid water content of Figure 1, multiplied by the appropriate factor from Figure 3 of this appendix.

(b) *Intermittent maximum icing.* The intermittent maximum intensity of atmospheric icing conditions (intermittent maximum icing) is defined by the variables of the cloud liquid water content, the mean effective diameter of the cloud droplets, the ambient air temperature, and the interrelationship of these three variables as shown in Figure 4 of this appendix. The limiting icing envelope in terms of altitude and temperature is given in Figure 5 of this appendix. The interrelationship of cloud liquid water content with drop diameter and altitude is determined from Figures 4 and 5. The cloud liquid water content for intermittent maximum icing conditions of a horizontal extent, other than 2.6 nautical miles, is determined by the value of cloud liquid water content of Figure 4 multiplied by the appropriate factor in Figure 6 of this appendix.

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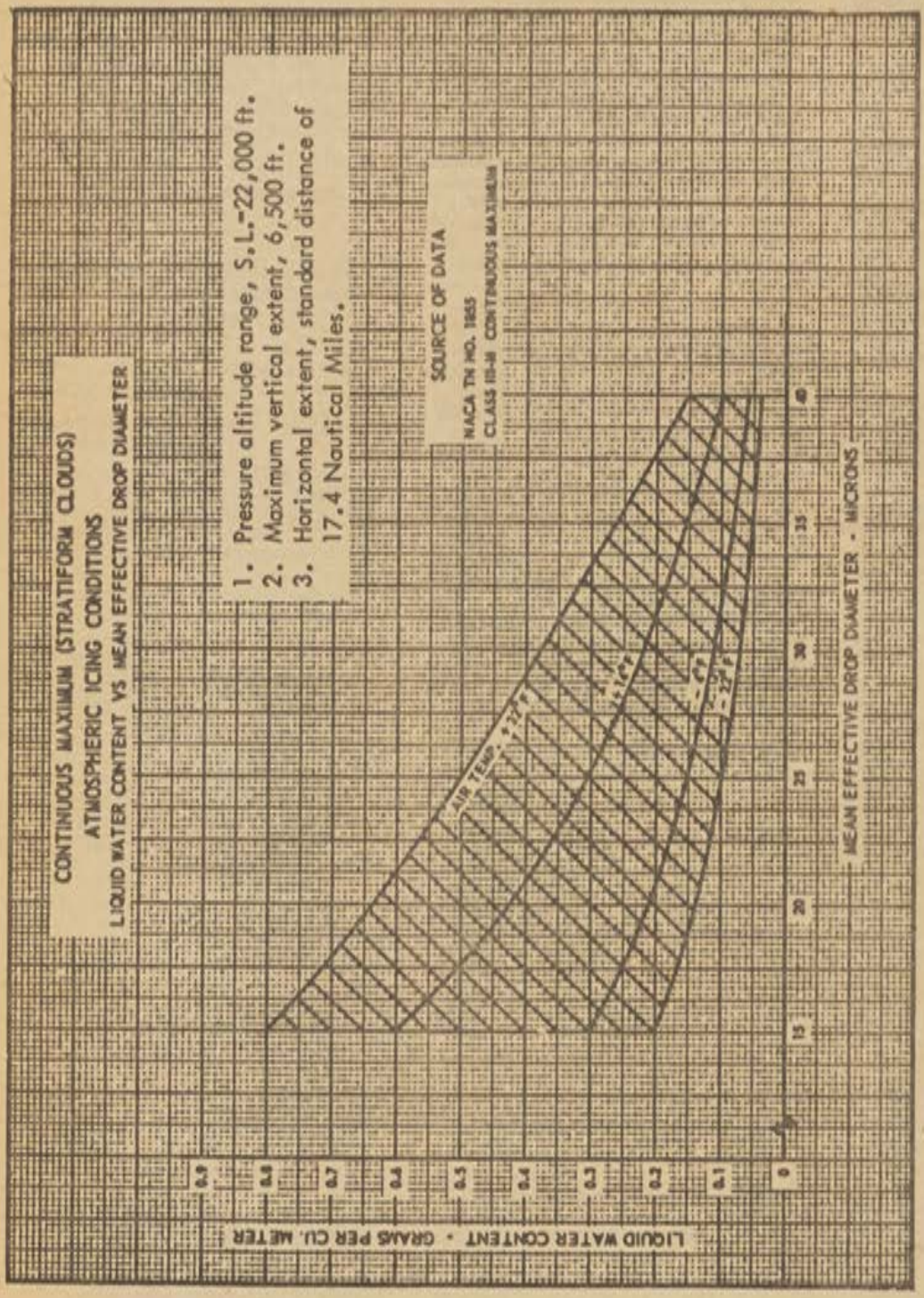
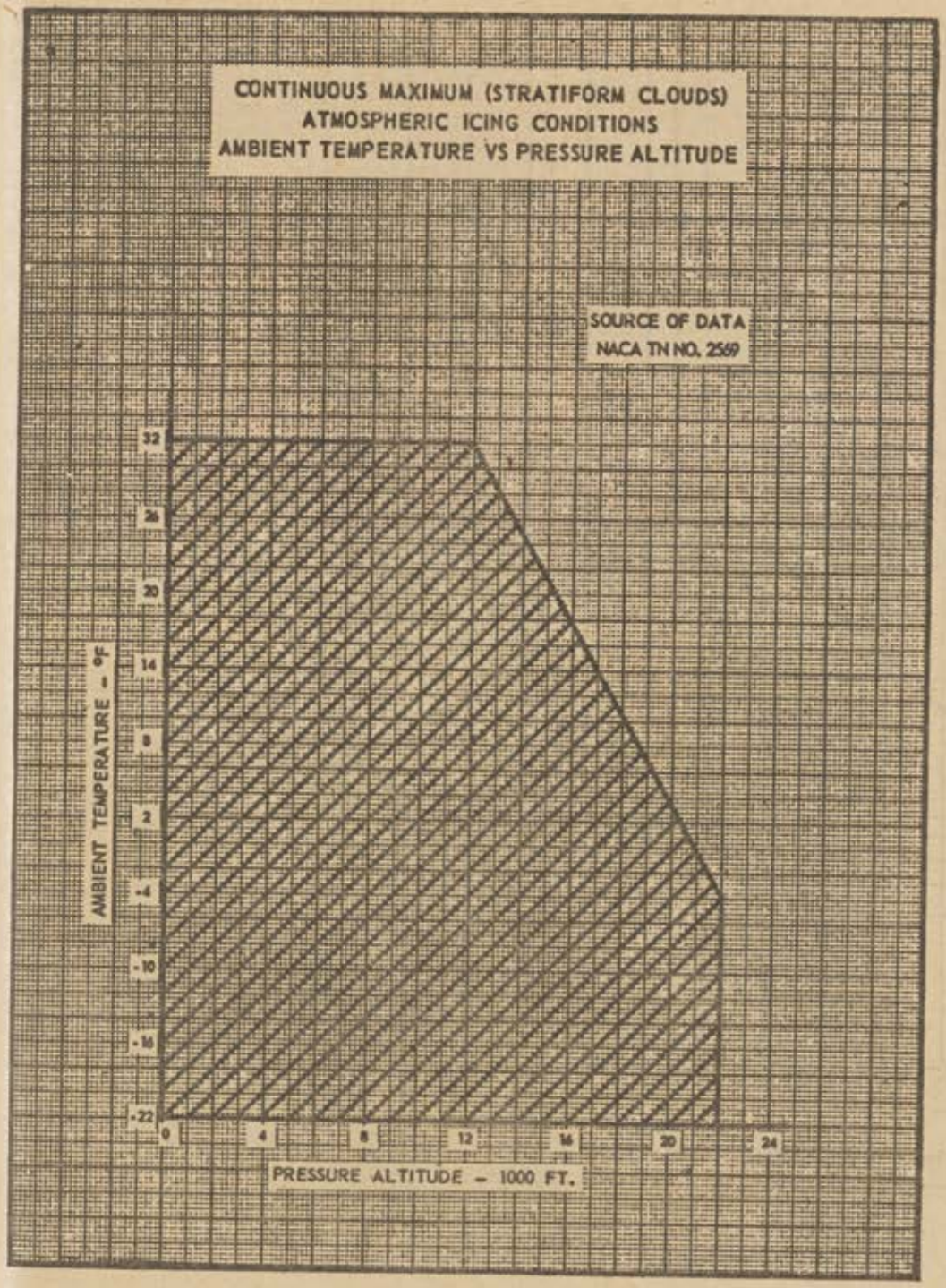
APPENDIX C

FIGURE 1

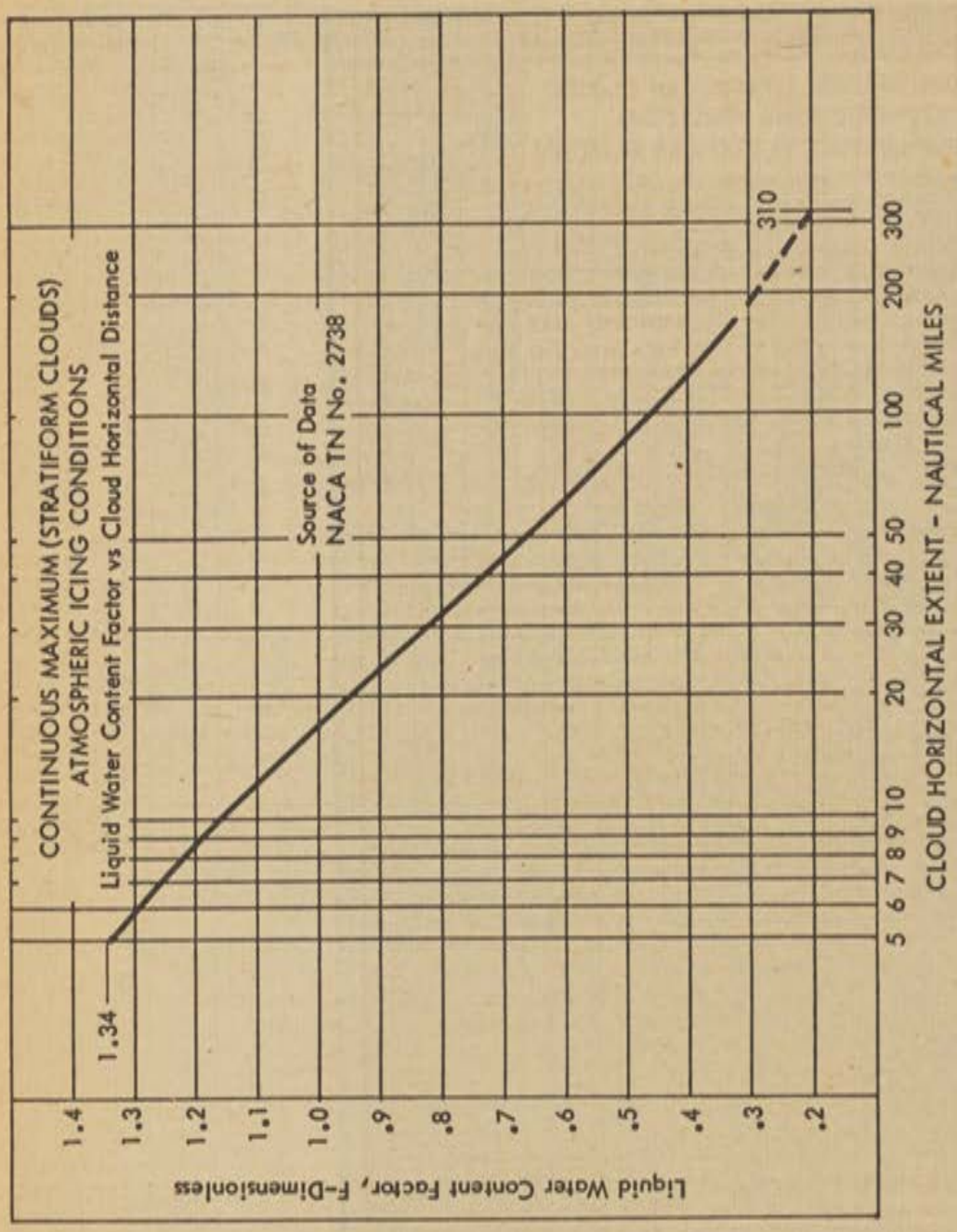


APPENDIX C
FIGURE 2



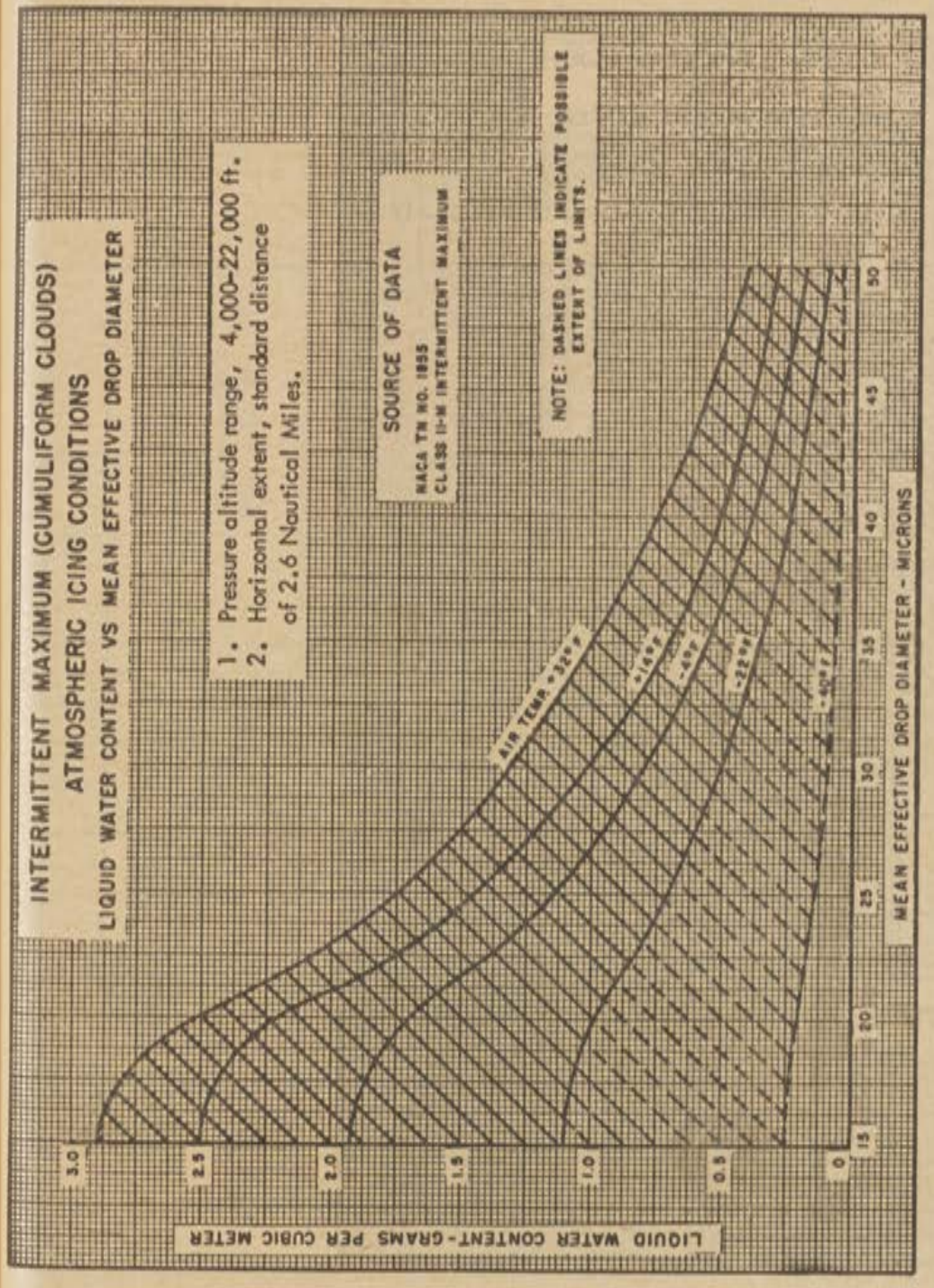
APPENDIX C

FIGURE 3



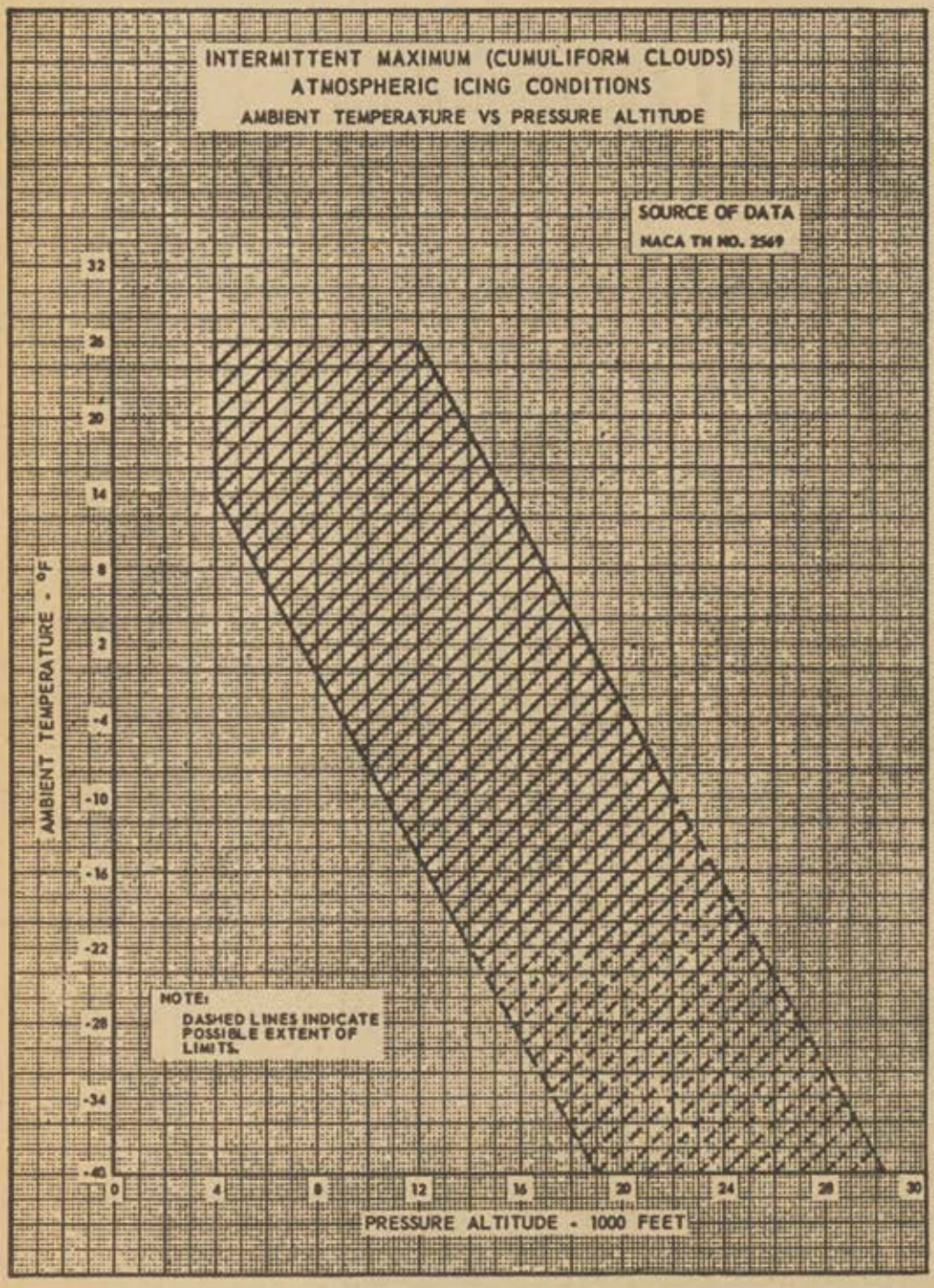
APPENDIX C

FIGURE 4



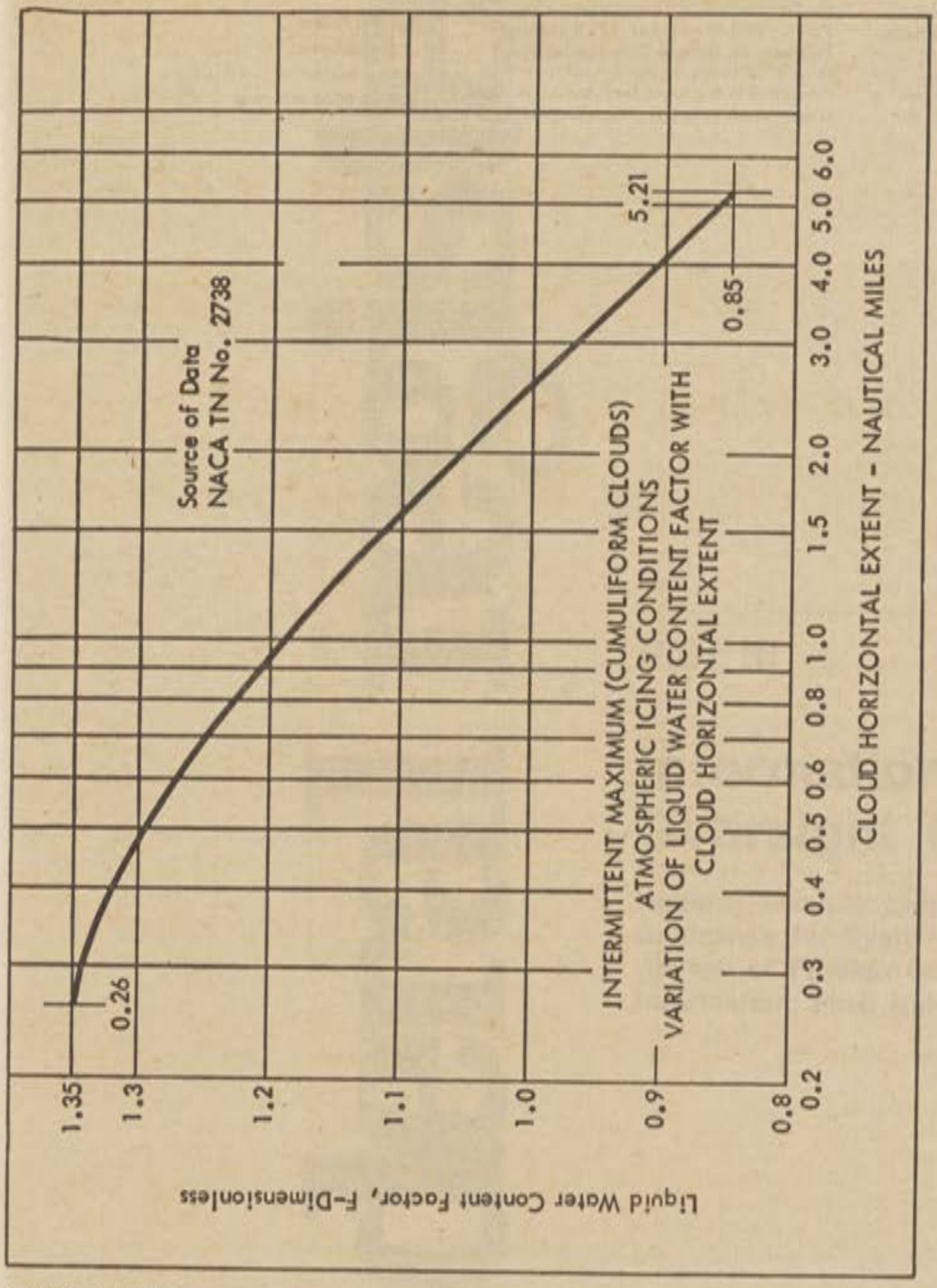
APPENDIX C

FIGURE 5



APPENDIX C

FIGURE 6



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(Sec. 313(a), 601, 603, and 604 Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, and 1424); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c))

Note.—The FAA has determined that the benefits of this amendment, in providing an increased level of safety to passengers traveling in rotorcraft while at the same time recognizing and providing for the unique qualities and capabilities of rotorcraft, far outweigh the burdens and that this amendment: (1) Involves a regulation which is not a major rule under Executive Order 12291; and (2) is not a significant rule under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A final regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

Issued in Washington, D.C., on January 6, 1983.

J. Lynn Helms,

Administrator.

[FR Doc. 83-2510 Filed 1-30-83; 8:45 am]

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federal register

Monday
January 31, 1983

Part III

Information Security Oversight Office

National Security Information; General Guidelines for Systematic Declassification Review of Foreign Government Information; Final Rule

INFORMATION SECURITY OVERSIGHT OFFICE

32 CFR Part 2002

National Security Information; General Guidelines for Systematic Declassification Review of Foreign Government Information

AGENCY: Information Security Oversight Office (ISOO).

ACTION: Final rule.

SUMMARY: The Information Security Oversight Office is revising its guideline which relate to the systematic declassification review of foreign government information. These guidelines are issued pursuant to the provisions of Section 3.3 of Executive Order 12356, which superseded Executive Order 12065. The Executive Order prescribes a uniform information security system; it also requires the establishment of guidelines for the systematic declassification review of certain information. The purpose of these guidelines is to assist in implementing Executive Order 12356.

EFFECTIVE DATE: January 31, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Garfinkel, Director, ISOO, Telephone: 202-535-7251.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 2002

Archives and records, classified information, Executive orders, Information, Intelligence, National defense, National security information, Presidential documents, Security information.

Title 32 of the Code of Federal Regulations, Part 2002, is revised as follows:

PART 2002—GENERAL GUIDELINES FOR SYSTEMATIC DECLASSIFICATION REVIEW OF FOREIGN GOVERNMENT INFORMATION

Sec.

Authority: Sec. 3.3, E.O. 12356, 47 FR 14874, April 6, 1982.

§ 2002.1 Purpose.

These general guidelines for the systematic declassification review of foreign government information have been developed in accordance with the provisions of Section 3.3 of Executive Order 12356, "National Security Information," and Section 2001.31 of Information Security Oversight Office Directive No. 1. All foreign government information that has been incorporated into the permanently valuable records of the United States Government and that has been accessioned into the National Archives of the United States shall be systematically reviewed for declassification by the Archivist of the United States. Declassification reviews shall be conducted in accordance with the provisions of these general guidelines or, if available, in accordance with specific systematic review guidelines for foreign government information provided by the agency heads who have declassification authority over that information. All foreign government information (a) not identified in § 2002.6 of these general guidelines or in specific agency guidelines as requiring item-by-item declassification review and final determination by an agency declassification authority, and (b) for which a prior declassification date has not been established, shall be declassified as that information becomes thirty years old.

§ 2002.2 Definition.

"Foreign government information" as used in these guidelines means:

(a) Information provided by a foreign government or governments, an international organization of governments, or any element thereof with the expectation, expressed or implied, that the information, the source of the information, or both, are to be held in confidence; or

(b) Information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence.

§ 2002.3 Scope.

(a) These guidelines apply to foreign government information that has been received or classified by the United States Government or its agents, and has been incorporated into records determined by the Archivist of the United States to have permanent value.

(b) Atomic energy information (including information originated prior to 1947 and not marked as such; information received from the United Kingdom or Canada marked "Atomic," or information received from NATO marked "Atomal") that is defined and identified as "Restricted Data" or "Formerly Restricted Data" in Sections 11y and 142d of the Atomic Energy Act of 1954, as amended, is outside the scope of these guidelines. Such information is not subject to systematic review and may not be automatically downgraded or declassified. Any document containing information within the definition of "Restricted Data" or "Formerly Restricted Data" that is not so marked shall be referred to the Department of Energy Office of Classification for review and appropriate marking, except for licensing and related regulatory matters which shall be referred to the Division of Security, U.S. Nuclear Regulatory Commission.

§ 2002.4 Responsibilities.

(a) Foreign government information transferred to the General Services Administration for accession into the National Archives of the United States shall be reviewed by the Archivist of the United States for declassification in accordance with Executive Order 12356, the directives of the Information Security Oversight Office, these general guidelines, and any specific systematic declassification guidelines provided by the agency with declassification authority over the information.

(b) Accessioned foreign government information in file series concerning intelligence activities (including special activities), or intelligence sources or methods created after 1945, and cryptology records created after 1945, shall be subject to review by the Archivist for declassification as it becomes 50 years old. All other accessioned foreign government information shall be subject to review by the Archivist for declassification as it becomes 30 years old.

(c) Agency heads who have declassjfication jurisidiction over permanently valuable foreign government information in agency records not yet accessioned into the National Archives of the United States are encouraged to conduct systematic declassification reviews of it in accordance with the time limits specified in paragraph (b) of this section. These reviews shall comply with the provisions of Executive Order 12356, the directives of the Information Security Oversight Office, these general guidelines, and specific agency systematic review guidelines that have been issued in consultation with the Archivist of the United States and the ISOO Director.

(d) Foreign government information falling within any of the categories listed in § 2002.6 of these guidelines shall be declassified or downgraded only upon specific authorization of the agency that has declassification authority over it. Such information shall be referred to the responsible agency(ies) for review. Information so referred shall remain classified until the responsible agency(ies) has declassified it. If the responsible agency cannot be readily identified from the document or material, referral shall be made in accordance with § 2002.7 of these guidelines.

(e) When required, the agency having declassification authority over the information shall consult with foreign governments concerning its proposed declassification.

§ 2002.5 Effect of publication.

(a) Foreign government information shall be considered declassified when published in an unclassified United States Government executive branch publication (e.g., the *Foreign Relations of the United States* series) or when cleared for publication by United States Government executive branch officials authorized to declassify the information; or if officially published as unclassified by the foreign government(s) or international organization(s) of governments that furnished the information unless the fact of the U.S. Government's possession of the information requires continued protection.

(b) The unofficial publication, in the United States or abroad, of foreign government information contained in classified United States or foreign documents does not in or of itself constitute or permit the declassification of such information. Although prior unofficial publication is a factor to be considered in the systematic review process, there may be valid reasons for continued protection of the information which could preclude its declassification. In particular, the classification status of foreign government information which concerns or derives from intelligence activities (including special activities), intelligence sources or methods shall not be affected by any unofficial publication of identical or related information. The final declassification determination shall be made by the agency or agencies having declassification authority over it.

§ 2002.6 Categories requiring item-by-item review.

Foreign government information falling into the following categories require item-by-item review for declassification by agencies having declassification authority over it.

(a) Information exempted from declassification under any joint arrangement evidenced by an exchange of letters, memorandum of understanding, or other written record, with the foreign government or international organization of governments, or element(s) thereof, that furnished the information. Questions concerning the existence or applicability of such arrangements shall be referred to the agency or agencies having declassification authority over the records under review.

(b) Information related to the safeguarding of nuclear materials or facilities, foreign and domestic, including but not necessarily limited to vulnerabilities and vulnerability assessments of nuclear facilities and Special Nuclear Material.

(c) Nuclear arms control information (see also paragraph (k) of this section).

(d) Information regarding foreign nuclear programs (other than "Restricted Data" and "Formerly Restricted Data"), such as:

(1) Nuclear weapons testing.

(2) Nuclear weapons storage and stockpile.

(3) Nuclear weapons effects, hardness, and vulnerability.

(4) Nuclear weapons safety.

(5) Cooperation in nuclear programs including, but not limited to, peaceful and military applications of nuclear energy.

(6) Exploration, production and import of uranium and thorium from foreign countries.

(e) Information concerning intelligence activities (including special activities) or intelligence or counterintelligence sources or methods including but not limited to intelligence, counterintelligence and covert action programs, plans, policies, operations, or assessments; or which would reveal or identify:

(1) Any present, past or prospective undercover personnel, installation, unit, or clandestine human agent, of the United States or a foreign government;

(2) Any present, past or prospective method, procedure, mode, technique or requirement used or being developed by the United States or by foreign governments, individually or in combination to produce, acquire, transmit, analyze, correlate, assess, evaluate or process intelligence or counterintelligence, or to support an intelligence or counterintelligence source, operation, or activity;

(3) The present, past or proposed existence of any joint United States and foreign government intelligence, counterintelligence, or covert action activity or facility, or the nature thereof. (For guidance on protecting United States foreign intelligence liaison relationships, see Director of Central Intelligence Directive "Security Classification Guidance and Foreign Security Services," effective January 18, 1982.)

(f) Information that could result in or lead to actions which would place an individual in jeopardy attributable to disclosure of the information, including but not limited to:

(1) Information identifying any individual or organization as a confidential source of intelligence or counterintelligence.

(2) Information revealing the identity of an intelligence or covert action agent or agents.

(3) Information identifying any individual or organization used to develop or support intelligence, counterintelligence, or covert action agents, sources or activities.

(g) Information about foreign individuals, organizations or events which if disclosed, could be expected to:

(1) Adversely affect a foreign country's or international organization's present or future relations with the United States.

(2) Adversely affect present or future confidential exchanges beween the United States and any foreign government or international organization of governments.

(h) Information related to plans (whether executed or not, whether presented in whole or in part), programs, operations, negotiations, and assessments shared by one or several foreign governments with the United States, including but not limited to those involving the territory, political regime or government of another country, and which if disclosed could be expected to adversely affect the conduct of U.S. foreign policy or the conduct of another country's foreign policy with respect to a third country or countries. This item would include contigency plans, plans for covert political, military or paramilitary activities or operations by a foreign government acting alone or jointly with the United States Government, and positions or actions taken by a foreign government alone or jointly with the United States concerning border disputes or other territorial issues.

(i) Information concerning arrangements with respect to foreign basing of cryptologic operations and/or foreign policy considerations relating thereto.

(j) Scientific information such as that concerning space, energy, climatology, communications, maritime, undersea, and polar projects, the disclosure of which could be expected to adversely affect current and/or future exchanges of such information between the United States and any foreign governments or international organizations of governments.

(k) Information on foreign policy aspects of nuclear matters, the disclosure of which could be expected to adversely affect cooperation between one or more foreign governments and the United States Government.

(l) Information concerning physical security arrangements, plans or equipment for safeguarding United States Government embassies, missions or facilities abroad, the disclosure of which could reasonably be expected to increase the vulnerability of such facilities to penetration, attack, take-over, and the like.

(m) Nuclear propulsion information.

(n) Information concerning the establishment, operation, and support of nuclear detection systems.

(o) Information concerning or revealing military or paramilitary escape, evasion, cover or deception plans, procedures, and techniques, whether executed or not.

(p) Information which could adversely affect the current or future usefullness of military defense policies, programs, weapons systems, operations, or plans.

(q) Information concerning research, development, testing and evaluation of chemical and biological weapons and defense systems; specific identification of chemical and biological agents and munitions; and chemical and biological warfare plans.

(r) Technical information concerning weapons systems and military equipment that reveals the capabilities, limitations, or vulnerabilities of such systems, or equipment that could be exploited to destroy, counter, render ineffective or neutralize such weapons or equipment.

(s) Cryptologic information, including cryptologic sources and methods, currently in use. This includes information concerning or revealing the processes, techniques, operations, and scope of signals intelligence comprising communications intelligence, electronics intelligence, and telemetry intelligence, the crytosecurity and emission security components of communications security, and the communications portion of cover and deception plans.

(t) Information concerning electronic warfare (electronic warfare support measures, electronic counter-countermeasures) or related activities, including but not necessarily limited to:

(1) Nomenclature, functions, technical characteristics or descriptions of communications and electronic equipment, its employment/development, and its association with weapoins systems or military operations.

(2) The processes, techniques, operations or scope of activities involved in the acquisition, analysis and evaluation of such information, and the degree of success achieved by the above processes, techniques, operations or activities.

(u) Present, past or proposed protective intelligence information relating to the sources, plans, techniques, equipment and methods used in carrying out assigned duties of protecting United States Government officials or other protectees abroad and foreign officials while in the United States or United States possessions. This includes information concerning the identification of witnesses, informants and persons suspected of being dangerous to persons under protection.

(v) Information on deposits of foreign official institutions in United States banks and on foreign official institutions' holdings, purchases and sales of long-term marketable securities in the United States.

(w) Information concerning economic and policy studies and sensitive assessments or analyses of economic conditions, policies or activities of foreign countries or international organizations of governments received through the Multilateral Development Banks and Funds or through the International Monetary Fund (IMF) and the Organization for Economic Cooperation and Development (OECD).

(x) Information described in § 2002.6 (a) through (w) contained in correspondence, transcripts, memoranda of conversation, or minutes of meetings between the President of the United States or the Vice President of the United States and foreign government officials.

(y) Information described in § 2002.6 (a) through (w) contained in documents originated by or sent to the Assistant to the President for National Security Affairs, his Deputy, members of the National Security Council staff, or any other person on the White House or the Executive Office of the President staffs performing national security functions.

(z) Federal agency originated documents bearing Presidential, National Security Council, or White House or Executive Office of the President staffs' comments relating to categories of information described in § 2002.6 (a) through (w).

(aa) Information as described in § 2002.6 (a) through (w) contained in correspondence to or from the President or the Vice President, including background briefing memoranda and talking points for meetings between the President or the Vice President and foreign government officials, and discussions of the timing and purposes of such meetings.

(bb) Information as described in § 2002.6 (a) through (w) contained in agency message traffic originated by White House or Executive Office of the President staff members but sent through agency communication networks.

§ 2002.7 Referral and decision.

(a) When the identity of the agencies having declassification authority over foreign government information is not apparent to the agency holding the information, or when reviewing officials do not possess the requisite expertise, the information shall be referred for review and a declassification determination as follows:

(1) Categories 2002.6 (b) through (d), Department of Energy or Nuclear Regulatory Commission (as appropriate).

(2) Categories 2002.6 (e) and (f), Central Intelligence Agency.

(3) Categories 2002.6 (g) through (l), Department of State.

(4) Categories 2002.6 (m) through (t), Department of Defense.

(5) Categories 2002.6 (u) and (w), Department of the Treasury.

(6) Categories 2002.6 (x) through (bb), National Security Council.

(b) Referrals to agencies shall include copies of the documents containing the foreign government information. Agencies shall review the referred documents and promptly notify the Archivist of the United States of the declassification determination. Forwarded copies of the documents shall be marked to reflect any downgrading or declassification action and shall be returned to the National Archives.

§ 2002.8 Downgrading.

Foreign government information classified "Top Secret" may be downgraded to "Secret" after 30 years unless the agency with declassification authority over it determines on its own, or after consultation, as appropriate, with the foreign government or international organization of governments which furnished the information, that it requires continued protection at the "Top Secret" level.

Dated: January 27, 1983.

Steven Garfinkel,

Director, Information Security Oversight Office.

[FR Doc. 83-2614 Filed 1-28-83; 8:45 am]

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January 31, 1983

Part IV

Department of Transportation

Office of the Secretary

Construction-Differential Subsidy Repayment; Total Repayment Policy; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

46 CFR Part 276

[Docket No. 78; Notice No. 4]

Construction-Differential Subsidy Repayment; Total Repayment Policy

AGENCY: Department of Transportation (DOT), Office of the Secretary (OST).

ACTION: Notice of proposed rulemaking

SUMMARY: This notice proposes to amend 46 CFR Part 276 which sets forth the Department's policy in considering requests for repayment of construction-differential subsidy (CDS), as authorized under the provisions of the Merchant Marine Act of 1936, as amended. The proposed amendments are necessary to facilitate CDS payback approvals and, thereby, encourage the development of an efficient and competitive U.S. flag merchant marine by minimizing government obstacles to the marketplace decisions of vessel operators. The rule, as proposed herein, would apply to all tanker vessels. However, comment is also invited on limiting the rule to tankers of at least 100,000 deadweight tons (DWT) or some lower weight.

DATES: Comments are invited on this notice until April 1, 1983.

ADDRESS: Comments should be submitted to the Docket Clerk, Room 10421, Office of the Secretary, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Warren Dean, Deputy Assistant General Counsel for International Law, (202) 426–2972, or W. Danforth Walker, Office of the Assistant Secretary for Policy and International Affairs, (202) 426–4382, Department of Transportation, 400 Seventh Street, S.W. Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION:

Background

Section 27 of the Merchant Marine Act of 1920 (the Jones Act) (46 U.S.C. 883) provides that all cargo transported in the domestic trade, defined as trade between points in the United States, must be carried on vessels built in the United States, documented under United States law and owned by U.S. citizens.

U.S. vessels operating in the foreign commerce of the United States do not operate under protective legislation such as the Jones Act. Since the construction and operating costs are lower for foreign flag vessels than for comparable U.S. flag vessels, foreign ships are able to compete more successfully in foreign commerce than their U.S. counterparts. Recognizing the economic dilemma of U.S.-built ships operating in foreign commerce, Congress authorized the payment of a construction differential subsidy (CDS) under Title V of the Merchant Marine Act (the Act) (46 U.S.C. 1151 *et seq.*) exclusively for ships to be built in U.S. ship yards and operated in foreign commerce, and an operating differential subsidy (ODS) under Title VI of the Act (46 U.S.C. 1171) for U.S flag vessels manned by U.S citizens and operated in accordance with U.S. safety standards. Under the CDS program, the Secretary of Transportation, through the Maritime Administration (MARAD), may pay as much as half of the construction costs of vessels used in the U.S. foreign trade. There is no correspondent subsidy program for vessels constructed by U.S. owners exclusively for use in the domestic trade. Vessels constructed with CDS are legally prevented by section 506 of the Act (46 U.S.C. 1156) from operating in the domestic trade with certain exceptions. Those exceptions are: (1) CDS vessels may sail in the domestic trade on the first or last leg of an overseas voyage; and (2) MARAD may consent to the operation of a CDS vessel in the domestic trade for up to six months in any twelve month period whenever MARAD determines "that such transfer is necessary or appropriate to carry out the purposes of the chapter." To take advantage of the second exception, the vessel owner must pay an amount which bears the same proportion to the CDS as the six month period bears to the entire economic life of the vessel. With respect to a tanker or other liquid bulk carrier, an economic life of 20 years is applicable pursuant to Section 9 of Pub. L. 86–318 (74 Stat. 216). Domestic trading restrictions lapse at the end of the vessel's statutory life.

Despite the governmental programs offering CDS and ODS to U.S. vessel owners, U.S. flag tankers operating in the foreign trade have not been financially successful, on the whole. The decline in Middle East oil production, in addition to an oversupply of tankers built during the same period, has been financially devastating for the world tanker market. The domestic market, however, has not fared as poorly. Indeed, with the opening in 1977 of the Trans-Alaska Pipeline System, the demand for U.S. flag tanker tonnage has increased and that demand has not been completely met by the existing Jones Act fleet.

To alleviate the shortage of suitable Jones Act tanker vessels, CDS-built vessels have been allowed, under section 506 of the Act, to enter the trade on a six month basis after repaying the subsidy on a *pro rata* basis. Since 1978, MARAD has approved over 30 such applications for tanker service in the Alaska oil trade. However, because of the limited duration and availability of the temporary waivers and the depressed market conditions confronting tankers in the foreign trade, several CDS owners (predominantly those owning very large crude carriers (VLCC's)) have applied for permission to enter the domestic market on a permanent basis in exchange for the total repayment of any unamortized CDS received plus interest.

History of CDS Litigation

Prior to 1978, requests for repayment were handled on an *ad hoc* basis. No hearings were held on these requests and notice of the final determinations was not given to the public. However, after MARAD admitted the VLCC "stuyvesant" to the domestic trade, competitors in that trade brought suit challenging MARAD's action. In *Shell Oil* v *Kreps*, 445 F. Supp. 1128 (D.D.C. 1977), MARAD's authority to grant permanent release from the Jones Act domestic trading restrictions in exchange for full CDS repayment was upheld. The District Court, however, further held the MARAD action in admitting the "Stuyvesant," without an accompanying economic analysis, to be an abuse of discretion. The court also urged MARAD to establish guidelines and procedures that would be applicable to CDS repayment and permanent waiver of domestic trading restrictions in order to ensure a fair opportunity for public and industry comment to be heard and to ensure equal treatment for applicants.

On appeal, the U.S. Court of Appeals for the District of Columbia reversed the District Court on the issue of MARAD's authority to accept CDS repayment, but did not reach the second issue. *Alaska Bulk Carriers, Inc.* v. *Kreps*, 595 F. 2d 814 (D.C. Cir. 1979). In *Seatrain Shipbuilding Corp.* v. *Shell Oil Co.*, 444 U.S. 572 (1980), the Supreme Court reversed and remanded the decision of the Court of Appeals in *Alaska Bulk Carriers, supra*, on the ground that the Secretary's broad contracting powers and discretion to administer the Act encompass the authority to grant permanent release from the restriction associated with the domestic trade in exchange for the repayment of CDS plus interest.

In 1978, MARAD had issued a notice of proposed rulemaking (43 FR 51045; November 2, 1978) that would have added a new provision to its regulations (46 CFR 276.3) describing its policy for considering all applioations for the total repayment of CDS in exchange for the removal of domestic trading restrictions. At the time the proposal was published, the "Stuyvesant" litigation still had not been resolved. However, once the Secretary's discretion to allow permanent release was affirmed by the Supreme Court, the proposal was republished for comment in May 1980 (45 FR 29610; May 5, 1980). The only provision new to the republished version was that total CDS repayment would be "plus interest." A sixty day comment period was set and comments were submitted by the public on the notice.

At the time of the republication of the proposed rule, charterers and owners of six ships built with construction subsidies made application for CDS repayment. One of those was for the "Bay Ridge," another Seatrain vessel. On October 15, 1980, MARAD adopted and made immediately effective an interim rule to govern applications for CDS repayment (45 FR 68393). The interim rule differed from the proposed rule in that it was narrower in scope, but it retained greater discretion on the part of MARAD to determine whether to grant or deny applications for CDS repayment. Approvals would be granted only for vessels of at least 100,000 DWT and only in exceptional circumstances after a determination that no favorable opportunities existed for viable employment of the vessel in foreign trade during a protracted period. MARAD was to consider a number of factors, among others, in determining whether exceptional circumstances existed; those factors included (1) the purposes and policy of the Act; (2) the economic impact on the U.S. flag foreign and domestic tanker fleets: (3) the economic impact on shipbuilding in the U.S.; (4) the financial situation of the applicant and its related companies; and (5) the financial interest of the government including Title XI obligations.

By letter dated November 13, 1980, MARAD acted upon and approved the application for CDS repayment on the "Bay Ridge" and deferred other pending CDS repayment applications. On November 25, 1980, the Independent U.S. Tanker Owners Committee (ITOC) filed a complaint in the U.S. District Court for review of the interim rule and the "Bay Ridge" decision, alleging substantive and procedural defects in connection with both actions. The District Court granted summary judgment for defendants on all counts and an appeal was taken to the United States Court of Appeals for the District of Columbia Circuit.

In *Independent U.S. Tankers Owners Committtee* v. *Drew Lewis*, No. 81-2121 (D.C. Cir., September 7, 1982), the Court of Appeals considered the alleged substantive and procedural defects of the interim rule. The Court concluded, on the substantive issue of MARAD's discretion in approving CDS payback applications, that MARAD was not legally obliged to issue regulations limiting its discretion and that the interim rule itself did not constitute an abuse of MARAD's statutory discretion. Nevertheless, the Court vacated the interim rule on procedural grounds. It concluded that the rule lacked a general statement of basis and purpose, as required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), to explain MARAD's position on the various issues raised during the rulemaking proceeding. Moreover, the Court criticized MARAD for not discussing or responding to filed comments and for not explaining why it retained so much discretion in deciding on applications as opposed to promulgating more outcome-oriented and specific rules. The Court also set aside MARAD's decision of November 13, 1980, approving the application for CDS repayment on the "Bay Ridge." The Court cited both procedural and substantive failings in that November 13 decision.

The Court of Appeals remanded the case to the District Court with instructions to vacate the interim rule and the approval of the "Bay Ridge" application, but to allow the "Bay Ridge" to continue in domestic operation pending the reconsideration. It also instructed the District Court to order MARAD to conduct new rulemaking proceedings. The Court left it to MARAD's discretion whether to adopt a permanent rule similar to the interim rule so long as the justification for the rule adopted was "clearly and thoughtfully presented in a statement published comtemporaneously with the rule."

Rationale for this Proposal

The Department believes, for a number of reasons, it is now necessary to promulgate a permanent rule. Basically, the Department's proposal would allow tankers of any size presently operating in the foreign trade and constructed with CDS funds to enter and operate in the Jones Act trade upon total repayment of the unamortized CDS amount owing. For reasons discussed later, the Department is specifically requesting comments on whether the rule should be limited to larger tankers.

Adoption of this proposal would be consistent with the policies of the Act. It is the policy of the United States to foster the development and encourage the maintenance of the U.S. merchant marine. To effecutate this policy, it is most important that an efficient and competitive domestic merchant marine be encouraged, primarily by allowing it to compete freely in the commercial marketplace. Only in that way can a merchant marine sufficient to meet the objectives of the Act be guaranteed. Accordingly, if they are to succeed, the promotional and regulatory policies of the Federal government should minimize government interference in the marketplace decisions of vessel operators.

Adoption of this proposed rule would also be consistent with the Supreme Court's holding in *Seatrain Shipbuilding Corp.* v. *Shell Oil Co., supra.* In reaching its decision, the Supreme Court carefully examined the Act and its legislative history. It concluded that a permanent release from domestic trading restrictions granted to CDS vessels is consistent with the purpose of the Act. It also specifically recognized the inherent benefits of a vessel's permanent release over temporary releases authorized by section 506 of the Act. The court stated

> Section 506 * * * permit[s] a vessel that enjoys the benefits of a CDS to operate outside the foreign market only in narrow circumstances, generally upon a highly discretionary administrative decision, and for no more than six months a year. And we have no doubt that it would be flatly inconsistent with the congressional intent were the Secretary or this court to conclude that a temporary release not meeting these conditions was proper. But a permanent release upon full repayment is quite different. It irrevocably locates the vessel in the unsubsidized fleed and, thus, poses no danger of a supercompetitor skimming the cream from each market. It creates no long-term instability. And it confers no windfall. On the contrary, at least where repayment of the CDS includes some amount reflecting capital costs which would have been incurred had no subsidy been available, such a transaction merely permits a once subsidized vessel to enter the domestic trade on a footing equal to that of vessels already in that trade. It was not the purpose of the Act to prohibit such entry * * *. Id. at 589-90.

The Supreme Court's analysis confirms that allowing a permanent release of domestic trading restrictions in exchange for full repayment of CDS over the long term is preferable to *de facto* government regulation of capacity in the domestic trade by reason of the

issuance of temporary and highly discretionary waivers under section 506 of the Act. The permanent entry of a vessel into these trades allows existing operators to adjust their operations to meet new market conditions. On the other hand, the temporary entry of vessels into the trade under section 506 of the Act subjects the relevant market to the exercise of the Maritime Administration's discretion, thus increasing instability and the inefficient allocation of capacity in the trade.

Further, the denial of an application for permanent release of domestic trading restrictions in exchange for full repayment of CDS may keep a vessel from being employed in a market where it is most efficient. This hardly can be considered to be consistent with the policies of the Act. Nowhere in the Act does it provide that less efficient operators are entitled to protection in the markets in which they operate.

Economically, promulgation of the proposed rule is fully justified. Its benefits outweigh its costs. There are fifteen CDS-built tanders that could be expected to repay their CDE with interest and enter the Alaska North Slope (ANS) trade full-time under the proposal. (ANS oil production was initiated by opening of the Trans-Alaska Pipeline System and has created an increased demand for U.S. flag tankers.) The section 506 waiver process is inadequate to meet the demand.

Included in the fifteen are seven very large crude carriers (VLCC's) of over 1.8 million DWT and eight tankers of approximately 90,000 DWT each. These tankers are among the most efficient U.S. flag tankers. If allowed into the domestic market on a permanent basis, they would add 1.6 million DWT of additional ANS tanker capacity (taking into consideration existing waivers). Removal of regulatory restrictions, in addition to providing for full-time and permanent use of our efficient tankers, would increase ANS oil trade competition and reduce the costs of oil transportation. Additional benefits of the rule could be up to an estimated $200 million in cash, in CDS plus interest, repaid to the U.S. Treasury, and the increased probability of Title XI government loan guarantee repayment for the CDS-built tankers entering the ANS trade.

CDS repayment would not adversely affect the employment opportunities of unsubsidized VLCC's or unsubsidized tankers weighing 90,000 DWT. Unsubsidized tankers in the 100,000 to 130,000 DWT category could be affected, but they are, generally, relatively new tankers with reasonable prospects for ANS employment even with the added competition of CDS-built tankers.

If this proposal is adopted, the major impact of CDS repayment would fall on those tankers weighing 80,000 DWT and under. There are approximately 20 such tankers, all owned or chartered to oil companies in the ANS trade. These oil companies will be faced with the choice of chartering the CDS built tankers at lower rates and redeploying their less efficient tankers to other trades or simply retaining their tankers in the ANS trade and using CDS-built tankers for the additional demand.

The rate structure of the ANS trade would also be benefitted by adoption of this proposal. Presently, the tanker rates range from $7.25—$16.50/DWT/month for tankers ranging in size from 80,000–170⅞,000 DWT. This rate structure has been significantly affected by *de facto* capacity "regulation" of the ANS trade. Since domestic market entry is restricted, rates are maintained at an artifically higher level than otherwise would be true if the market entry restrictions were removed.

The proposal would also assist in reducing the Title XI exposure. This reduction would occur when a Title XI vessel that is unable to secure full-time employment is put into a market where full-time employment is attainable.

By 1988, there will be 138 unsubsidized tankers, 20 years or older in age, with over 4.7 million DWT of capacity and no Title XI debt. If CDS repayment is permitted, up to 15 large, efficient tankers could be added to the unsubsidized tanker fleet, representing 2.5 million DWT of capacity (0.9 million DWT of the present temporary waiver capacity and 1.6 million DWT of additional capacity) in the ANS trade. These tankers would have much improved ANS full time trading prospects, and the overall Title XI exposure on these vessels would be significantly reduced.

The benefits of this proposal lie, in part, in securing employment for CDS tankers that have been unable to maintain employment in the foreign trade. CDS built VLCC's have garnered the most six month waivers, with 90,000 DWT tankers also obtaining a few waivers. With the additional spectre of significantly fewer opportunities to operate in the Strategic Petroleum Reserve (SPR) fill program, both types of tankers will have even greater difficulty securing employment in the future unless CDS repayment is allowed. CDS repayment would allow these vessels to seek full-time employment in the ANS trade and in that way maximize the usefulness of the most efficient tankers in the U.S. fleet.

Regulatory Evaluation and Regulatory Flexibility Act Determination

This proposal was evaluated under Executive Order 12291, "Federal Regulation," dated February 17, 1981 and the Department of Transportation's Regulatory Policies and Procedures dated February 26, 1979. The proposal is not considered to be "major" as defined by E.O. 12291 because it would not have an annual effect on the economy of $100 million or more; it would not cause a major increase in costs or prices for consumers, individual industries, government agencies or regions, and it would not have a significant adverse effect on competition, or any other aspect of the economy. The proposal is considered to be "significant" under DOT's Regulatory Policies and Procedures because it concerns a matter on which there is substantial public interest, and if adopted it would initiate a substantial change in a policy considered important by the Department.

It is certified that this proposal will not have a significant economic impact on a substantial number of small entities. In that connection, it should be noted that the companies owning and chartering tankers in both the foreign and domestic trades are either large oil companies or large independent shipping companies generating substantial revenues and are not small businesses. Moreover, no small governmental or other small entity would be affected.

A draft Regulatory Evaluation (Attachment 2) analyzing the impact of this proposal and incorporating the Departmental determination that there is no adverse impact on small entities has been prepared for this proposal and will be available for public review in the docket established for this rulemaking.

Public Comments

This proposal is based on the related NPRM and interim rule discussed above and on the analysis of the comments received on those rulemaking documents; all relevant material submitted has been given due consideration.

A large number of comments were received in response to the notice of proposed rulemaking and the invitation for comments that was published with the iterim rule. The majority expressed concern with the adoption of a CDS payback policy or recommended substantive and procedural conditions whose effect would be to restrict CDS

payback approval. These comments were generally from those who has a financial interest in limiting entry into the domestic trade. A smaller number of comments favored CDS payback and asked for less restrictive conditions and MARAD procedures that would facilitate CDS payback approvals. A summary of the comments which were solicited in this rulemaking has been prepared and is included as Attachment 1 to this document. Elsewhere in the preamble to this rule, the issues raised in the earlier comments that remain especially relevant are addressed.

In view of the new proposal contained in this notice, interested persons are again invited to participate in the making of this proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from the adoption of the proposal in this notice are invited. All comments reveived on or before the closing date for these comments will be considered by the Secretary before taking action on the proposed rule. The proposal contained in this notice may be changed or withdrawn in the light of comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive contact with DOT personnel concerned with this rulemaking will be filed in the docket. Commenters wishing the Department to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No.78." The postcard will be date/time stamped and returned to the commenter.

Request for Comments on Whether the Final Rule Should Be Limited to Tankers of Certain Sizes

Comments are specifically requested on whether the scope of this proposed rule should be limited by excluding tankers under 100,000 DWT or some lower weight. MARAD's interim rule applied only to vessels of at least 100,000 DWT. Since there are a finite number of CDS-built tankers, the 100,000 DWT cutoff serves merely to distinguish the seven CDS-built VLCCs (the smallest of which is 225,000 DWT) and two CDS-built ULCCs from the other CDS-built tankers, a large number of which are in the 90,000 DWT class. These vessels are more specifically identified in the Department's Draft Regulatory Evaluation.

There may be a number of reasons for limiting the scope of a CDS payback rule to the seven VLCCs and two ULCCs. (Whether the two ULCCs would ever seek employment in the domestic trade is apparently uncertain, since they cannot now serve the port of Valdez.) Some of these vessels tend to be economically viable only in the Alaskan oil trade, and their impact on the domestic trades might therefore be more limited. These vessels have not received operating-differential subsidy assistance for operation in foreign commence. Some of them have however, operated intermittently in the Alaskan oil trades pursuant to temporary waivers under section 506 of the Act. In fact, since 1978 these vessels have obtained over 25 section 506 waivers, the majority of which were for six month periods.

On the other hand, several factors suggest including in a CDS payback rule, tankers of less than 100,000 DWT. Many of these vessels are among the most efficient for the trade, and are capable of transiting the Panama Canal. The termination of operating-differential subsidy contracts with respect to these vessels would preserve scarce Government resources.

The Department solicits comments on these and other issues relevant to the question of whether a final CDS payback rule should be limited to vessels exceeding a certain DWT limit and, if so, what that limit should be, as opposed to applying the proposed rule to all CDS tankers.

Discussion of Comments on Processing of Payback Applications

A number of comments were received recommending procedures to be followed in processing payback applications. These included (1) publishing notice of each application in the **Federal Register**, (2) providing extended comment periods on each application and (3) holding hearings with administrative law judges to rule on each application. Because of the nature of the rule being proposed herein and for reasons of administrative efficiency, the Department has rejected those recommendations in preparing this proposal.

Initially, the rule being proposed would require only several factual determinations before an application for CDS payback is approved and those determinations are straightforward in nature. The conditions and subjective criteria specified in the interim rule have been eliminated. Thus, there exists nothing to be gained by extensive public comment or formal hearings.

Secondly, even if, with respect to a particular application, a difficult factual question were to exist, the Department does not believe the extensive procedures suggested by commenters are necessary or would be in the public interest. Those procedures involve extensive delays and would impose significant costs on participants. Moreover, nothing in the Act or any other law requires the agency to apply such burdensome procedures. In this connection, no court decisions on CDS payback has even intimated that such cumbersome approval procedures must be applied.

The Department firmly believes that the procedures being proposed will be fully adequate to assist it in its decisionmaking and to protect the rights of interested parties. Under those procedures, each application will be filed in a public docket and those parties who are interested may, if they desire, file comments on the application which will be considered by the agency before it acts on that application.

Discussion of Comments on the Policy of the Act

Several commenters expressed the view that any rule governing CDS payback and release transactions should be consistent with the purpose and policies of the Merchant Marine Act of 1936. Some commenters argued that the Act's primary goal of promoting the U.S. flag fleet must be considered separately between the domestic and foreign trade fleets. Others argued that the policy of promoting U.S. ship construction would be impaired by approval of CDS payback and release applications. Still others argued that opportunites for profitable employment should be provided for CDS-built tankers, whether in the foreign or domestic trades. Another commenter suggested that operations by CDS-built vessels in the domestic trade be regulated to prevent economic dislocation to other operators in the trades.

The Secretary of Transportation is bound by the broad policy mandates of the Act in administering his responsibilities towards U.S. shipping industries, and this proposal is no exception. Many of the comments, however, suggest a misunderstanding of the Secretary's responsibilities under the Act. It is not appropriate to let the various program objectives reflected in the Act stand in the way of achieving the Act's broader policy mandates, including that of encouraging the development of an efficient and competitive U.S. flag merchant marine capable of meeting defense needs while serving both the domestic and foreign

water-borne commerce of the United States. If this policy is to succeed, it is also apparent that the Federal Government should minimize government obstacles to the marketplace decisions of vessel operators, so that U.S. flag shipping can seek its rewards in the commercial marketplace.

This proposal reflects such an approach. It attempts to balance the many interests reflected in the Act. It would further the responsibility of fostering an efficient U.S. flag fleet by allowing vessels which have competed on a temporary basis in the Jones Act trades to seek their most efficient employment on a full-time basis. It would continue Federal protection of the Jones Act fleet by only permitting payback on terms which would put CDS-built vessels on a truly equal footing with vessels operating in the Jones Act trades. The need for temporary waivers of domestic trading restrictions under section 506 of the Act would decrease. As the Supreme Court recognized in *Seatrain, supra* at 589, these temporary waivers tend to create greater instability in the domestic trades thatn the permanent payback of CDS. The proposal would also result in less discretionary Government regulation for CDS-built and unsubsidized tanker operators. While several commenters argued that the domestic industry has relied on the historical distinction between the U.S. flag foreign and domestic fleets, there is nothing in the Act that supports such reliance. MARAD has granted over thirty temporary waivers under section 506 of the Act to CDS-built tankers since 1978, and has approved two applications for permanent payback for CDS-built VLCCs during the same period.

Further, this proposal would return much needed funds to the Treasury to help pay for other programs, such as the Title XI loan guarantee program, that are necessary for the promotion of the U.S. shipping and ship construction industries. It would also improve competitive conditions in the transportation of Alaska North Slope oil to the benefit of shippers and consumers.

Comments on Factors To Be Considered in Approving CDS Payback and Release Transactions

The interim rule published in the **Federal Register** on October 15, 1980 (45 FR 68393), provided that MARAD would allow, in its sole discretion, CDS repayment and release only where exceptional circumstances exist. After determining that no favorable opportunities for viable employment in the foreign trade exist during a protracted period, the interim rule provided that MARAD would consider the following factors in determining whether exceptional circumstances existed:

(1) The purpose and policy of the Act.

(2) The economic impact on the U.S.-flag foreign and domestic tanker fleets.

(3) The economic impact on shipbuilding in the U.S.

(4) The financial situation of the applicant and its related companies.

(5) The financial interest of the Government including Title XI obligations.

These factors elicited a number of comments. Several commenters complained that MARAD retained too much discretion in determining whether exceptional circumstances existed by merely having to consider these factors. Some commenters proposed additional factors to be considered, including case-by-case economic and competition analyses. Other commenters asserted that requiring exceptional circumstances of this nature artificially limited competition and entry into the domestic trades. Several commenters expressed concern over the consideration of the Government's financial interest, arguing that it involved an obvious conflict of interest. Another commenter argued that the consideration of the Government's exposure as the guarantor of Title XI obligations would tend to reward companies in financial jeopardy.

These comments reflect the difficulty inherent in the case-by-case exercise of administrative discretion on applications for CDS repayment and release. It leaves prospective applicants, as well as operators in the domestic trade, uncertain over the prospects for approval of CDS repayment applications. The Department believes that broad policy factors such as these (with the exception of factor No. 4, above) should form the basis of a rule establishing a policy for obtaining approval of CDS repayment and release transactions. It is not necessary, however, to revisit these "legislative" findings with each new application.

This proposal is premised on a consideration of factors such as those in the interim rule. The purpose and polices of the Act have been considered, together with the economic impact on the U.S. flag foreign and domestic tanker fleets. With regard to the possible impact of the proposal on shipbuilding, the entry of CDS-built tankers into the domestic trades might, in fact, reduce the demand for new tankers in the Jones Act fleet. Nevertheless, this same industry is the primary beneficiary of the CDS program which contributed to the construction of these tankers, and the economic benefits to be derived from the use of these tankers exceeds any temporary dislocation to the industry which might result from their employment.

Several commenters argued that any factor that would limit CDS payback to companies in financial jeopardy is not consistent with the policies of the Act. This argument has merit. While the Supreme Court has recognized that a permanent release may further the general goals of the Act by protecting the Government's position as guarantor, *Seatrain, supra* at 588, the Department does not believe it is in the long run consistent with the policies of the Act to prohibit a vessel from seeking its most efficient employment merely because the government has guaranteed the debt of other competitors in trade. Nor does the Department believe it is necessary to follow guidelines that would provide permanent release upon full repayment only to those companies in financial jeopardy. First, repayment in such circumstances necessarily contemplates a government guarantee of obligations issued to repay the CDS because the applicant may not be able to obtain commercial financing to repay the CDS. This raises serious questions regarding the Title XI requirements of economic soundness. Second, a policy that favors companies in financial jeopardy by granting the privilege of repayment only to applicants with unsound management would do little to advance the Act's policy of creating a strong U.S. flag merchant marine. The consideration of the financial condition of the applicant would be relevant only with respect to its eligibility for obtaining assistance under Title XI of the Act in financing CDS payback. That Title contains a requirement for a finding of economic soundness to obtain a Government guarantee of an obligation. This proposal would not in any way affect that requirement. Accordingly, under the proposal, it would not be necessary, for the purposes of granting approval of CDS payback and release applications, to consider the financial situation of individual applicants.

Finally, the Government has considered its own proprietary financial interest and concluded that this proposal would be consistent with that interest. The repayment of CDS would return monies to the Treasury necessary for the continued administration of other programs essential to the U.S.flag merchant marine and shipbuilding industries, including Title XI of the Act.

Discussion of Comments on the Adequacy of Section 506 Six-Month Waiver Provisions

Some commenters supported use of existing six-month waiver provisions authorized by section 506 of the Merchant Marine Act of 1936, rather than allowing total CDS repayment and permanent removal of domestic trading restrictions. Commenters argued that six-month waivers gave MARAD the necessary flexibility to fulfill its broad policy obligation while allowing underused CDS-built tankers to be profitably employed in the domestic trade. It was also suggested that legislative efforts might be made to allow consecutive six-month waivers in lieu of permanent CDS payback if additional capacity was needed in the Jones Act trade.

As stressed in the draft Regulatory Evaluation for this rule, MARAD's use of six-month waivers imposes unnecessary economic regulation on entry into the domestic trade. The Supreme Court in *Seatrain Shipbuilding Corp.* v. *Shell Oil Company, supra,* pointed out that full repayment and permanent release, unlike a temporary waiver, locates the vessel in the domestic fleet and prevents vessels from operating between the two trades and "skimming the cream" from each market. The Court also averred that permanent entry created no long term instability or windfall for those permitted to enter as long as repayment of the CDS includes some amount reflecting capital costs that would have been incurred had no subsidy been available; full CDS payback is legitimate as it merely allows the once subsidized vessel to enter on an equal footing with other vessels in the Jones Act trade. In essence, the Supreme Court pointed out that CDS repayment is economically superior to the present system of temporary waivers. We fully agree with their assessment, and the regulation establishes a mechanism to require such an equitable capital cost recovery payment.

Discussion of Comments on the Assessment of Competitive Impact on Jones Act Tankers

Many comments were received on the adequacy of the economic impact assessments of CDS repayment on the Jones Act tankers presently in the trade and those under construction. The majority of comments stressed the point that allowing additional tonnage into the trade would adversely affect the Jones Act tanker fleet. They argued that the new capacity would displace existing capacity, increase competition, lower tanker rates, and could force tankers out of the trade for lack of employment opportunities or because rates were reduced to a level where existing Jones Act tanker owners could not employ their tankers at rates sufficient to cover operating and capital costs. On the other hand, some commenters argued that the Merchant Marine Act of 1936 does not require that Jones Act tankers be protected from the competition of other U.S. flag tankers.

The draft Regulatory Evaluation analyzes the economic impact on the Jones Act tankers of CDS repayments. Its conclusion is that, by allowing CDS repayment, some tankers could be bumped from existing trades, tanker rates in the Jones Act trade could be reduced as competition increases, and some tankers might be unable to survive in this environment. However, the CDS-built tankers that would be expected to enter the Jones Act trade would be among the most efficient in the U.S. tanker fleet. In the Jones Act trade, particularly the ANS trade, the CDS-built tankers might displace less efficient tankers and the tankers displaced, particularly those displaced from the present ANS trade, might displace less efficient tankers in other non-ANS trades. The end result of this bumping process would be that the least efficient Jones Act tankers, particularly the smaller tankers aged 20 to 41 years, would be the tankers most vulnerable to scrappage. Many of these tankers may be scrapped anyway; the new Panama pipeline and the high costs of complying with the Port and Tanker Safety Act could adversely affect many of these smaller and older tankers. As more efficient tankers replace less efficient tankers, the competitive impact could result in lower tanker rates and, thus, lower transportation costs.

The end result of the introduction into the Jones Act trade of CDS-built tankers could be an increase in the efficiency of the U.S. tanker fleet and more competitive tanker rates. The economic benefits that would result from removal of entry barriers that now prevent CDS-built U.S. flag tankers from entry into the Jones Act tanker trade far outweigh, in the Department's judgment, the adverse economic impact to existing Jones Act tanker owners.

Discussion of Comments on CDS Repayment Amortization and Interest

Several comments addressed the issue of the amount of CDS to be repaid and how interest should be charged on the CDS repaid. The spectrum of comments was quite broad. Some commenters suggested that (1) interest should be charged from the day the CDS was disbursed for tanker construction purposes to the day CDS was repaid; (2) the interest rate should be the higher of the commercial bank rate for unsecured loans at the time the CDS payments were disbursed or the current unsecured commercial bank rate; and (3) the resultant repayment should be indexed to inflation. Others suggested that only unamortized CDS should be repaid; interest should be charged only during the construction period; and the interest rate should be the rate in effect for Title XI bonds at the time the original CDS disbursements were made by MARAD.

The Department believes that the amount of CDS that is repaid and the amount of interest charged should reflect the capital costs that equate a CDS-built tanker with the capital cost of an unsubsidized tanker as nearly as possible. Since a tanker will be spending only a portion of its statutory life in the domestic trade if CDS repayment is allowed, equity dictates that repayment should be confined to only the unamortized CDS.

Owners of CDS-built tankers will receive economic benefit from their unamortized CDS from the day they were paid by MARAD to finance construction of the tanker until the day it is repaid. This period—from the date of payment to the date of repayment—is considered to be the appropriate time period over which interest should be charged. The Department believes that the long term interest rate of the Title XI bonds used to finance a CDS-built tanker is the most appropriate interest rate to equate a CDS-built tanker's capital cost with an unsubsidized tanker's capital cost. Since unamortized CDS will be outstanding during the whole period from the CDS disbursements for construction until the CDS is repaid, continuous compounding of interest is appropriate and is included in the proposal. The formula for computing the amount of CDS repayment in this proposal strikes a balance of the factors from both ends of the spectrum of comments. The Department believes the factors selected represent an equitable formula for CDS repayment.

Nothing in the proposal, however, affects the availability of Title XI guarantees to finance the CDS amount to be repaid. Applicants seeking such financing must comply with the requirements of Title XI.

List of Subjects in 46 CFR Part 276

Grant programs—Transportation, Maritime carriers, Reporting and recordkeeping requirements.

PART 276—[AMENDED]

Accordingly, it is proposed to revise 46 § 276.3 to read as follows:

§ 276.3 Total repayment

(a) In accordance with the terms and conditions of this section and upon receipt of an appropriate application, the Maritime Administration will allow the total repayment of unamortized construction differential subsidy (CDS), with interest, and rescind permanently the domestic trading restrictions related to the grant of CDS for tankers of any deadweight tonnage. Approval of total repayment shall be irreversible.

(b) *Repayment Terms.* The interest rate will be the same as the long-term interest rate the owner obtained, or would have obtained if long-term debt financing had been used, in financing his/her portion of the tanker. Unless the Maritime Administrator determines that using interest rates other than long-term bond rates is justified, such rates will be used. If more than one long term bond was issued to finance the owner's portion of a specific tanker, or if one or more of such bonds has more than one rate (such as a serial bond) an average interest rate will be computed weighted by the proportion of each bond par value to the total par value of all long term bonds issued to finance the owner's tanker. The interest payable on the unamortized CDS shall be computed by continuous compounding of the interest until the day of repayment. For purposes of this paragraph, "long term bond rates" are either actual Title XI bond rates on a specific owner's tanker or the Title XI long-term bond rate at the time the tanker's statutory life began.

(Sections 204(6), 207, 506, and 714, Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b) 1117, 1156, and 1204 Pub. L. 86-518 (74 Stat. 216)

Issued in Washington, D.C. on January 27, 1983.

Andrew L. Lewis Jr.,

Secretary of Transportation.

Attachment 1—Comments on Rulemaking

The following is a summary of the relevant comments received in response to the MARAD notice of proposed rulemaking and interim rule concerning CDS payback.

Interim Rule Comments

Failure to Fully Consider Economic Factors

Several commenters expressed the view that the agency had not considered or analyzed the economic consequences of its proposed action. Some commenters complained that, under the interim rule, the agency should consider the purpose and policy of the Act, the economic impact on the U.S. flagships in foreign and domestic commerce, the financial situation of the applicant, and the financial interest of the government, but there is no indication in the rule what weight will be assigned each of these factors. In their view, the agency should consider—in determining its own financial exposure—the Title XI commitment on the particular vessel and other Title XI funds as well; i.e., what would be the government's loss if entry of the applicant's vessel drives others to bankruptcy by creating a surplus of domestic tankers. There needs to be a thorough analysis of competitive impact according to one of the commenters. It was argued that benefits accruing to the agency under any insurance policy where it is a beneficiary also should not be overlooked by MARAD. Other commenters argued that to give favorable consideration to an economically unsound carrier because of Title XI involvement is beyond the agency's authority.

Several commenters expressed the view that the interim rule highlights the low reliability of MARAD's economic forecasting. MARAD cannot and has not done a thorough economic policy analysis in their view. Those commenters claimed that, in order for MARAD to approve a CDS application, the law requires a positive finding that the vessel can be profitably employed in the foreign trade for its entire economic life. Under the interim rule, MARAD must make a contrary finding that the same vessel cannot be profitably employed in the foreign trade for "protracted period of time," before approving a CDS payback. These commenters see this as a contradiction. In this connection, they pointed out that during the *Seatrain* litigation, MARAD stated it could not forecast tonnage needs more than three years in the future and, hence, could not evaluate the long-term impact of permitting CDS payback.

According to several commenters, MARAD must assess a large number of competitive effects of CDS vessels entering the Alaska trade. One commenter urged MARAD to evaluate factors such as 1) the current tonnage in the Alaska market; 2) the size, type, and amount of tonnage; 3) the general supply of and demand for Alaska oil; 4) the effects of the proposed Northern Tier pipeline; 5) the existence or construction of deep draft ports; 6) the discovery of new oil fields; 7) the status of the Panama Canal (e.g., construction of a pipeline, costs of transiting canal, etc.); 8) the absorption of Alaska crude oil on the West Coast; 9) the possibility of oil shipment to Japan; and 10) the development of Mexico's oil production industry.

Nonetheless, after offering a plethora of factors for MARAD to consider before granting CDS payback approvals, commenters expressed the view that the scope and difficulty of assessing and evaluating these factors argue against granting any permanent CDS waiver. These commenters contended that MARAD should, if there is a temporary shortfall in excess of what can be met through the grant of Sec. 506 temporary waivers, seek legislation to liberalize Sec. 506. This legislation could allow for extended use over consecutive periods for more than six months, but subject to determinations that unsubsidized Jones Act tonnage was not available during this extended period of waiver.

Others supported repayment of CDS and entry into domestic trade, but opposed some areas of the interim rule. They argued that the interim rule is impractical in trying to assess economic impact on a trade for the full span of statutory life since MARAD has admitted its predictions more than three years in advance are unreliable. They suggested that the criterion of the rule be designed to protect domestic fleet operators from competition of other U.S. vessels.

One comment was received that argued that the interim rule contravenes the directions in the *Seatrain* case, since it makes temporary transfer easier to obtain than permanent.

Unacceptable Board Discretion

Several commenters believed that the interim rule provides too much discretion to MARAD and urged that the "exceptional circumstances" restriction in the interim rule be deleted as exceeding MARAD's authority, as an unwarranted imposition on CDS contracts, and as impractical. In addition, they argued that the refusal to modify CDS contracts except under the exceptional circumstances set out in the interim rule will reduce the economic viability of the CDS contracts.

Those who supported a payback policy argued that the special circumstances restrictions in the rule merely shelter domestic markets and protect profits. This, they argued, is illegal because it restricts competition and the Jones Act does not protect operators from this kind of competition.

Some urged that the discretion given to the agency to require the interest period to extend up to the date of repayment after the completion of the vessel should be deleted because it

creates a penalty for compliance with the terms of a CDS contract. Instead, those commenters argued that interest should be payable up to the date of vessel completion or the date of repayment, whichever is earlier.

Administrative and Procedural Comments

Some commenters believed that making the interim rule effective immediately was inconsistent with the concurrent solicitation of public comment on the rule. In addition, they objected to a perceived lack of explanation for the need for the interim rule. These comments viewed the rule merely as notice of MARAD's intent to apply the payback policy to a single ship, Richmond's Bay Ridge.

Some commenters complained that the interim rule did not have a regulatory analysis. Without a regulatory analysis, it was argued, MARAD lacked the principal tool available to develop an adequate rule and affected parties were deprived of the most meaningful basis for comment. One commenter noted that MARAD's notice of October 15, 1980, indicated that a regulatory analysis was being prepared and this shows that MARAD recognized the need for additional information. Thus, in the commenter's view, the promulgation of an interim rule and subsequent grant of application to Richmond, without a regulatory analyses, appear to be in willfull disregard of E. O. 12044, Commerce Department administrative order 218-7, and MARAD's own rulemaking procedures.

Several commenters suggested procedures to insure all interested parties have an opportunity to present their views on payback applications. The procedures included:

(a) Allowing 30 or 60 days after public notice of application to submit written comments.

(b) If the vessel is intended to be used in the domestic, dry cargo trade, requiring the applicant to serve a copy of its application on each operator having a tariff on file at the Federal Maritime Commission or the ICC covering *any* domestic trade route.

(c) After receipt of any written comments in opposition to the application, the scheduling of the matter for a hearing.

Clear Guidelines, Rules, Legislation

Several comments were received concerning the clarity of the guidelines. Some commenters believed that clear guidelines and rules are needed. They said that the interim rule regresses from standards proposed in the original notice and rulemaking. They also argued that the "power to consider" and "certain factors" language in the interim rule is vague and amorphous as is the power reserved to MARAD to waive requirements. The commenters objected to MARAD's not saying how it will weigh "these vague factors," or how it will consider the economic impact on the foreign and domestic fleets. Because of this, they argued, one cannot tell how factors concerning the financial condition of the applicant will be balanced when transfer into the domestic trade is considered.

One commenter said that the words "applicant and its related companies" in the interim rule will allow charterers to apply instead of the owners as intended by Section 504. "Dilution" of domestic trade, in this commenter's view, can only be prevented by a clear legislative rule.

One commenter said that the six-month trading restriction in any 12-month consecutive period should be lifted legislatively.

Some commenters raised questions about what type of economic impact is required to be shown on foreign and domestic fleets before repayment is allowed. Among these were the following: Must the applicant show his entry into the market will have no effect or his entrance will not cause immediate bankruptcy of any substantial sector of the tanker fleet or shipbuilders? Will he have to show what financial situation will justify the approval of applications? Must the applicant be threatened with bankruptcy or must he just show his financial prospects will be improved? Must government be threatened by the applicant's default of Title XI obligations or must the applicant show prospects for repayment are enhanced? What are the other factors MARAD may consider? After raising these questions, the agency was urged to set specific standards.

Adverse Economic Impact on the Jones Act and CDS Trade

Some commenters said that operators of CDS vessels are at an overwhelming advantage in the Jones Act trade, even if additional tonnage were needed, because their ships are ready. It was contended that subsidy repayment represents a fractional added cost compared with the price of new building. They saw future building being affected, too, and predicted that whenever the foreign market faltered, the CDS operator would turn to domestic trade. Finally, they argued that domestic trade is successful and self-regulating and should be let alone. These commenters concluded that failure of the maritime policy in foreign trade cannot be solved by funneling CDS vessels into the domestic trade.

Other commenters said that a potential U.S. shipbuilder under the CDS program is more likely to commit to the foreign trade if there is a realistic opportunity to employ the vessel in the domestic trades if the foreign market collapses.

It was also argued that restriction on domestic competition serves no practical purpose because of the growth in domestic trade, the burgeoning market for Alaskan oil and the shortage of suitable vessels to carry it for the next 6 years.

Some commenters wanted to see the "exceptional circumstances" restriction on approval of repayment applications deleted. They believed it exceeds Marad's authority, imposes an unwarranted imposition on CDS contracts, and is impractical. Refusal to modify CDS contracts except under exceptional circumstances will reduce economic viability of CDS vessels in their view. They also contended that proponents of the restrictions contained in the interim rule are really supporting a sheltered domestic market and protection of profits; such a rule curtails competition and is illegal. They cited Judge Bazelon's opinion in the *Alaska Bulk Carriers case* that it is not the purpose of the Merchant Marine Act to protect Jones Act operators from this type of competition.

Others suggested that if the Secretary should elect to require payment of interest only to the date of delivery, the owner will have the benefits of "free money" for every day he has operated the vehicle. Domestic owners, they said, do not have access to such financing.

One commenter suggested that the power of Marad to waive the requirements of sec. 276.3—the exceptional circumstances factors and the 100,000 DWT restriction—would permit any CDS vessels of any size to enter the Jones Act trade upon repayment, regardless of economic impact on the U.S. flag foreign and Jones Act fleets.

Another commenter contended that any further action—beyond the approval and entry of Richmond's Bay Ridge, and Stuyvesant—may have a long-term impact on the Jones Act fleet and would seriously jeopardize the financial viability of those presently operating in the Jones Act trade. Presently, it was argued, the Jones Act trade can anticipate those U.S. flag Jones Act vessels that can enter and be in competition. Jones Act owners can, therefore, plan vessel construction.

Under the rule, however, this will not be so, they contended. Moreover, a commenter emphasized that Jones Act vessels were built without the benefit of a government subsidy resulting in substantial investments by domestic owners. These vessels were constructed by owners who believed they were dealing in a protected trade. The commenter asked MARAD not to ignore this when determining its policy on the repayment issue and not to subject these individual companies to unnecessary economic hardship by the permanent intrusion of CDS vessels into domestic trade. In this connection, for years, section 506 of the Merchant Marine Act and 46 CFR 250 were interpreted as protective assurances for domestic trade, the commenter alleged.

In another area, several commenters argued that the accuracy of supply/demand projections for domestic tonnage becomes increasingly less accurate as projection periods are extended and a Title XI default by an owner of a Jones Act vessel could occur as result of excess tonnage in Jones Act trade (entry of former CDS vessels) and should be considered.

Some commenters said that the interim rule is unacceptable because Jones Act vessels may be deprived of employment. Also, under the rule, incompetency on the part of the CDS owners is rewarded since a poor financial record is an advantage when considering an application for CDS payback. A commenter saw a conflict of interest for the government created by trying to protect its Title XI interests when considering CDS applicability.

One commenter predicted an adverse impact on the foreign trade fleet under the interim rule. In its view, when a CDS is vessel is removed from foreign commerce, less U.S. flag tonnage remains available. The commenter argued that the adverse economic situation in U.S. foreign trade is caused by an insufficient grant of CDS to compensate for higher American shipbuilding costs, rather than an oversupply of U.S. tankers operating in foreign commerce.

One commenter objected to the conditions in the interim rule which imply that the Board will not accept repayment from vessels underused in foreign commerce. If this is true, it argued, Jones Act vessels would be protected from competition with other U.S. built ships to the detriment of CDS carriers, and consumers will be forced to pay higher prices.

General Comments

Commenters opposing the permanent entry of CDS vessels into the domestic trade made several additional arguments for their position. One commenter argued that operators of CDS vesels have an overwhelming advantage over their competitiors, in that their ships are ready for use whereever additional tonnage may be needed. Another commenter argued that allowing the permanent entry of CDS vessels into the domestic trade inevitably creates a serious disadvantage for the owners and operators of Jones Act vessels and the U.S. shipbuilding industry. This adverse impact affects not only existing vessels but also investors in vessels planned or under construction. In this commenter's view, investors planned or began to construct new vessels because there was a tonnage shortfall in the domestic trade and permanent entry of the CDS vessels would reduce or eliminate this shortfall, leading to distortion of the market need that stimulated the decision to invest in new vessels.

Opponents also suggested that to permit the permanent entry of CDS vessels would upset the expectations of economic risk previously held by owners and operators in the domestic trade. As CDS vessels enter the domestic trade, increased competition, lower charter rates, and reduced market demand for vessels already in the domestic trade are likely to follow. This has the effect, a commenter stated, of forcing owners and operators in the domestic trade to assume economic risks previously shared by MARAD and owners and operators of CDS vessels, such as the risk of having to use ships unprofitably in the foreign trade.

One commenter also argued that permiting CDS vessels to be used permanently in the domestic trade would have an adverse impact on the U.S. flag fleet used in foreign trade. There would be a reduction in the number of U.S. flag ships used in the foreign trade which, unless CDS subsidies where raised, U.S. owners and operators could not compensate for.

One commenter argued strongly against the "exceptional circumstances" restriction on approval of repayment applications. Requiring a showing of exceptional circumstances, this commenter stated, would reduce the economic viability of CDS vessels in order to shelter the domestic market from competition. Artificial limitations on competition of this sort, in this commenter's view, are illegal. Moreover, such a restriction would serve no practical purpose; since domestic trade is growing, there is an increasing market for Alaskan oil, and there is a shortage of suitable vessels for the next 6 years to handle the domestic market.

One commenter suggested that permitting the transfer of CDS vessels to domestic trade would reduce the incentive for the construction of new ships for the domestic trade, resulting in a loss to the U.S. economy. This commenter also suggested that the reduction of one ship in the subsidized foreign commerce fleet would be undesirable.

One commenter suggested that the permanent release of domestic trading restrictions shifts Title XI risks to the domestic fleet since it will face more competition. On the other hand, MARAD's risk of financial loss—which it has been paid to assume—will decline.

Another commenter argued that the interim rule creates uncertainty since it could open the floodgates to the Jones Act trade or could be strictly applied with waivers not granted. The commenter asked that MARAD set out mandatory criteria for Jones Act entry that each applicant for CDS payback must meet.

One commenter argued that the factors in the interim rule for MARAD to consider in reviewing requests for total repayment of CDS and entry into domestic trade are artificial, economically undesirable, and contrary to the public policy in favor of competition and could misallocate shipping resources. The commenter suggested that MARAD revise the rule to provide for acceptance of total CDS repayment in all cases in which the owner of a CDS vessel is willing and able to make repayment.

Recommendations for Rule Changes

Another commenter suggested a number of other factors to consider. This commenter asked the agency to consider all trade for which CDS vessels were eligible, foreign as well as domestic, before granting payback approval. In addition, the commenter suggested that the agency evaluate whether a short term waiver in lieu of payback might be adequate to bridge slack periods. The agency was also urged to consider (1) whether the applicant could guarantee the vessel's employment in the foreign trade distinguishing between proprietary and non-proprietary tonnage, (2) the impact not only on ships and shipyards controlled by the applicant, but also the effect on unsubsidized construction, (3) all aspects of the applicant's financial situation, (4) the Title XI obligations that are involved considering insurance arrangements to which the agency is a party, and (5) the overall competitive impact of a payback approval. Finally,

this commenter requested a hearing on each CDS repayment application.

A third commenter argued that the test for payback approval should be simple. The agency should consider the best use for the vessel; if there is no use for the vessel in the foreign trade, the owner should be allowed to repay the CDS and enter the domestic trade on an equal footing with the domestic fleet. Such a flexible CDS payback policy was felt by the commenter to serve the policies of the Merchant Marine Act. This commenter was opposed to considering the financial situation of the applicant and related companies in approving CDS payback unless some foreign trade opportunities were to exist but not to the same degree as domestic opportunities or if the available domestic opportunities were insufficient to fully satisfy all the applicants for CDS payback. The commenter did recommend that the agency consider governmental financial interests and the purposes of the Act before granting approval; however, the commenter urged that the most important test should remain the availability of vessel employment opportunities. Another commenter felt that only governmental financial obligations should be considered in approving CDS paybacks; it felt the other interim rule criteria to be too restrictive.

Another commenter specifically objected to two criteria that might be considered for payback approvals. First, it objected to consideration of the financial situation of the applicant since this could result in the reward of business incompetency. Second, the commenter objected to consideration of Title XI obligations since the agency would have a conflict of interests. This commenter did suggest, however, that the possibility of Title XI default by the owner of a Jones Act vessel could occur as a result of excess tonnage in Jones Act trade and should be considered before granting any CDS payback approval.

Several commenters touched on the question of the interest to be charged with CDS repayments. One felt that the interim rule was unclear on when and how interest must be paid. The commenter urged that interest be charged on repaid CDS for the entire period from payment to repayment. Another commenter agreed with the interim rule's provisions that (1) require interest repayment only on unamortized CDS principal balances, and (2) compute interest from the day of disbursement of each CDS payment through day of completion of the vessel. This commenter argued that the agency discretion in the interim rule to require interest until the date of repayment if after the completion of the vessel should be deleted because it could create a penalty for compliance with the terms of the CDS contract. The commenter argued that interest should be payable up to the date of vessel completion or the date of repayment, whichever is earlier.

Two raised the issue of the method of CDS repayment. One commenter asked that repayments be required to be in cash. The second commenter agreed and argued that to do otherwise would result in certain vessels being permitted into the domestic trade without first having their CDS fully repaid thereby placing them in a better footing than the rest of the domestic fleet. In effect, it was argued, such vessels would remain subsidized and because of the irreversibility provision in the interim rule, the risk of default to the government's detriment would be great. In this connection, the second commenter also asked that the initial approval of CDS payback not be permanent but that repayment and entry into the domestic trade should be irrevocable.

One important operator, who favored the waiver process, indicated that it could support a rule that applied to all ships regardless of size, age, or type. Other commenters urged that the rule should apply only to VLCC's and ULCC's. This commenter also urged that 46 CFR Part 250 be revised to cover vessels of less than 100,000 DWT. In addition, the commenter argued that (1) the CDS payback rule should include a provision withdrawing Jones Act status if obtaining the status results in a surplus of tonnage in the Jones Act fleet, and (2) former CDS vessels must relinquish Jones Act status on a last-in, first-out basis to eliminate surplus tonnage.

Finally, one commenter argued that sec. 276.3(d) of the interim rule, which permits the waiving of other requirements of the rule, should be deleted; another asked that a provision be added to sec. 276.3(b) precluding CDS payback unless an emergency in the domestic trade were proven.

Waivers

Several commenters expressed support for the existing system of six month trading waivers either in addition to or as a substitute for the interim rule's provisions. They argued that the Section 506 temporary waiver provision has given MARAD the necessary flexibility to fulfill its broad policy obligations while allowing underused U.S. foreign commerce tonnage to be profitably employed in the domestic trade. Such waivers, commenters contended, will assist in alleviating the temporary nature of the Jones Act tonnage shortfall. One commenter did suggest that waiver requests be published in the **Federal Register** for comment.

One commenter argued that MARAD should, if there is temporary shortfall in excess of what can be met through the grant of Section 506 temporary waivers, seek legislation to liberalize Section 506. This legislation, it was suggested, should allow for extended use over consecutive periods of up to six months, but would be subject to determinations that unsubsidized Jones Act tonnage was not available during the extended period of the waiver.

NPRM Comments

Exceptional Circumstances

Several commenters supported the "exceptional circumstance" provision (a set of criteria proposed by MARAD in the notice, to be considered in connection with applications for total repayment) provision set forth in proposed section 276.3(b)(1), concerning a lack of opportunities in the foreign trade, but urged that MARAD or the Secretary should consider the nature and origin of the lack of opportunity for foreign trade or other trade participation before admitting a CDS applicant to the domestic trade as proposed. The first exceptional circumstance should be included in the final rule, one commenter indicated, but it noted that almost every CDS-built ship lacks the opportunity for foreign trade. Some commenters asked that the showing required in section 276.3(b)(1) of a lack of opportunities in the foreign trade be expanded. Three commenters thought possible opportunities to operate in the Strategic Petroleum Reserve trade should be considered before a finding is made that there is a lack of foreign trade opportunities. Specific language was suggested for inclusion in the rule, such as "or in such other trade for which vessels constructed with CDS may be eligible." Taking an opportunity to participate in the domestic trade in the existing six-month waiver program should also be considered as a condition precedent to the above finding according to two commenters.

One commenter suggested including as one of the four exceptional circumstances or criteria, a finding that the vessel must be on the verge of a "lay-up" due to a near-permanent lack of foreign trade opportunities.

One commenter stated a belief the CDS repayment should be treated as

extraordinary relief and not routine relief. The commenter also recommended the following specific language on the subject of lack of opportunities for inclusion in proposed section 276.3(b)(1) "provided that such absence of favorable opportunities is not the result of actions by the applicant or by any of its affiliates." Another commenter similarly commented that section 276.3(b)(1) should exclude cases where the operator has contributed to the loss of favorable opportunities. One commenter recommended an additional criterion be added relating to consideration of opportunities in the foreign trade—the lack of long-term favorable opportunities for foreign trade operations.

One commenter was concerned about paragraph (b)(4) of proposed section 276.3, which would require a finding that operation of the vessel in the domestic trade is not likely to have any significant adverse competitive effect on other vessels operating in the trade. The commenter found the meaning of this provision to be unclear since any charter of a released vessel which could be accepted by a Jones Act vessel will have a significant competitive effect on that Jones Act vessel and all others similarly situated. It suggested that the required finding at the time of the application should be that there is a present long-term need for the CDS vessel in the domestic trade which cannot be filled by a Jones Act vessel in existence, under construction, or soon available for charter. Temporary demand/supply imbalances should not be sufficient since the temporary transfer provisions of Section 506 of the Act are available for emergency needs.

Another commenter suggested an additional number of factors it believed should be considered by the Secretary or MARAD when applying proposed section 276.3(b)(4). They were that in making the determination under (b)(4), the Secretary should consider the competitive effect on the existing carriers in the trade, the adequacy of the existing service, the needs of the shippers and consignees, and whether service and price competition would be salutary not only for the shippers and consignees but for the long range health of the U.S. Merchant Marine.

Another commenter believed that the proposed criterion that domestic trading restrictions not be lifted if the introduction of that tonnage will have a significant adverse competitive impact on the existing domestic fleet should be retained. However, still another commenter believed only certain vessels should be affected, and that the Secretary or MARAD should not consider, in making this determination, any vessel beyond its statutory life (20 years for tankers and 25 years for dry bulk ships) in assessing the existing domestic fleet. Such consideration would artificially extend the vessels' lives beyond that which is reasonable and thereby, inhibit the modernization of the U.S.-flag fleet, it was argued. The changes required by the Port and Tanker Safety Act of 1978 should result in the phasing out of all over-aged vessels by 1986. If rates are high enough to justify retrofitting the overaged ships in 1986, it can only be for lack of sufficient modern tonnage to serve the trade, the commenter asserted.

On the other hand, one commenter suggested that the fourth circumstance set out in the proposed rule ("that operation of the vessel will not likely have any significant adverse competitive effect on other vessels operating in the domestic trade") should be the only criterion for accepting total repayment of CDS and permanently rescinding trading restrictions. It should be the cornerstone of the statement of policy in section 276.3 rather than the last of the four exceptional circumstances listed in the proposed section.

Two commenters expressed support only for paragraph (b)(4) among the four criteria and they felt the other three proposed prerequisites should be considered only upon a finding that entry of a CDS vessel will have a significant adverse effect on the other vessels in the domestic trade. The absence of favorable employment opportunities for a vessel in the foreign trade and the imminent bankruptcy of the vessel's owner are significant factors which in certain circumstances may justify the lifting of domestic trade restrictions, even if an adverse competitive impact was to result. However, all relevant factors should be considered in offsetting the existence of an adverse competitive effect. One comment described the fourth exceptional circumstances to be the "most significant consideration." However, it indicated the provision did not specify any time period during which the competitive effect of the payback vessel is to be measured. The commenter argued that the regulation should require that determinations of competitive effect should be made using domestic market supply and demand projections for a period at least equivalent to the remaining useful life of the CDS vessel under consideration.

One commenter stated that if MARAD determines some type of competitive impact injury is required and there are more applicants than room in the trade, MARAD must undertake a comparative evaluation of the concurrent proposals as in the *Ashbacker* decision (326 U.S. 327(1945)).

There was clear opposition on the part of some commenters to proposed section 276.3(b)(4). A commenter questioned the legality of the paragraph since the Secretary has authority under the Merchant Marine Act to accept total CDS repayment without a competitive impact inquiry. Another stated that a criterion conditioning acceptance of CDS repayment on the fact that the operation in the Jones Act trade is not likely to have a significant adverse competitive effect is not in that statute.

Proposed section 276.3(b)(2) states that the exceptional circumstances will be met if, because of the absence of adequate employment opportunities for the vessel in the foreign trade, the vessel owner or other party responsible for payment of the debt guaranteed or insured by the Secretary under Title XI of the Act will be unable to make the required periodic principal and interest payments on that debt and faces imminent bankruptcy. There were varying comments on the provision. Most commenters focused on the "imminent bankruptcy" requirement. Several commenters expressed concern that the proposed rule will favor those who are financially unstable. For instance, one stated that the proposed requirement that financial disaster be imminent for both the operator and the Government in a situation where no one stands to be injured by the transfer of the vessel has no basis in the Merchant Marine Act. This encourages financially unstable applicants to expose the Government to loss by having CDS repayment notes guaranteed under Title XI while disfavoring payment by financially viable applicants.

Others warned that the "bankruptcy standard" is subject to easy evasion and they urged that the agency, in making the determination, should take note of corporate relationships and structure. One commenter in fact, recommended the following specific language be added to proposed section 276.3(b)(2) on this point.

> provided, however, that this criterion shall not be deemed satisfied in any case where the beneficial or equity owner of the vessel is a member of a group of companies that files consolidated tax returns, unless its parents also face imminent bankruptcy.

A number of commenters suggested additional requirements that would assist in ensuring that only those operators whose entire organization or

corporation were facing imminent bankruptcy or severe financial instability would be allowed into the domestic trade. For instance, one suggested that the second "exceptional circumstance" should be amended to require consideration of all assets potentially available to the owner/debtor in satisfaction of its vessel construction obligations. Otherwise, it was argued, an operator could demonstrate an inability to satisfy its obligations by placing its vessels in separate, single-ship companies so that each company would have one vessel as its only revenue generating asset, despite the fact that the parent and related companies may be sound and able to absorb the loss. Another suggested that the circumstances of imminent bankruptcy should be so described in the provision that it is clear that the beneficial owner's entire organization, and not simply an isolated one-ship owning company, is to be considered by the agency.

One commenter strongly opposed the inclusion of proposed paragraph (b)(2) on the grounds that it would limit applications for repayment and permanent entry to those CDS owners whose vessels carry debt guaranteed or insured by the Secretary under Title XI of the Act and who are facing imminent bankruptcy. Each of those restrictions, it argued, is arbitrary and discriminatory. One commenter recommended simply that all "failing company" criteria be eliminated.

One commenter stated basic opposition to the entire proposed rule. However, it clearly stated its opposition to the first and second criteria of proposed section 276.3(b) on the grounds that the proposals misallocated resources and that vessels that could be more fully used in the U.S. costal trade should be permitted to do so even if not on the verge of bankruptcy. Its opposition was also rooted in its belief that the provisions protect existing Jones Act vessels from competition from other American ships to the detriment of the affected CDS carriers and consumers who pay higher prices for restricted entry.

Proposed section 276.3(b)(3) provided as one of the "exceptional circumstances" to be met before entry that the government will sustain substantial financial loss in the event of the bankruptcy of the debtor because of its responsibility to pay under Title XI guarantees or insurance. One commenter indicated some additional factors to be considered by the Secretary with regard to possible financial losses or exposure that would be suffered in the event of the debtor's bankruptcy such as value of the foreclosed vessel as well as the consequences to the government's other Title XI collateral in the domestic trade. Further, the commenter advised consideration of the consequences on the domestic shipbuilding industry as a whole.

Another commenter indicated three factors it thought should be considered by the government in assessing its exposure. They were:

(a) the risk of loss as guarantor;

(b) the value of the vessel itself; and

(c) the value of any insurance policy with the government as beneficiary.

The commenter proposed that the following specific language be added to paragraph (b)(3):

> giving weight, among other factors, to any insurance policies of which the Secretary may be beneficiary, the value of the vessel, and the potential exposure of the Secretary as guarantor of other vessels in the domestic trade.

One commenter requested that proposed section 276.3(b)(3) be redrafted to state how financial exposure of the government is to be assessed. Another commenter voiced a clear objection to the provision on the gounds that the government's position in the event of such a bankruptcy should have no bearing on the MARAD's decision whether to permit repayment and permanent entry for a CDS vessel. Such a consideration, it believed, would be "self-serving."

Another commenter stated that both the second and third exceptional circumstances confuse the government's sovereign role in promoting the U.S.-flag merchant marine with its pecuniary interest as an insurer of Title XI debt. The commenter urged that the government not consider its own interest as an insurer in Title XI debt. Still another commenter voiced objection to this third criterion because it misallocates resources.

Proposed section 276.3(c) would require that the total repayment of CDS plus interest be made in any manner acceptable to the Secretary, consistent with the purposes of the Act, after consideration of all pertinent factors, including but not limited to the financial condition of the owner, security for the Government and effect on competition. Several commenters stated generally that the provision should require that repayment be made in full before the application is granted, and that interest be included. Another commenter had specific recommendations as to how the total repayment process should be structured. It suggested that:

(a) Repayment and release should not be permitted while any unsubsidized Jones Act vessel in existence, or under contract for construction, is or would be available for charter within the period ending not more than six months after the proposed release date; and

(b) Repayment and release should only be permitted if the CDS vessel to be released obtains a charter for not less than eight years duration, and there is no unsubsidized Jones Act vessel in existence, under contract for construction, or which will otherwise become available within the period ending six months after the proposed release date, which will accept the proposed charter.

A number of commenters stated that the proposal was unlawful or did not reflect the Supreme Court rationale, in *Seatrain*, on CDS payments. One of the commenters suggested that any new proposal should emphasize the nature and terms of any repayment plans and that when evaluating an application in order to determine whether to allow repayment, the Secretary or MARAD should consider the terms and nature of any proposed repayment plan.

This commenter also suggested that an equitable rate of interest for repayment would be the rate in effect for Title XI bonds at the time the original CDS payment was made and that it should be applicable only to unamortized CDS. Such interest should be calculated based on the period of construction.

Opposition was expressed by a few commenters to all the "exceptional circumstances" set forth in proposed section 276.3(b) on the grounds that the regulation is restrictive and contravenes the specific directive expressed by the Supreme Court and it illegally prohibits entry into the domestic trade.

One commenter simply stated that the proposed rules state four prerequisites to acceptance of repayment of CDS and rescission of the domestic trading restriction on a vessel but that under certain circumstances, as noted in *Seatrain*, these criteria become immaterial.

There were also miscellaneous comments concerning the "exceptional circumstances" proposed provisions such as the suggestion that one additional circumstance be added to the list of exceptional circumstances, namely: an emergency need for the vessel in the domestic trades must be proven. Another suggested that a finding be made that repayment of CDS and lifting of domestic restrictions is necessary to provide common carrier service in the specific offshore trade

where the vesel is to be operated. This commenter believed this "exceptional circumstance" should be added to the list because the proposed rule does not take into account the special character and vulnerability of the domestic turn-around services.

Recommendations

Manner of Payment: One of the topics most frequently commented upon was the requirements the Department should impose with respect to the manner, method and terms of repayment, if repayment and permanent entry into the domestic trade are permitted. Several commenters, particularly those opposing the permanent entry of CDS vessels into the domestic trade, proposed very specific terms for repayment. One such proposal would provide for full cast repayment with interest equal to the economic benefit derived from the construction period to the date of repayment. This repayment should be a cash payment in full made simultaneously with release of operational restrictions, including interest calculated from the date CDS was granted to the date of repayment, figured at either the current long-term financing rate or the long-term financing rate in effect when the CDS was granted, whichever is higher. The commenter making this suggestion argued that payment by note would be inappropriate, since it would not place CDS and non-CDS vessels on the same footing. The commenter added that, if a note or other deferred payment arrangement were permitted, the principal amount of the note should be calculated in the same way as this commenter believes a cash payment should be calculated. Interest would than be charged on this principal from the date of issue at either the prime rate or the rate the borrower would pay a commercial bank for an unsecured loan of the same amount, whichever is higher.

A number of other commenters, while not providing so detailed a proposal, essentially agreed with this comment. They said that a cash repayment is desirable, there being no statutory or equitable justification for giving CDS vessel owners special payback financing privileges. They also agreed that the interest expense of the CDS should be included in any repayment terms, dating back to the outlay of CDS subsidies by the government. One commenter suggested that, in addition to charging interest, the government should index the repayment to inflation.

On the other hand, another commenter argued that the Department should accept repayment and rescind the domestic trading restriction once the operator agrees to payment of the unamortized amount of the CDS by method agreed to by the Department together with an amount reflecting the capital costs which would have been incurred had no subsidy been available. No further inquiry of finding need be made. At this point, the commenter asserted, the operator is on an equal footing with the domestic operator.

Procedural Suggestions: Many commenters suggested procedural steps which the Department should take in advance of making determinations concerning the permanent entry of CDS vessels into the domestic trade. These proposals differed concerning the organization, timing, and the degree of formality in the procedures.

One commenter suggested that a notice of application be published in the **Federal Register**, with interested parties having at least 20 days to file comments and request a hearing. Upon request, an oral hearing would be held to resolve factual disputes. The proceeding would specifically address the trade and scope of service involved in the application.

Another commenter, while asking only for a 10 day period to prepare and file its comments on or objection to an application, asked that the proceeding explicitly permit a domestic operator to assert the lack of need for the permanent entry of a CDS vessel into domestic commerce. Moreover, the commenter said, if the CDS vessel involved in the application is owned by an operator also holding an ODS contract, then a commenter's rights to comment on ODS matters under 46 U.S.C. 805(a) should not be construed as prejudging or having any other impact on its rights. A domestic operator should have the right to comment on one matter but not the other, it was argued.

One commenter simply asked for specific procedural regulations, while another added that all applications for repayment and permanent entry into the domestic trade for CDS vessels should be uniform. Another commenter said that applications should require the submission of financial statements, projections and other economic information concerning the future operation of the vessel. This information would be releasable to the public. This commenter and one other also agreed that a public hearing before an Administrative Law Judge was desirable, so that all interested parties could present relevant information. Another commenter recommended that the Department should delay action on applications for permanent entry of a subsidized vessel into a domestic trade for 12 months following original filing. If during this period one or more domestic operators chose to place orders for the construction of unsubsidized U.S. flag vessels to meet projected tonnage requirements, the application would be denied.

Effect of Repayment: A few commenters suggested that the regulations should explicitly set forth the specific effects of repayment. Two commenters said that, if total repayment is made, all restrictions, in addition to the domestic trade restriction, imposed as a condition of CDS should be lifted, placing the transferred vessels on an equal footing with Jones Act vessels in all respects. One of these commenters added that the repayment policy should not be limited to any particular class or size of vessel or only to vessels financed under Title XI. Nor should the policy prohibit a vessel's conversion after repayment to a use different from its prior employment. On the other hand, another commenter suggested that, when full payment of the CDS and release from restriction are permitted, existing Title XI financing guarantees on the vessel should not be permitted to be increased.

Criteria for Grant of Repayment and Removal of Restrictions: One subject on which commenters had much to say was the criteria which the Department should use in deciding whether to permit repayment and permanent entry of a CDS vessel into the domestic trade. One commenter argued that repayment and removal of restrictions should occur only if there were no "significant adverse competitive effect on the domestic carriers", meaning any significant diversion of cargo which a domestic operator is willing and able to carry. Along similar lines, another commenter said that, in granting repayment rights, the Secretary should ensure that no unsubsidized operator is put at a competitive disadvantage. A third commenter said that release and repayment should be permitted only if, at the time of application, the present market conditions permit profitable operation of the released CDS vessels. Other commenters made statements along similar lines. For example, one said that competition should be a primary consideration in the Department's decision. Another commenter suggested that former CDS vessels must lose Jones Act eligibility if, in the future, it is demonstrated that CDS repayments have a substantial adverse impact on the Jones Act fleet.

Some commenters suggested different ways of handling different kinds of vessels. One commenter believed the

Department should establish one criteria for liner vessels and another for non-FMC/ICC regulated tankers and/or dry bulk vessels. Another commenter thought that repayment should not be permitted at all for dry cargo vessels intended to be operated in the domestic trade. For tankers, another commenter suggested, CDS repayment should be permitted only for vessels of 100,000 DWT or greater.

One commenter suggested detailed and restrictive criteria for repayment and release. One set of these criteria would require "new" findings overturning the findings necessary to have authorized CDS payment in the first place. These new findings would be to the effect that operation of the vessel is no longer essential, there are no longer inadequacies on the essential trade route where it was operated, there were no opportunities for the operation of the vessel with subsidy in other foreign trade routes, and that there is no need for the vessel by other U.S. flag operators in foreign commerce. Since, this commenter argues, it appears that U.S. flag operators are not carrying the highest percentage of cargo practicably attainable under present conditions, operators wishing to withdraw vessels from CDS should be required to present evidence to support a finding that the foreign commerce services provided by the vessels are no longer essential, and that U.S. flag service will be adequate without those vessels on the route.

The commenter adds that a CDS operator, in establishing that no opportunity exists for the operation of the vessels in an unsubsidized mode in other trade routes, should have to show that it tried unsuccessfully to sell the vessels to other U.S. foreign commerce operators at fair market value. Another commenter added that, before granting repayment and release, the Department should take into account the possibility of using the vessels in foreign commerce under the various cargo or flag preference statutes.

A number of comments pertained to the competitive status of any CDS vessels that would be permitted to repay and enter the domestic trade. One commenter suggested that the Department should not approve applications unless it determines that former CDS vessels will be able to repay their CDS-related debts at charter rates competitive with those charged by nonsubsidized vessels. Along the same lines, another commenter suggested that an applicant for CDS repayment should be required to show that it has secured a substantial commitment for the vessel's long-term domestic employment. A third commenter added that repayment and release should only be permitted if present market rates are sufficient to permit profitable operation of the released vessel. Other commenters again emphasized that the effect of competition from the CDS vessel on the Jone Act fleet should be paramount in the Department's decision.

Other comments had miscellaneous suggestions. One commenter said that repayment of CDS should only be allowed from an operator who agrees to replace his vessel with a new U.S.-built diesel driven vessel in the foreign trade, so that the U.S. flag bulk foreign trade fleet will not grow smaller and new ship building will be stimulated. Another commenter suggested that, as a prerequisite for granting an application, the Department grant a fuel subsidy for the vessels involved. Finally, as noted in the discussion of procedural recommendations, one commenter would have the Department deny an application if, within 12 months of its filing, a domestic operator chose to place an order for the construction of an unsubsidized U.S. flag vessel to meet projected tonnage requirements. The commenter said that this approach would encourage construction of U.S. flag vessels while, by using the existing 6-month waiver, the Department could mitigate domestic tonnage deficits during the construction period.

Regulation of Service: One question on which some commenters touched was whether service by former CDS vessels should be regulated differently from other vessels in the domestic trade. Several comments asserted that former CDS vessels should be treated the same as any other Jones Act vessels, with no particular restrictions or regulations on their operation. However, one commenter suggested rate surcharges as a possibility for former CDS vessels. In addition, this commenter suggested government regulation as to the number and types of vessels to be used and the schedules they follow. The purpose of this regulation would be to protect operators of existing vessels built with government subsidy from unfair competition, especially in the foreign trade. Another commenter suggested that the maximum sailings authority under any ODS contract held by the former CDS operator be limited.

Exceptional Circumstances: Two commenters suggested that full repayment should be restricted to operators who can satisfy all of the "exceptional circumstances" requirements. Another commenter, however, contended that the list of exceptional circumstances in the NPRM were insufficient and should not be the sole criteria for full repayment of subsidy.

Adverse Competitive Impact

One commenter suggested that the concepts of "unfair or destructive" competition should play a decisive role in MARAD's decision on CDS payback. In its view, Congress did not intend vessels built without CDS to be forced to compete with vessels receiving such subsidies. The commenter argued that the proposed changes would harm the existing construction industry, in which the supply of vessels is already being set by market conditions, without improving the efficiency, viability, or size of the U.S. foreign commerce fleet. Its effect would be to add additional vessels to the domestic fleet, not because they are needed, but because they have failed to be viable in foreign commerce.

Another commenter vigorously opposed provisions that would permit permanent repayment of CDS and the removal of the domestic trading restriction. The commenter argued that payback and entry would disrupt existing supply and demand, and investment decisions would be impaired. It was also argued that any release from domestic trading restrictions would have an adverse competitive impact on operators in the domestic trade. It was further argued that MARAD should consider on a case-by-case basis whether the proposed operation of the CDS vessel in the domestic trade is likely to have an adverse competitive effect on other vessels, and vessels which have not been subsidized will be at a competitive disadvantage were their subsidized counterparts allowed to enter the domestic trade in direct competition. Therefore, the commenter asked that MARAD rigidly attempt to protect vessels which have been trading without subsidy under domestic trading privileges.

Another commenter strenuously opposed the principle of CDS payback. In the *Stuyvesant* case, it argued, the Supreme Court held that the Secretary of Commerce had the discretionary authority to accept CDS payback and to remove domestic trading restrictions on CDS vessels, but this discretion should be exercised only in the most compelling circumstances, *e.g.*, whenever the national defense or public health, welfare and safety would be seriously imperiled absent the unrestricted entry of CDS vessels into the domestic trades. It contended that permitting this in other circumstances would work a gross inequity on existing operators in the

domestic trade because, in constructing vessels, operators in the domestic trade have relied on the Congressional promise, in the form of statutory limitations on the participation of CDS vessels in the domestic trade, that competition would be limited to operators similarly situated.

Another comment noted that the domestic tanker fleet is composed primarily of relatively small vessels and is currently in an approximate balance with the demand for such vessels. Permitting entry of smaller CDS vessels into the domestic trade would unquestionably upset this balance forcing older, less-efficient non-subsidized vessels into a premature retirement. For the foreseeable future, CDS vessels of less than 10,000 D.W.T. could not be introduced into the domestic trade without having a significant adverse competitive effect on other vessels operating in that trade. The commenter concluded that the Alaska-Panama Canal trade is the only domestic trade in which there may be a requirement for entry of CDS vessels and in which there will not currently be a severe detrimental effect on the existing domestic operators.

A commenter argued that the failure to appreciate the competitive impact of permitting unrestricted entry of CDS tankers into the domestic trade could lead to removal of existing unsubsidized vessels from the market and creation of an unbalanced and inflexible fleet of survivors vulnerable to downturns in the domestic market. In the event of a downturn, it argued that former CDS vessels might be forced to seek alternate employment in the foreign trades with higher capital costs by reason of the CDS repayment.

A commenter asserted that, by permitting permanent entry of former CDS vessels into the domestic trade, MARAD would reduce competitive opportunities available to operators in the domestic trade and discourage construction of new unsubsidized U.S. flag tonnage for use in that trade in derogation of legislative efforts to expand the fleet. It was further asserted that the cornerstone of any policy on CDS repayment must be to maintain the historical "protected" position of the Jones Act Fleet.

One commenter stated that the adoption of a discretionary policy and equivocal rules would create an incentive for abuse and remove incentives to build new Jones Act vessels. As an example, the commenter indicated that owners could obtain CDS and during construction evaluate the unsubsidized vessel market. Then, if the domestic trades seemed more attractive, they could, as demonstrated by the *Stuyvesant* case, apply to repay the subsidy with a note, and obtain additional Title XI financing in an amount equal to or greater than their original actual construction cost. The commenter recommended that if a CDS vessel is permitted to enter the protected trades, it should do so on a truly equal and not on a preferential basis with the benefit of hindsight and after hedging the market.

Another commenter noted that the proposed rules reflect MARAD's concern over the possibility of sustaining a loss in the event of a debtor's bankruptcy because of MARAD's obligation to pay under Title XI guarantees. It was argued that MARAD would be in greater jeopardy in this regard if it adopted a policy or regulations permitting "easy sanitization" (release) of over 2½ million D.W.T. This would create a substantial imbalance in the tanker demand/supply curve and depress market rates. The commenter argued that MARAD should adopt a policy which restrains the subsidized vessels from entering the domestic trade except in emergencies and under exceptional circumstances (as was the original Congressional intent).

One comment concluded that, in promulgating the final rules, the agency must give due recognition to their impact on the Jones Act fleet, present and future, consider the effect of each release from domestic trade restrictions on the owners of Jones Act vessels, and adopt rules more stringent than the proposed ones in order to prevent discrimination and unfair competitive advantage. Final rules that do not give due recognition to the interests of Jones Act ships, particularly those which are a part of a new building program, will severly affect the viability of the current fleet and stifle merchant fleet growth and modernization, it was argued.

Another commenter made the following observation: "Any coherent policy with respect to total repayment of CDS and the lifting of domestic trading restrictions should attempt to treat the illness, not merely the symptom." The "symptom" was portrayed as the inability of these vessels to compete in the foreign trade for which they were built and CDS was granted. It was asserted that the CDS-built bulk fleet is at a severe competitive disadvantage because: The world market for VLCC's has been heavily overtonnaged for a number of years; consequently, charter rates are, and will remain, disastrously low. According to this commenter, fuel costs are the primary reason that the CDS-built vessels of less than 125,000 D.W.T. are unable to compete in the world market. Also, it asserted almost all CDS-built vessels are powered by steam turbine because, at the time they were built, (1) the escalation in fuel prices and the consequent fuel cost advantage enjoyed by foreign diesel-driven ships was unforeseen and (2) there were virtually no suitable American-built marine diesel engines. Because of this competitive disadvantage, it argued, owners of CDS-built VLCC's seek to transfer their vessels to domestic trade where they face no foreign competition.

Another commenter argued that under current procedures it is unlikely that all CDS-repayment applications would be accepted. Standards for accepting and denying these applications would be needed. If the underlying reason for the applications is the inability of the vessels to compete in foreign trade it would be "manifestly unfair and perhaps illegal" to grant some while denying other applications, according to the comment.

Another commenter concluded that of the four "exceptional circumstances" in the proposed regulations, only sec. 276.3(b)(4) (the condition that the repayment not be likely to result in any adverse competitive effect on domestic operations) is reasonable in light of the purposes and policy of the Merchant Marine Act. Further, it was noted that the proposed regulations permit the Board to determine the conditions of repayment (sec. 276.3(c)). The Board's approval of CDS repayment in respect to the American Heritage and Golden Monarch was conditional upon the CDS being repaid with interest. In contrast, CDS was repaid on the Stuyvesant (or, more properly, a promissory note in lieu of repayment was accepted in the amount of the CDS) without interest. It was argued that the Board may not require interest from one operator and not require the same from others. It concluded that the regulations should address the issue of interest on CDS repayment and promulgate a uniform rule for all applications.

A commenter asserted that, along with the review of foreign trade opportunities the Board should also take into consideration the possibilities for employment of a vessel domestically on a temporary basis under a section 506 waiver, as well as the possibilities for employment of the vessel under cargo and/or flag preference statutes of the U.S.

A strong preference for *regulation* versus an *ad hoc* approach in determining CDS repayment applications was expressed by some

commenters since, in their view, the concept of permanent, irrevocable entry into the domestic trade raised serious questions of adverse competitive impact in the Jones Act trade.

It was commented that CDS is intended to foster the development of a Merchant Marine capable of carrying a substantial part of our foreign commerce under the Merchant Marine Act and it would violate this principal of the Act to permit abandonment of the contractual commitment to engage in foreign commerce merely because superior profits might be thought obtainable in the domestic trade. Further, it was argued, the duty to foster and maintain service in the domestic trade is no less under the Merchant Marine Act and coastwise shipping hitherto has been entirely self-sustaining and paid for by the commercial market. Introducing subsidized tonnage, whether in a torrent or trickle, could have serious adverse effects on this market, it was asserted. It was claimed that over one million D.W.T. of large nonproprietary ships came off charter between mid-1980 and mid-1982 and the applications already filed to repay subsidy approach 1.25 million D.W.T. with another 1 million D.T.W. possible. The commenter concluded that a doubling or tripling in the supply of tonnage seeking employment in the Alaska trades could destroy the market for existing operators, and a failure to weigh these consequences would constitute an abuse of discretion.

Another commenter argued that existing Jones Act vessels should not be protected from newly created vessels as they are not entitled to be free of competition. Since the five outstanding applications are for VLCC's, the admission of these vessels would substantially increase the efficiency of the domestic fleet. The savings realized by operation of VLCC's will result in lower fuel costs for the consumer, it was agrued.

Another commenter suggested that it is economically discriminatory and unfair to penalize vessels which were financed without Title XI assistance merely because the operator did not take advantage of the government's support, by denying them the opportunity to repay their CDS.

Procedures for Approving Payback

Most commenters opposed the taking of an *ad hoc* or case-by-case approach to evaluating applications for repayment and entry. Several commenters said that specific regulations should be adopted instead of using an *ad hoc* approach because such an approach would not give interested parties adequate notice as to either procedural or substantive issues, thus, increasing the likelihood of litigation. Further, the commenters believed an *ad hoc* approach would lead to an unfair and inconsistent application of a payback policy. Affected parties would not be able to ascertain in advance the likelihood of approval for their own or their competitors' applications for repayment of construction differential subsidies. In the event that the proposed regulations were adopted, the commenters asked that interested parties be able, in advance, to analyze and critique the proposed applications.

One commenter supported specific regulations rather than *ad hoc* determinations because it would be the only way the agency could provide potential owners of coastwise vessels the certainty necessary to evaluate their economic positions.

There were, however, several commenters who did favor an *ad hoc*, case-by-case approach. One stated that the agency should consider, on a case-by-case basis, whether or not the entry of a CDS vessel is likely to have an adverse competitive effect on other vessels. Vessels which have not been subsidized will be at a competitive disadvantage with their subsidized counterparts this commenter argued.

Most of the commenters suggested administrative procedures they believed would ensure uniform, fair and reasonable treatment of applicants, and provide adequate compliance with the Administrative Procedure Act (APA) (5 U.S.C. 553). Several commenters advised that any regulations adopted should be guided by the Supreme Court's holding in *Seatrain Shipbuilding Corp.* v. *Shell Oil Co.*, 1002 S.Ct. 800, 809 (1980). They argued that any regulations promulgated in this proceeding should be guided by the Supreme Court's holding that the Secretary's broad contracting powers and discretion to administer the Merchant Marine Act includes the authority to allow the total repayment of CDS and to rescind permanently domestic trading restrictions. Moreover, they indicated that the regulations must be consistent with the Court's finding that a permanent release from the foreign trade requirement may directly further the general goals of the Merchant Marine Act.

The proposal provided for publication in the **Federal Register** of a notice of any application received for total repayment of CDS and allowance of comment by all interested parties not later than ten (10) days after the publication date. As indicated above, several commenters pointed out that any procedures adopted should conform to the requirements of the APA although one of those commenters believed the proposal to be adequate in that respect.

Several commenters were dissatisfied with the time proposed for comment. One commenter stated that the proposed 10 day period for submission of comments on applications should be extended to at least 30 days so that interested parties will have sufficient time to prepare substantive comments. One comment received urged that applicants for CDS repayment who believe that the disposition of their application will be affected by the agency's decision on other pending applications should be free to comment on this aspect during the public comment period.

Another commenter believed the regulations should provide for the publication of all applications for repayment in the **Federal Register** and give interested parties a 30 day period within which to submit comments. This commenter asked that, if, at the expiration of this period, MARAD has received comments opposing the release, MARAD should set a hearing date, with 30 days notice, at which time all interested parties may appear, give oral argument, and file written briefs.

A third commenter noted the Application of Richmond Tankers, Inc., for the repayment of CDS for the Bay Ridge as an example of the necessity for an adequate period for interested parties to examine and respond to submitted applications. The commenter also stated the belief that any regulations that would permit rapid processing of such an application would adversely affect existing contractual rights of the Maritime Subsidy Board.

In addition to supporting an extended comment period after publication of a notice of application, a number of commenters suggested provisions for hearings on the applications. One stated that total repayment of CDS subsidies is of such immense concern to the future of the U.S. Merchant Marine that a hearing is essential. Another listed the following procedures it believed would ensure that all interested parties would have the opportunity to present their views.

(a) An allowance of 30 days after publication in the **Federal Register** to submit written comments;

(b) A requirement, if the vessel is intended to be used in a domestic dry cargo trade, that the applicant serve a copy of the application upon every carrier having a tariff covering any domestic trade route on file at the Federal Maritime Commission or the Interstate Commerce Commission; and

(c) A requirement that receipt of written comments in response to the application should require the agency to schedule the matter for hearing.

One commenter agreed that the applicant should be required to make its data public in copies of the application to be published in a Federal Register notice with an opportunity for public hearing. Under this commenter's suggestion, written comment would be optional, however.

Another commenter stated that, instead of providing for the initiation of a hearing after the thirty day comment period had ended, a hearing should be held on all proprosals for CDS repayment within 30 days of application for repayment of CDS.

Two commenters urged that an administrative law judge be assigned to hold hearings on CDS applications. Another commenter stated that provision should be made for discretionary hearings upon a finding that disputed issues of material fact exists.

There was also a suggestion concerning consolidation of hearings where more than one application has been received. It was suggested that the hearing procedures provide for much documentation to support the application including economic data and the testimony of experts. The commenter cited 46 CFR 201.71 in support of the suggestion.

Several commenters raised what they believed to be procedural defects contained in the proposal. One indicated that the proposed regulation should provide a procedure which allows parties to respond to the applicant's domestic market assessment and projections and vice versa.

The proposal also posed several administrative problem to one commenter. The problems included the proposal's lack of specificity in its request for comments on six general issues "as well as any other related issues not listed," and the finding in the proposal, with which the commenter appeared to disagree, that "a determination had been made that no regulatory analysis is required under provisions of E.O. 12044 and implementing procedures of the Department of Commerce and the Maritime Administration.

The failure to provide a Regulatory Analysis with the proposal drew several other comments. A number of commenters argued that any discussion of a CDS repayment requires a regulatory analysis prepared in accordance with Executive Order 12044 in addition to a written solicitation of written comments from interested persons, to be followed by republication of the revised proposed rule for further comment and discussion. One noted that MARAD's own procedures appear to require a Regulatory Analysis in this instance.

The commenters also argued that without an investigation and assessment of the facts and issues that would be raised by a Regulatory Analysis, MARAD lacks the principal tool available to it to develop its proposed regulations in a reasoned fashion.

General Comments on NPRM

Several comments were received concerning the scope of any CDS repayment policy that might be adopted. A number urged that if a policy is adopted, it should be a single consistent one that is applicable to all CDS vessels irrespective of type or size. Other commenters, however, disagreed and argued that certain vessels should be treated differently. Specifically, one commenter argued that a separate policy should be adopted for domestic offshore common carrier vessels because of the different circumstances surrounding their operation. Another commenter expressed the belief that the policy's applicability should be limited to VLCC's while still another suggested that separate policies should be applied to smaller and larger vessels (VLCC's and ULCC's).

A number of commenters urged the agency to fully consider all relevant factors before adopting any CDS payback policy. One commenter, who supported the concept of the proposed rule, objected to the rule, as written, as being inadequate and unduly restrictive. Several commenters specifically argued that the effects on competition of any payback policy must be fully considered before being adopted. Other asked that the agency retain the historical distinctions between the subsidized and unsubsidized fleets and between the fleets involved in the Jones Act and foreign commerce trades.

One commenter argued that the current problems of the CDS fleet are temporary in nature and are due to a world-wide depression of tanker shipping rates. This commenter contended that allowing CDS payback would disregard the temporary nature of the problem and would hinder the overall U.S. maritime policy by removing irrevocably vessels needed for the foreign trade fleet.

One commenter suggested that permitting the transfer of CDS vessels to domestic trade would reduce the incentive for the construction of new ships for the domestic trade, resulting in a loss to the U.S. economy. This commenter also suggested that the reduction of one ship in the subsidized foreign commerce fleet would be undersirable.

Proposed Rule Clarifications

A number of commenters pointed out areas of the proposed rule they believed were subject to varying interpretations or were unclear. One commenter requested that the list of exceptional circumstances warranting CDS payback in the proposal should be expanded and be made more specific. More specifically, another commenter requested that the term "total repayment" in the proposed rule be defined to apply to the unamortized portion of the CDS amount to avoid a possible interpretation that could require repayment of the entire CDS amount for older vessels, a result both unfair and contrary to a Comptroller General Opinion (44 Comp. Gen. 180, 181 September 20, 1964).

Two commenters argued that the required finding of "significant adverse competitive effect" in the proposed rule was vague and ambiguous and needed clarification. One of those commenters suggested that the required finding should be of an unfair, undue or unjust competitive effect. A third commenter argued that any significant diversion of cargo which a domestic operator is willing and able to carry should be considered to be a "significant adverse competitive effect."

Another commenter indicated that the proposal should be revised to make it clear that once CDS is repaid, a vessel becomes located in the domestic trade and is deemed to have the same status as a nonsubsidized vessel.

Economic Analysis Required

Several commenters emphasized the need for an economic analysis of the consequences of permitting full CDS payback before any reasonable rule could be adopted. One commenter asked that the analysis cover alternatives to full payback. Another argued that the analysis should cover the adverse impacts on owners and operators of Jones Act vessels as well as U.S. shipyards and supporting industries. This same commenter pointed out problems in forecasting the availability of foreign trade opportunities for protracted periods. Also on the issue of forecasting, another commenter referenced MARAD's stated inability to predict the competitive effects of operations in the domestic trade more than three years in the future.

Waivers

Some commenters touched on the existing 6-month waiver period authorized by sec. 506 of the Merchant Marine Act of 1936. Two commenters thought that this waiver provision was sufficient to achieve the goal of allowing underutilized ships from the foreign commerce tonnage of the United States to be properly employed in the domestic trade. A third commenter suggested that the Department could use the sec. 506 waiver provision to absorb excess foreign commerce tonnage in the short term. The Department could do this by giving 6-month waivers to tank vessels carrying oil from Alaska around Cape Horn to the east coast. By establishing a comprehensive vessel scheduling structure for this purpose, the Department could mitigate the excess tonnage problem through the waiver provision, the commenters contended.

Another commenter suggested that if the Department could not meet the current shortfall of Jones Act tonnage in the domestic trade through the sec. 506 provision, the Department should seek legislation to create greater flexibility to deal with changing problems and unreliable market or tonnage forecasts.

In discussing the procedural aspects of waiver requests or requests for repayment and release, one commenter said a procedure similar to that employed for sec. 506 waivers would be appropriate for applications for total CDS repayment. Another commenter emphasized that all applications for repayment rights should be handled uniformly. A third commenter requested a procedure involving notice in the **Federal Register** and the opportunity for interested persons to comment. This commenter did not believe that hearing procedures were needed.

Discretion

Two commenters discussed the degree of discretion permitted the Department in considering requests for payback and release from the restriction on operation in the domestic trade. One commenter discussed the history of CDS restrictions on entry of vessels into the domestic trade and the court cases construing them. The commenter contended that the Secretary has discretionary authority to grant a permanent release from trade restrictions when the subsidy is repaid. Such a payment would permit a formerly subsidized vessel to enter the domestic trade on an equal footing with unsubsidized vessels already in that trade, according to this commenter. The commenter noted, however, that, in its view, there is no authority granting the Department the power to accept a note in repayment of CDS.

Another commenter disagreed with the proposed regulation because, in its view, it gives the Secretary insufficient discretion. It argued that relevant case law gives the Secretary broad authority to allow a vessel built with CDS to enter the domestic trade permanently following repayment of the subsidy. In exercising this discretion, the commenter said, the Secretary need only consider the competitive effects of the action to the extent that the terms of the repayment arrangement would result in a significant, adverse, unfair competitive effect on other unsubsidized vessels in the domestic trade. The commenter added that applicants for CDS repayment who believe that the disposition of their application will be affected by the Secretary's decision on other pending applications could comment on this effect during a public comment period.

Attachment 2—Regulatory Evaluation and Regulatory Flexibility Determination Construction Differential Subsidy Repayment

[Office of Industry Policy, Economics and Finance Division, P-14, January 25, 1983]

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List of Attachments

I. Executive Summary

The unsubsidized U.S. tanker fleet (Jones Act tankers) consists of 210 tankers of 10.4 million dead weight tons (DWT). Up to 5.2 million DWT of this capacity is used in the Alaskan North Slope (ANS) oil trade (Valdez to the U.S. West Coast or Panama) either for part of a year or for the entire year. The Jones Act tankers presently in the trade include most of the efficient U.S. tankers with the exception of the CDS-built tankers that enter the trade under six-month waivers. MARAD estimates the ANS tanker demand to be 5.4 million DWT in 1983 and projects an increase to 6.4 million DWT by 1985. After 1985, projections are less certain; a MARAD projection puts 1990 to 1995 demand at 6.6 million DWT. By the year 2000, significant new production from the Beaufort Sea is possible and if achieved is expected to push tanker demand well above previous levels.

A shortfall in the supply of tankers in the ANS oil trade has been met since 1978 by allowing CDS-built (non-Jones Act) tankers into the ANS trade under temporary six-month waivers issued by MARAD. These six-month waivers have come under criticism as unnecessary economic regulation. Full CDS repayment would open the Jones Act tanker trade more fully to market forces by eliminating entry restrictions on the U.S.-flag fleet into this trade.

There are 15 CDS-built tankers that would be expected to repay their CDS with interest and enter the ANS trade full-time, if permitted to do so, seven VLCCs and eight 90,000-DWT Panamax tankers. These tankers are among the most efficient U.S.-flag tankers. If allowed into the trade full-time, they would add 1.6 million DWT of incremental ANS tanker capacity and make permanent the 900,000 DWT of capacity they presently add to the ANS trade through six-month waivers. Near-term market disruptions would result from the new incremental capacity and result in some redeployment of existing ANS tankers to other domestic trades. The oil companies would be able to manage and mitigate the market disruptions from this redeployment; they control 19 of 20 small tankers presently in the ANS trade. Also, oil companies charter the independent-owned CDS-built tankers which would be expected

to enter the trade (13 of the 15 are independent-owned).

MARAD's market entry restrictions in the high-volume ANS trade results in reduced competition and higher tanker rates; the higher rates would attract efficient CDS-built tankers if they were premitted to enter the trade. If smaller, unsubsidized tankers (the least efficient tankers presently in the ANS trade) were displaced from the Valdez to West Coast or Panama trades by efficient CDS-built tankers that repay their CDS, the displaced tankers would be expected to find employment in other domestic trades. This redeployment process will not always be easy since many alternative U.S. trades require tankers with specific physical characteristics. Even so, the tankers expected to be displaced from the ANS trade are generally judged to be efficient enough to find alternative profitable employment, possibly at rates less than the past rates in the ANS trade. In turn, they would displace other, less efficient tankers in other domestic trades. The end result of this redeployment and bumping process would be that the least efficient unsubsidized tankers in the U.S. fleet would ultimately be the tankers scrapped or put out of business. In other words, market forces will equate tanker supply and demand and efficient tankers would replace inefficient tankers.

This economic process will not only be affected by CDS repayment, but also by the opening of the Panama Pipeline and the retrofitting costs for old tankers of the Port and Tanker Safety Act of 1978. There are 126 old tankers with 4.2 million DWT of capacity that could be impacted by these events. These tankers range in age from 20 to 41 years and all except one are small—80,000-DWT or under. There is no Title XI outstanding on these tankers; they are the most likely to be scrapped because of the new pipeline, the Port and Harbor Safety Act and CDS repayment.

Allowing CDS repayment would eliminate MARAD's economic regulation of CDS-built tanker entry into the ANS trade. The removal of MarAd-imposed market entry restrictions plus the full-time use of all our efficient tankers should increase ANS oil trade competition and reduce the real economic costs of oil transportation. Side benefits of CDS repayment would be up to $200 million in cash from the repaid CDS, plus interest, the termination of eight CDS agreements, and increased likelihood of Title IX repayment of the CDS-built tankers entering the ANS trade. These benefits clearly outweigh the costs.

II. Introduction and Background

A. Background

Section 27 of the Merchant Marine Act, 1920 (the Jones Act) requires that all cargo transported in the domestic trade be carried on vessels built in the United States, documented under United States law, and owned by U.S. citizens. These Jones Act tankers, unlike those constructed with the assistance of Construction Differential Subsidy (CDS), are built without Federal financial subsidy.

In 1977, the opening of the Trans-Alaska Pipeline System (TAPS) created a demand for U.S.-flag tanker tonnage that has not been fully met by the nonsubsidized Jones Act fleet.

In order to alleviate the shortage of Jones Act tanker tonnage, tankers built with CDS have been given permission to enter the Alaska North Slope trade (ANS trade Valdez to the U.S. West Coast and Panama) on a temporary basis. Section 506 of the Merchant Marine Act, 1936, grants MARAD the authority to permit the temporary transfer of CDS-built tonnage into the domestic trade, provided the transfer does not exceed six months in any year and provided CDS is repaid on a *pro rata* basis. MARAD (through the Secretary of Transportation) also has the authority to permanently remove all domestic trading restrictions on a vessel constructed with CDS in exchange for full repayment of subsidy. The Supreme Court [1] decision on full repayment of CDS and release of Jones Act trading restrictions specifically addressed the differences between *pro rata* repayment under six-month waivers and full repayment:

> . . . But a permanent release upon full repayment is quite different. It irrevocably locates the vessel in the unsubsidized fleet, and thus poses no danger of a supercompetitor skimming the cream from each market. It creates no long-term instability. And it confers no windfall. On the contrary, at least where repayment of the CDS includes some amount reflecting capital costs which would have been incurred had no subsidy been available, such a transaction merely permits a once subsidized vessel to enter the domestic trade on a footing equal to that of vessels already in that trade. It was not the purpose of the Act to prohibit such entry. . . .

To date, two CDS-built VLCCs have been granted full repayment: the Stuyvesant (225,000 DWT) in August 1977, and the Bay Ridge (225,000 DWT) in November 1980. Applications have also been received for the removal of domestic trading restrictions on three CDS-built VLCCs and on one CDS-built 90,000-DWT Panamax tanker. These applications were made because foreign trading prospects for U.S.-flag tankers are low with the world glut of oil tankers, and are likely to remain so for the foreseeable future. The CDS-built 90,000-DWT Panamax tankers have been securing some foreign trade employment opportunities, but even so, such employment is likely not to be as attractive as full-time Jones Act trade employment. The foreign trade voyages result in Operating Differential Subsidy (ODS) payments from the U.S. Treasury to cover the difference in labor costs (and a few other minor cost items) between high-priced U.S. crews and low-cost foreign crews. Also, the foreign trade voyages often involve U.S. perference cargo, cargo that is required by various laws to be partially or totally carried in U.S.-flag vessels. The applicants seek to repay their CDS, plus interest, and terminate any existing ODS agreements. If the repayments are allowed, these CDS-built tankers would be allowed to compete for domestic oil trading opportunities and their prospects for remaining financially healthy would improve. Jones Act tanker owners (referred to as unsubsidized tankers) would not want this added competition, particularly since the tankers that would enter are more efficient than many of the tankers already in the trade.

In 1980, when MARAD was examining the advisability of allowing the Seatrain-owned VLCC Bay Ridge to repay its CDS, MARAD developed economic projections [2] of the Alaskan oil trade. The United States Court of Appeals, in a decision dated September 7, 1982 *(Independent U.S. Tanker Owners Committee v. Drew Lewis,* No. 81-2121, D.C. Circuit), found that the different economic analyses MARAD used to help make its decision on the Bay Ridge were contradictory and failed to make a sound economic case to support the Bay Ridge decision. After reviewing the 1980 studies, it was found that the projections were outdated, irrespective of other flaws discussed by

[1] Seatrain Shipbuilding Corp. v. Shell Oil Co. 444 U.S. 572 (1980).

[2] A Comparison of MARAD and Temple, Barker and Sloane Analyses of the Supply and Demand for Non-Subsidized Tankers in the Domestic Trades, 1980–1990," by MARAD, August 26, 1980; "Supply and Demand for Non-Subsidized Tankers in the Domestic Petroleum Trades, 1980–1990," by MARAD, September 24, 1980; memorandum "Richmond Tankers, Inc. (Richmond)—Application to amend CDS contract so as to remove all trading restrictions limiting the use of the TT Bay Ridge in domestic trade," MARAD, October 21, 1980; memorandum "Richmond Tankers, Inc. (Richmond)—Repayment of Construction Differential Subsidy (CDS), payment of CDS construction period interest and removal of domestic trading restrictions on the T.T. Bay Ridge," MARAD, October 22, 1980.

the Court of Appeals, and thus these analyses are of limited use today. For instance, in the October 22, 1980, analysis, page 13, MARAD assumed stagnant Alaskan North Slope (ANS) production at 1.5 million barrels per day (B/D) through 1990 and a declining demand for tankers to carry this oil. A major reason for projecting a declining demand for tankers was the expectation that West Coast use of ANS oil would increase (short ocean voyage) at the expense of ANS oil being shipped to Panama (long ocean voyage).

Based on current expectations of oil companies involved in ANS exploration, development and production, MARAD now projects that ANS oil production will continue to increase from the present level of 1.6 million B/D to 2.0 million B/D by 1990 and stabilize at this level through 1995. Based on this projection, MARAD indicates the demand for ANS tanker capacity will increase from 5.4 million DWT in 1983 to 6.6 million DWT in 1990 and 1995. Also, the proportion of ANS oil moving to the West Coast has actually declined since 1980. MARAD expects shipments to Panama will continue to take an increasing proportion of ANS oil, at least through 1984.

This analysis, prepared to accompany this latest notice of proposed rulemaking, differs significantly from previous economic analyses prepared by MarAd concerned with CDS repayment. Instead of assessing the prospects for a mathematical balance of demand and supply of ANS tanker capacity, this analysis focuses on the economic impact of tankers likely to be scrapped if CDS repayment is allowed. The analysis focuses on the less efficient tankers (tankers that require the highest rates to remain in business) in the U.S. fleet. These tankers would be most vulnerable to scrappage. Also, the economic consequences of these inefficient tankers exiting the marketplace versus the economic consequences of the CDS-built tankers entering the domestic trade full-time are examined. Projections of future ANS oil production and the subsequent supply and demand for tankers continues to be important, but it is not the overriding issue as in the past. Instead, the impact of competitive market forces is examined that would result from eliminating economic regulation of CDS-built tanker entry into the ANS trade.

B. U.S. Oil Production

Today, carrying U.S. oil production is practically the only employment opportunity for U.S.-flag tankers; they have great difficulty competing in today's world oil trade even with subsidy. U.S.-flag tankers were built in U.S. shipyards and are crewed by U.S. citizens resulting in capital and operating costs that make U.S.-flag vessels uncompetitive in the free market world tanker trade. CDS-built VLCCs have survived generally by receiving six-month waivers in the ANS trade and sitting idle for the next six months. CDS-built 90,000-DWT Panamax tankers, which normally carry loads of 90,000 DWT (these tankers can transit the Panama Canal with a reduced load of about 60,000 DWT) have survived by securing preference foreign trade voyages and subsidized trade under ODS agreements. Both types of CDS tankers have also participated historically in the Strategic Petroleum Reserve (SPR) fill program. The SPR program seeks to build up strategic reserves of crude oil in case of another cut-off of foreign oil or for other emergency purposes. Oil is purchased in the international oil market and transported to the U.S. Gulf Coast where it is stored in old, underground oil fields. The fill program reserves 50 percent of oil transport for U.S.-flag tankers. The SPR trade for U.S.-flag tankers will offer significantly fewer trading opportunities in the future; the fill program is well ahead of schedule, appropriations are expected to be cut, and mainly small tankers will be needed to carry SPR oil in the future. In the past, large tankers carried SPR oil from the Persian Gulf and North Sea, but in the future Mexican oil will mainly be used for the SPR fill program.

In essence, the most efficient U.S.-flag tankers will be underused by the present system of six-month waivers and declining SPR trading opportunities. Market entry restrictions for both types of CDS-built tankers are taking place at a time when ANS oil production is causing a shortage of these efficient tankers. Although ANS oil production is not the only U.S. production that needs tanker transportation, it generates by far the greatest tanker demand and is expected to be the significant factor that influences tanker demand in the forseeable future.

C. Domestic Unsubsidized Fleet

The domestic unsubsidized tanker fleet consists of 210 tankers of 10.4 million DWT. About 39 percent of this fleet consists of small tankers (80,000-DWT or less), 20 years or older. These tankers are listed in Attachment 1 and generally consist of the least efficient tankers in the unsubsidized U.S. fleet. Only three of the 126 tankers listed in Attachment 1 are regularly in the ANS trade; as a highly lucrative the ANS trade attracts efficient, large tankers because of the volume of ANS production. The tankers listed in Attachment 1 generally seek employment in such trades as Panama Canal Transit, Panama east coast to the U.S. Gulf Coast, the U.S. Gulf Coast to the U.S. East Coast, Puerto rico, Hawaii and intra-coastal domestic trades on the East, Gulf and West Coasts and intra-coastal Alaska. Even so, these tankers are the most vulnerable to scrappage if CDS repayment is allowed.

If CDS-built tankers are allowed into the ANS trade, they would tend to push out the less efficient tankers in this trade. The ANS tankers displaced from the ANS trade would tend to push out less efficient tankers in other domestic trades. The end result is that the least efficient tankers in the U.S. fleet are the most vulnerable to scrappage (i.e., because of their high repair and operating costs they would be the least likely to get profitable employment opportunities).

This bumping and redeployment process is not a simple or moot process because of market complexities. For instance, an uncoated tanker (an uncoated tanker does not have its oil holding tanks lined; this lining is required before refined petroleum products can be carried by the tanker) in the ANS trade cannot redeploy to an East Coast trade that carries mainly oil products. (Most tankers of more than 100,000 DWT are uncoated, while most tankers under 100,000 DWT are coated.) Similarly, draft and size limitations in many port areas and in the Panama Canal limit the redeployment of a large tanker from the ANS trade to an alternative U.S. trade. Nonetheless, most of the redeployment expected will be the smaller ANS tankers, those generally capable of carrying oil products. Also, oil companies can retain some of their small ANS trade tankers simply because they control the oil carried in such tankers, but even the oil company tankers will be affected by competitive market forces and their need to efficiently transport their oil.

There are other factors influencing scrapping some of the tankers listed in Attachment 1. The opening of the Panama Pipeline in late 1982 has started a process that will reduce the need for tankers that were previously used to carry oil through the Panama Canal. Also the Port and Tanker Safety Act will require relatively expensive retrofitting of these small and old tankers by January 1986. MarAd estimates $3.0 million or more in retrofitting costs per tanker. It is likely that many of the owners of the tankers listed in Attachment 1 will find such

expenditures non-cost effective and will have their tankers scrapped.

D. ANS Unsubsidized Tankers

Because many tankers move from one domestic trade to another during a year, particularly tankers less than 100,000 DWT that can transit the Panama Canal, no precise list of the ANS tanker fleet is possible. Most compilations of the unsubsidized ANS fleet have this fleet at a little more than 50 percent of the total domestic unsubsidized fleet. Table 1 below summarizes vessels that have called at Valdez, Alaska. In this table, the tankers are summarized in four categories, based on size and average age. These four categories also allow a useful assessment of efficiency and are listed below in order of efficiency from most efficient to least efficient.

TABLE 1.—UNSUBSIDIZED TANKER CAPACITY ALASKA NORTH SLOPE TRADE

Type of vessel	Number	Average age (years)	Title XI (MM of dollars)	Capacity (1,000 DWT)
170,000 to 225,000 DWT (VLCC)	13	4.8	283.0	2,231.9
90,000 DWT (Panamax)	5	6.6	65.1	452.1
100,000 to 130,000 DWT	10	9.6	183.5	1,217.8
80,000 and less DWT	20	13.2	20.0	1,287.1
Total	45		551.6	5,188.9

Source: "Status & Employment Report," MarAd's Office of Trade Studies and Statistics, November 1, 1982.

Attachments 2, 3, 4 and 5 present specific details on the tankers listed in Table 1. If CDS repayment is allowed and all or most of those eligible repaid their CDS, the tankers most vulnerable to displacement would be those listed in Attachment 5 and the 21-year-old Manhattan listed in Attachment 4. It is unlikely that all these tankers would be displaced since demand already exceeds the unsubsidized ANS fleet capacity (therefore the six-month waviers), demand is growing, two of the three independently owned tankers in Attachment 5 (the Sohio tankers) have long:-term charters, and oil companies may choose to retain some of their small tankers in the ANS trade rather than charter independently owned tankers that repay their CDS. Since only three of the 45 tankers in the ANS fleet are over 20 years old, most tankers that would be displaced from the ANS trade, those 80,000-DWT and under, would find employment at lower, but profitable rates in other trades. The lower rates result from the removal of barriers to market entry, and the entry of tankers that are more efficient than the tankers bumped out of the trade. Because of the new competition and improved efficiency of the tankers, lower rates would be possible.

E. Construction Differential Subsidy Fleet

The CDS-built fleet consists of 29 tankers totaling 3.8 million DWT. MarAd has analyzed these 29 CDS-built tankers and concluded that 15 are likely to repay their CDS. Table 2 below summarizes the data on the two classes of CDS-built tankers that are likely candidates for CDS repayment. For the 14 tankers that are not expected to repay CDS, 10 are in the 35,000 to 40,000-DWT class and are considerd too small for efficient ANS employment, two combination vessels (vessels that can carry both oil and non-oil cargoes) are considered physically and economically unsuited for efficient ANS trade purposes, and two 390,000-DWT ULCCs are considered too large for berths at Valdez and the shallow berths in destination areas. The two ULCCs were built in 1979 and have seen little if any employment since completion. Shell Oil Co. has control of both under 25-year "hell-or-high-water" charters, (even if layed up, Shell is required to pay the charter hire) and thus Shell is suffering the economic losses from their lay-ups. It is possible that Valdez and Panama port restrictions could be overcome by an unknown amount of capital expenditure and an unknown amount of time needed to complete these port changes. It is likely that Shell would have to pay for the port changes as well as the CDS repayment, about $92 million plus interest (there is no Title XI on these tankers). Whether such expenditures are made would be heavily dependent upon future long-term expectations of oil movements from Valdez to Panama, the likely trade for these tankers. If such expenditures were made, it would most likely force additional scrappage of the less efficient tankers.

TABLE 2.— CDS- BUILT TANKERS CANDIDATES FOR THE ALASKA NORTH SLOPE TRADE

Type of vessel	Number	Average age	Title XI (MM of dollars)	DWT (1,000)	CDS (MM of dollars)
225,000 to 265,000 DWT (VLCC)	7	7.6	141.1	1,778.9	141.8
90,000 DWT (Panamax)	8	7.3	135.9	717.6	59.8
Total	15		277.0	2,496.5	201.6

Source: "Oil Tankers Built With CDS," MarAd's Office of Associate Administrator for Maritime Aids, July 28, 1982.

Attachments 6 and 7 provide specific details on these tankers, including the unamortized CDS on each tanker, while Attachment 8 provides details on the remaining 14 CDS-built tankers. Three of the VLCCs and one Panamax tanker listed in Attachments 6 and 7 have applied for CDS repayment. It is likely the remaining 11 would apply for CDS repayment; it would be in the best financial interest of the tanker operators to repay their CDS unless foreign trading opportunities are attractive or the tanker owners felt the ANS trade was too competitive. All of the eight Panamax tankers listed in Attachment 7, besides being CDS-built, have ODA agreements. These ODS agreements would have to be terminated prior to the tankers' entry into the ANS trade full time.

III. Benefit/Cost Analysis

A. Economic Regulation of Alaska Tanker Trade

CDS repayment should not affect the employment opportunities of unsubsidized VLCCs (Attachment 2) of Panamax (Attachment 3) tankers. Unsubsidized tankers in the 100.000 to 130,000–DWT (Attachment 4) category could be affected, but they are generally relatively new tankers with reasonable prospects for ANS employment even with the added competition of CDS-built tankers. The one possible exception would be the Manhattan; it is 21 years old (high maintenance and repair costs) and its unique construction (it was built to be almost indestructible) results in very high operating costs. This vesel has prospered under the six-month waiver program, due to the requirement that all 100,000–DWT and over tankers in the ANS trade have to be fully employed before six-month waivers are granted to CDS-built tankers. The major impact of CDS repayment will fall on the 80,000–DWT and under (Attachment 5) tankers. Of the 20 such tankers, all except one are either owned by or under long-term charter to the oil companies. Since

independents own all except two of the 15 CDS-built tankers that could come into the ANS trade with CDS repayment, the oil companies will be faced with choice of chartering the CDS-built tankers at lower rates and redeploying their less efficient tankers to other trades or simply retaining their tankers in the ANS trade and using CDS-built tankers for incremental demand.

As shown in Attachment 9, the CDS-built VLCCs have garnered most six-month waivers. The 90,000–DWT Panamax tankers have only secured a few waivers for short duration voyages. Both categories of CDS-built tankers have had difficulty securing employment in the past (VLCCs are priced out of the foreign trade and the 90,000–DWT Panamax seek subsidized cargo reserved for U.S.-flag transportation). With the prospects of less SPR trade in the future, both type tankers will have even greater difficulty securing employment in the future. CDS repayment would allow these vessels to seek full-time employment in the ANS trade and in that way maximize the usefulness of tankers that are among the most efficient in the U.S. fleet.

B. Transportation Cost of Alaskan Oil

Table 3 gives a comparison of the rate structure in the ANS trade (Valdez to the U.S. West Coast and Panama) during the summer of 1982.

TABLE 3.—ANS TANKER RATE STRUCTURE, SUMMER 1982

[Dollars per DWT per Month]

Type tanker	ANS tanker rates
170,000–DWT and above (VLCC)	$7.25
90,000–DWT (Panamax)	9.25
100,000 to 130,000–DWT	14.00
80,000–DWT and below	16.50

Source: "Impact of CDS Repayment on the domestic (Alaskan) Tanker Trades," MarAd's Office of Trade Studies and Statistics, July 16, 1982.

This rate structure is heavily affected by economic regulation of the ANS trade. Since MarAd limits market entry CDS-built tankers, rates are higher than would be true if market entry restrictions were removed. The six-month waiver requirement that all 100,000–130,000–DWT tankers and above be fully employed ($14.00/DWT/month) before any VLCCs ($7.25-DWT/month) are allowed into the trade results in a higher transportation cost of ANS oil than would exist without this requirement. An indication of the added costs resulting from market entry restrictions can be surmised by a review of Attachment 9. Tankers such as the Brooklyn and Maryland appear to have relied heavily on six-month waivers to earn their fixed costs. The remainder of the time they have either been idle or sought SPR employment. The appearance is that rates in the ANS trade are high enough to allow VLCCs to remain financially viable even though only having part-time employment.

The rate structure presented in Table 3 provides a useful, market determined, assessment of efficiency for U.S.-flag tankers. This table is far from perfect, however. For instance, on a cost allocation comparison, the Panamax rates should be about the level, or slightly above the level, of 100,000 to 130,000–DWT tankers. On the other hand, a market rate efficiency assessment is considered superior to a cost allocation assessment of efficiency which relies heavily on arbitrary assumptions concerning overhead allocation, frequency and cost of repairs and retrofitting, depreciation rates, cost of equity and other forms of capital, discount rates, etc. Since VLCCs (Attachment 6) and 90,000–DWT Panamax (Attachment 7) tankers are expected to repay their CDS, such repayment would add a significant amount of efficient competition into the ANS trade.

C. Title XI Exposure

Increased Title XI exposure results when a vessel with Title XI debt outstanding finds itself in a market position where securing full-time employment is difficult. On the other hand, Title XI exposure is reduced when a Title XI vessel that is unable to secure full-time employment is put into a market position where full-time employment is attainable.

Attachment 1 lists unsubsidized tankers that today are 20 years of age or older. There are 126 such tankers representing 4.2 million DWT. These vessels face the greatest risk of reduced employment opportunities if CDS repayment is allowed because they are the oldest, smallest and least efficient. As Attachment 1 shows, there is no Title XI debt on any of these vessels. Many were built without Title XI financing (most tankers built before 1970 did not use Title XI financing and most oil company-built tankers do not use Title XI), and those built with Title XI financing have repaid their debt over their 20-year statutory life.

Attachment 10 lists those tankers that will attain the age of 20 years or older during the next five years. This group of tankers faces the second greatest threat of Title XI exposure. There are 12 tankers in this group representing 0.5 million DWT. Three of these tankers have Title XI debt outstanding today equal to $10.4 million.

Attachment 5 lists ANS-trade unsubsidized tankers of 80,000-DWT or less. There are 20 tankers in this group representing 1.3 million DWT. If CDS repayment is allowed, it is expected that the oil company owners of these tankers would redeploy these tankers in other U.S. trades if ANS trading opportunities were reduced (i.e., in the event the oil companies decided to charter the more efficient VLCCs and 90,000-DWT Panamax tankers that repaid their CDS). This redeployment process could be disruptive to the oil companies; some tankers may sit idle for varying periods of time waiting for alternative trading opportunities that match the characteristics of the tanker demanded with the tanker seeking redeployment. Even so, disruptions are nothing new to Jones Act tankers; from the day most tankers enter service, they are scrambling to maintain high levels of employment and the realities of the market sometimes prevent this. Nonetheless, it is likely that few, or more likely none, of these tankers will be scrapped. There are two tankers in this group with Title XI debt totaling $20.0 million; both are chartered to Sohio until 1988 when most of their Title XI debt will be retired.

Attachment 4 lists ANS trade tankers in the 130,000 to 100,000-DWT class. The 21-year-old Manhattan may face lay-up if CDS repayment is allowed, but the other tankers in this class are likely to be needed in the dosmetic trade. Excluding the Manhattan, the average age of the 10 remaining tankers in this group is only 7.5 years. Since these tankers are relatively modern and more efficient than the smaller tankers, their employment opportunities should be secure if CDS repayment is allowed.

By 1987 there will be 138 unsubsidized tankers, 20 years old or older, with over 4.7 million DWT of capacity and no Title XI debt. If CDS repayment is allowed, 15 large, efficient tankers would be added to the unsubsidized tanker fleet, representing 2.5 million DWT of capacity (an incremental 1.6 million of capacity into the ANS trade since six-month waivers already supply 0.9 million DWT) and with over $250 million of Title XI exposure today. Because these tankers would have much improved ANS full-time trading prospects, Title XI exposure would be significantly reduced. Also, the U. S would receive over $200 million in CDS repayment plus interest if all 15 CDS-

built tankers repay their CDS, which is likely.

D. Overcapacity

Long-term overcapacity in the domestic tanker trades is not expected to result from CDS repayment. CDS repayment would add 2.5 million DWT of unsubsidized capacity to the domestic fleet (actually an incremental 1.6 million DWT of capacity since CDS-built tankers have been receiving six-month waivers). Some tankers are expected to be be scrapped because of the opening of the Panama Pipeline. More importantly, the impact of the January 1986 requirements of the Port and Tanker Safety Act is likely to result in significant scrappage of aged tankers. CDS repayment would probably accelerate the scrappage likely from these known situations and together with market forces would likely prevent a long-term overcapacity situation.

E. Employment

The opening of the Panama Pipeline has already reduced the employment opportunities for U.S. seamen in the U.S. tanker trades. As capacity utilization of this pipeline increases, more tankers are likely to be displaced and scrapped, resulting in reduced job opportunities. The same holds true for the Port and Tanker Safety Act; it will likely force the scrapping of the old, inefficient tankers and employment will be reduced. CDS repayment would accelerate this process. A ballpark average for billets (crew size) on a U.S. tanker is 23 to 26, with each billet providing 2.3 to 2.6 job opportunities (chances for different seafarers to get jobs on a tanker during a given year), no matter what the size of the tanker. Since CDS repayment would increase the economic pressure to scrap small (aged and least efficient) U.S. tankers, replacing the scrapped tankers with large (modern and most efficient) ones, the CDS repayment process would also result in lost job opportunities. The number of jobs lost by scrapping the small tankers would exceed job opportunities created by the greater employment opportunities given the big tankers repaying their CDS. The net impact on jobs resulting from CDS repayments, as distinct from the impact of the Panama Pipeline and the Port and Tanker Safety Act, cannot be realistically estimated, but it is expected to be relatively small.

IV. Other Alternatives

Other alternatives to CDS repayment were considered. After carefully evaluating these alternatives, it was determined that CDS repayment represented the best option; CDS repayment eliminates economic regulation of the U.S. tanker trade. Three specific options and the reasons for rejecting these options are discussed below.

A. Eliminate Waivers

Eliminate all waivers for CDS-built vessels to enter the ANS trade; only unsubsidized tankers would be allowed in this trade. This option would most likely result in an immediate and significant shortage of tanker capacity in the ANS trade and could result in a cutback of ANS production. Many aged and inefficient 80,000-DWT and under tankers would be kept in service well beyond their true economic life, while many efficient CDS-built tankers would face the prospect of sitting idle or entering a declining SPR trade. Outstanding Title XI debt of over $250 million on 15 CDS-built tankers could be in danger of default. Severe market entry restrictions would be forced on the U.S. tanker trade, most likely resulting in a great deal of economic harm to many diverse interests and little, if any, public benefit.

B. Status Quo

Retain present system of granting six-month waivers to CDS built vessels if all unsubsidized tankers over 100,000-DWT in the ANS trade are fully employed. This option would retain the existing system of economic regulation of CDS-built tankers entering the ANS trade. Jones Act tanker rates would be maintained at higher levels than would be the case if CDS-built tankers entered this trade. These high rates would most likely make it attractive to some tanker owners to pay the retrofitting costs of the Port and Tanker Safety Act and thus retain in use these older and less efficient tankers well beyond their true economic life. Efficient CDS-built VLCCs could be forced into lay-ups for six months of the year and the 90,000-DWT Panamax tankers, with over $120 million of Title XI debt, could encounter difficulty in securing employment in the SPR trade and ANS trade as CDS-built VLCCs were given six-month waiver preference as in the past.

C. Full-Time Waivers

Full-time waivers (i.e., 12 months of a year) would be granted to CDS-buit tankers if all 100,000-DWT and above unsubsidized tankers were fully employed. As a practical matter (see Attachment 9 for history of waivers granted), the seven CDS-built VLCCs would be the most likely CDS tankers to enter the ANS trade. The eight CDS-built Panamax tanker would have to seek employment in the declining SPR trade and the subsidized foreign preference trade. This option would significantly expand economic regulation of the CDS-built tankers entering the ANS trade. Because of DOT-imposed decisions on ANS market entry, the ANS tanker trade rate structure would likely be maintained at unnecessarily high levels. The Department could be subject to significant criticism for favoring one tanker operator, Seatrain. Seatrain would be virtually guaranteed full employment for its aged Manhattan (113.9 million DWT) tanker because of the 100,000-DWT full employment rule. Seatrain has two VLCCs already in the ANS trade (they are the only tankers that have been allowed to repay CDS) and they would also have to be fully employed before waivers were issued. Seatrain's remaining three CDS-built VLCCs could gain full-time trading privileges in the ANS trade by full-time waivers.

V. Conclusion

Full repayment of CDS would result in a number of favorable public benefits. Repayment would eliminate economic regulation of the ANS tanker trade. The most efficient U.S. tankers would be free to seek full-time ANS employment and would likely result in the efficient use of these tankers. The real cost of transporting Alaskan oil should decline as efficient tankers replace inefficient tankers. The combined impacts of the opening of the Panama Pipeline, the January 1986 requirements of the Port and Tanker Safety Act, and the CDS repayment would likely result in less efficient tankers being scrapped as competitive market forces equate demand and supply of U.S.-flag tankers.

VI. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress in order to ensure, among other things, that small entities are not disproportionately affected by government regulations. The RFA requires agencies specially to review rules which may have a "significant economic impact on a substantial number of small entities." The substantial revenues generated by these tankers, the sizable fleets of tankers owned by independents and oil companies as discussed above and in the attachments, indicates that any negative economic impact of this regulation will affect few small entities, if any.

VII. Environmental Impact

The Department does not believe that this rulemaking will have a significant

environmental impact. Any environmental impact that might result should be positive in nature. As indicated previously, allowing CDS payback would result in the greater utilization of larger, newer and more modern tankers in the ANS oil trade. Older and smaller tankers will be removed from the trade with an overall reduction in the number of tanker voyages. Many of these older and smaller tankers are likely to exist the marketplace by January 1986, even without this regulation. The cost of adding environmental protection equipment to meet the Port and Tanker Safety Act was expected to have this result and this regulation could accelerate this exiting process. The amount of oil transported should not be affected, however. Many of the newer tankers are already operating in the ANS trade under temporary waivers that have been reissued on a repetitive basis. Also, the CDS tankers expected to enter the ANS trade full-time call on U.S. ports during their SPR voyages and their foreign voyages under subsidized preference programs. It is the Department's view that, in general, the newer, more modern tankers are environmentally preferable to the older tankers and that a reduction in the number of U.S. tanker operations would tend to reduce environmental risks. In the case of this rulemaking, however, the Department believes those positive environmental effects will be small.

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Attachment 1

Tankers 20 Years and Older

All Domestic Trades

Vessel Name	Age (years)	DWT (000)	Title XI (Millions of $)
40 years and older			
David D. Irwin c	41/22*	24.3	-
Houston c	41/21*	27.0	-
Monmouth c	41/13*	29.8	-
American Trader c	40/16*	27.6	-
Capricorn c	40/22*	24.4	-
Chancelloesville c	40/22*	25.2	-
Meadow Brook c	40/21*	27.2	-
Point Milton c	40/20*	20.1	-
Texaco Kansas	40/23*	24.7	-
Texaco Minnesota c	40/19*	25.2	-
Cumulative Total 40 years and over		255.5	$0.0
30 years and over			
Amaco Delaware c	39/12*	27.8	-
American Hawk c	39/31*	26.9	-
Mona c	39/25*	19.9	-
Point Julie	39	24.6	-
Scorpio	39/22*	24.5	-
Texas Trader c	39/14*	27.5	-
Trinity c	39/16*	24.2	-
Wilmington Getty c	39/15*	25.2	-
Louisiana Getty c	39/15*	25.1	-
Colorado c	39/11*	30.4	-
Llano c	39/22*	25.1	-
San Jacinto c	39/21*	26.9	-
Texaco Mississippi c	39/19*	26.6	-
Texaco New Jersey c	39/24*	19.9	-
Bordeaux c	38/18*	27.2	-
Brazos c	38/25*	24.0	-
Concho c	38/12*	32.7	-
Cove Tide c	38/22*	25.2	-
David E. Day	38/25*	20.0	-
Lompoc c	38	16.7	-
Pisces	38/21*	24.4	-
Point Margo	38/15*	33.8	-
Point Revere c	38/25*	19.8	-
Red River c	38/22*	25.6	-
Cove Explorer c	38/22*	23.4	-
Frio c	38/21*	25.5	-
Guadalupe c	38/20*	30.4	-
Suzanne c	38/25*	19.9	-
Pasadena c	38/18*	27.0	-

Attachment 1 (cont.)

30 years and over, cont.	Age (years)	DWT (000)	Title XI (Millions of $)
Coastal California c	34	28.4	-
Sabine c	34	28.7	-
San Marcos c	34	29.4	-
Pecos c	33	28.7	-
Cove Engineer	32	32.0	-
Cove Navigator c	32	30.2	-
Exxon Newark c	31	28.7	-
Blanco c	30	19.2	-
Cove Ranger	30/12*	29.3	-
Hillyer Brown c	30	17.1	-
Delaware Sun	30	30.2	-
Exxon Bangor c	30	28.7	-
Exxon Huntington c	30	28.7	-
Keystones c	30	18.4	-
Texas Connecticut c	30/12*	42.0	-
Texaco New York c	30/12*	42.0	-
New Jersey Sun	30	30.2	-
Overseas Aleatian c	30/12*	39.8	-
Cumulative Total 30 Years and Over		1,517.4	$0.0
25 Years and Over			
Cove Spirit	29	25.2	-
Cove Liberty c	29	70.4	-
Cove Communication	29	31.9	-
Delaware Getty	29	28.8	-
New York Getty	29	28.8	-
Socony Vacuum c	29	28.6	-
Washington c	29	16.2	-
Texaco California c	29/10*	42.0	-
Lion of California c	29	16.2	-
Western Sun	29	30.3	-
Baltimore Trades c	28/12*	57.9	-
Eastern Sun	28	30.2	-
Mobilgas c	27	26.9	-
Texaco Florida c	27/12*	42.0	-
Allegiance c	27	34.8	-
Bannet c	27	32.8	-
Gulf King	26	34.7	-
Gulf Queen c	26	34.7	-
Exxon Gettysburg c	26	38.0	-
Exxon Jamestown c	26	37.7	-
Exxon Washington c	26	40.9	-
Mobil Fuel c	26	31.2	-
Mission Santa Clara c	26	34.9	-
Naeco c	26	31.0	-
Coastal Kansas c	25	26.5	-
Saroula c	25	31.8	-
Texaco Wisconsin	25	33.2	-

Attachment 1 (cont.)

25 years and over, cont.	Age (years)	DWT (000)	Title XI (Millions of $)
American Osprey c	25	33.1	-
Arco Endeavor c	25	30.3	-
Gulf Knight c	25	34.7	-
Neches c	25	34.9	-
Connecticut c	25	37.6	-
Exxon Lexington c	25	39.0	-
Mobil Lube c	25	29.2	-
Dina c	25	30.3	-
Cumulative Total 25 Years and Over		2,704.1	$0.0
20 Years and Over			
Montrachet c	24	30.8	-
American Eagle c	24	33.1	-
Washington Trades c	24	41.6	-
Gulf Pride c	24	29.2	-
Gulf Solar c	24	29.2	-
Cove Sailor c	24	33.2	-
Cove Trader	24	46.4	-
Cove Leader c	24	67.4	-
Meton c	24	33.7	-
Mobil Aero c	24	30.1	-
Mobil Oil	24	30.1	-
Pennsylvania Sun	24	50.9	-
Archilles c	23	41.2	-
Overseas Anchorage c	23	47.4	-
Overseas Ulla c	23	35.7	-
Gulf Oil c	23	29.2	-
Exxon Baltimore c	23	48.8	-
Exxon Boston c	23	48.9	-
Gulf Spray c	23	29.2	-
Ogden Challenger c	23	33.3	-
Texas Sun	23	50.9	-
Monticello Victory	22	4913	-
Overseas Joyce c	22	46.9	-
Gulf Supreme c	22	30.8	-
Mobil Meridian c	22	49.2	-
Mt. Vernon Victory	22	49.2	-
Overseas Natali c	22	67.2	-
Manhattan	21/14*	113.9	-
Montpelier Victory	21	49.5	-
Arco Heritage c	20	50.8	-
Texaco Maryland c	20	25.4	-
Texaco Massachusetts c	20	25.7	-
Petersburg	20	50.1	-
Mt. Washington	20	49.5	-
Cumulative Total 20 years and older		4,181.9	$0.0

Notes:

c = coated, tanker is capable of carrying oil products as well as crude oil.

* = The second number is the tanker's age since it was either rebuilt, converted, or jumboized.

Source:

"Status & Employment Report", MarAd's Office of Trade Studies and Statistics, November 1, 1982.

Attachment 2

Unsubsidized Very Large Crude Carriers
Alaska North Slope Trade

Vessel Name	DWT (000)	Age (years)	Title XI (Millions of $)	Owner/Charterer
Arco California	188.5	3	-	Oil Co.
Arco Alaska	190.0	4	-	Oil Co.
Exxon Benicia	172.8	4	-	Oil Co.
Exxon North Slope	172.5	4	-	Oil Co.
Bay Ridge	225.0	5	$66.9	Seatrain
B.T. San Diego	182.2	5	-	Marine Trans. Lines
B.T. Alaska	182.2	5	-	Marine Trans. Lines
Brooks Range	173.6	5	56.1	Keystone
Thompson Pass	173.6	5	58.0	Keystone
Keystone Canyon	173.4	5	54.9	Keystone
Stuyvesant	224.7	6	52.2	Seatrain
Atigun Pass	173.4	6	52.9	Keystone
	2,231.9	4.8[1]	$341.0	

Average Age.

Source: "Status & Employment Report", MarAd's Office of Trade Studies and Statistics, November 1, 1982.

Attachment 3

Unsubsidized 90,000 DWT Panamax Tankers
Alaska North Slope Trade

Vessel Name	DWT (000)	Age (years)	Title XI (Millions of $)	Owner/Charterer
Overseas Washington	90.5	5	$21.1	OSG 1/
Overseas Chicago	90.6	6	21.6	OSG 1/
Overseas Ohio	90.6	6	21.2	OSG 1/
Overseas New York	90.4	6	21.1	OSG 1/
Arco Texas	90.0	10	-	Oil Company
	452.1	6.6 2/	$85.0	

1/ Overseas Shipholding Group

2/ Average Age.

Source: "Status & Employment Report", MarAd's Office of Trade Studies and Statistics, November 1, 1982.

Attachment 4

Unsubsidized 130,000 to 100,000 DWT Tankers
Alaska North Slope Trade

Vessel Name	DWT (000)	Age (years)	Title XI (Millions of $)	Owner/Charterer
Kenai	123.1	4	43.0	Oil Company
Tonsina	122.9	5	45.6	Oil Company
Prince Wm. Sound	123.4	8	42.9	Trinidad Corp. 3/
Arco Fairbanks	120.6	9	-	Oil Company
Arco Juneau	120.6	9	-	Oil Company
Overseas Boston	123.7	9	32.6	OSG 1/
Arco Anchorage	120.6	10	-	Oil Company
Overseas Juneau	120.0	10	20.6	OSG 1/
Mobil Artic	129.0	11	-	Oil Company
Manhattan	113.9	21	-	Seatrain
	1,217.8	9.6 2/	$184.4	

1/ Overseas Shipholding Group

2/ Average Age

3/ Under charter to SOHIO

Source: "Status & Employment Report", MarAd's Office of Trade Studies and Statistics, November 1, 1982.

Attachment 5

Unsubsidized 80,000 DWT and Under Tankers
Alaska North Slope Trade

Vessel Name	DWT (000)	Age (years)	Title XI (Millions of $)	Owner/Charterer
Chevron Arizona	34.5	6	-	Oil Company
Chevron Colorado	34.5	7	-	Oil Company
Chevron Washington	39.6	7	-	Oil Company
Chevron California	70.2	11	-	Oil Company
Chevron Mississippi	70.2	11	-	Oil Company
Arco Prudhoe Bay	70.4	12	-	Oil Company
Sabsinena II	70.5	12	-	Oil Company
Sohio Intrepid	80.6	12	$10.0	Trinidad Corporation
Sohio Resolute	80.6	12	10.0	Trinidad Corporation
Exxon Baton Range	75.6	13	-	Oil Company
Exxon Philadelphia	75.6	13	-	Oil Company
Glacier Bay	81.0	13	-	Oil Company
Arco Sag River	70.4	13	-	Oil Company
Golden Gate	62.1	13	-	Keystone Corporation
American Sun	80.7	14	-	Oil Company
Exxon San Francisco	75.6	14	-	Oil Company
Exxon New Orleans	67.8	18	-	Oil Company
Exxon Houston	67.9	19	-	Oil Company
Mobil Meridian	49.2	21	-	Oil Company
Mobil Oil	30.1	23	-	Oil Company
	1,287.1	13.2[1]	$20.0	

1/ Average Age.

Source: "Status & Employment Report", MarAd's Office of Trade Studies and Statistics, November, 1982.

Attachment 6

CDS - Built Very Large Crude Carriers
Suitable for Alaska North Slope Trade

Vessel Name	DWT (000)	Age (years)	Title XI (Millions of $)	CDS Remaining (Millions of $)	Owner/Charterer
Arco Independence*	265.0	6	-	$25.1	Oil Co.
Arco Spirit*	265.0	6	-	25.1	Oil Co.
Maryland	265.0	7	$30.7	22.0	Seatrain
New York	265.0	7	30.6	22.0	Seatrain
Massachusetts	265.0	8	30.1	20.4	Seatrain
Williamsburgh	225.0	9	27.1	16.3	Petrofina
Brooklyn*	228.0	10	12.6	10.9	Petrofina
	1,778.0	7.6[1]	$131.1	$141.8	

[1] Average Age.

* CDS repayment applications have been filed with MarAd.

Source: "Oil Tankers Built with CDS", MarAd's Office of Associate Administrator for Maritime Aids, July 28, 1982.

Attachment 7

CDS - Built 90,000 Panamax Tankers
Suitable for Alaska North Slope Trade

Vessel Name	DWT (000)	Age (years)	Title XI (Millions of $)	CDS Remaining (Millions of $)	Owner/Charterer
Kettaning	89.7	6	$16.5	$8.3	Keystone
Chestnut Hill	89.7	7	16.5	7.7	Keystone
American Heritage	89.7	7	15.7	7.2	Berger
Beaver State	89.7	7	15.7	7.2	Berger
Rose City	89.7	7	15.9	7.2	Berger
Worth*	89.7	7	15.7	7.2	Berger
Golden Monarch	89.7	8	13.5	7.8	Berger
Golden Endeavor	89.7	9	13.1	7.2	Berger
	717.6	7.3[1]	$122.6	$59.8	

[1] Average Age.

* CDS repayment application has been filed with MarAd.

Source: "Oil Tankers Built with CDS", MarAd's Office of Associate Administrator for Maritime Aids, July 28, 1982.

Attachment 8

CDS-Built Tankers Not Expected To Repay Their CDS

Vessel Name ODS Contracts	DWT (000)	Age (Years)	Title XI (Millions of $)	CDS Remaining (Millions of $)
Mormac Sky	39.7	6	$10.1	$5.8
Courier	35.0	6	9.2	6.4
Rover	35.0	6	9.1	6.4
Mormac Sun	39.7	7	9.7	5.4
Patriot	35.0	7	8.8	6.0
Ranger	35.0	7	8.9	6.0
Chelsea	38.3	8	5.9	5.1
Mormac Star	39.7	8	10.5	5.0
Cherry Valley	38.3	9	5.2	4.7
Coronado	38.3	10	4.9	4.4
Total	374.0	7.4 1/	$82.3	$55.2
ULCC's				
UST Atlantic	390.0	4	-	$46.1
UST Pacific	390.0	4	-	45.6
	780.0	4 1/	-	$91.7
Combination				
Ultramar	81.9	10	$12.7	$7.4
Ultrasea	81.9	9	12.9	8.1
	163.8	9.5 1/	$25.6	$15.5

1/ Average age

Source: "Oil Tanker Built with CDS," MarAd's Office of Associate Administrator for Maritinme Aids, July 28,1982

Attachment 9

Past Section 506 Waivers in Alaska Oil Trade

Vessel	DWT (000)	Type	Dates of Operation From	To	
AMERICAN INDEPENDENCE (now Arco Independence)	265.0	VLCC	3/17/78	9/18/78	
" " " " "			3/02/80	9/05/80	
" " " " "			9/23/81	3/18/82	
ARCO INDEPENDENCE (ex American Independence)			10/01/82		
AMERICAN SPIRIT (now Arco Spirit)	265.0	VLCC	1/02/78	3/01/78	
" " " " "			2/18/79	3/09/79	
" " " " "			3/23/79	4/13/79	
" " " " "			12/19/79	6/13/80	
" " " " "			1/24/81	7/22/81	
ARCO SPIRIT (ex American Spirit)			3/21/82	9/19/82	
BROOKLYN	228.0	VLCC	12/25/79	6/12/80	
"			2/14/81	9/06/81	1/
"			5/24/82	11/28/82	
MARYLAND	265.0	VLCC	4/03/78	10/09/78	
"			8/25/79	3/31/80	
"			11/04/80	5/10/81	
"			11/19/81	4/24/82	
			10/28/82		
MASSACHUSETTS	265.0	VLCC	6/27/78	1/10/79	
"			12/19/78	6/21/80	
"			1/01/81	3/07/81	
NEW YORK	265.0	VLCC	8/19/77	11/12/77	
"			7/16/80	2/15/81	2/
"			5/22/82	11/09/82	
WILLIAMSBURG	225.0	VLCC	5/29/80	12/01/80	1/
"			1/15/82	5/08/82	
			11/23/82		
BEAVER STATE	89.7	Panamax	1/25/79	2/18/79	
" "			2/19/79	3/04/79	
" "			2/25/82	4/27/82	
CHESTNUT HILL	89.7	Panamax	2/18/78	3/05/78	
KITTANNING	89.7	Panamax	3/30/82	4/18/82	

1/ Includes one intermediate foreign trade voyage

2/ Includes oil storage in Delaware Bay

Source: "Oil Tankers Built with CDS", MarAd's Office of Associate Administrator for Maritime Aids, July 28, 1982 and updated version.

Attachment 10

Unsubsidized Tankers That Will Be 20 Years Old in Next Five Years

All Domestic Trades

Vessel Name	Age (years)	DWT (000)	Title XI (Millions of $)
Chesapeake	19	50.0	-
Exxon Houston	19	67.9	-
Texaco Georgia	19	25.2	-
Texaco Rhode Island	19	25.4	-
Exxon New Orleans	18	67.8	-
Texaco Montana	18	26.6	-
Valley Forge	17	36.0	-
Overseas Alaska	16	62.0	$5.0
Pennsylvania Trader	16	34.1	-
Overseas Alice	15	37.3	2.6
Overseas Valdez	15	37.8	2.8
Spirit of Liberty	15	38.2	-
Total		508.3	$10.4

Source: "Status & Employment Report", MarAd's Office of Trade Studies and Statistics, November, 1982.

Appendix

U.S.-Flag Tankers 19 Years Old and Younger 1/
(As of November 1, 1982)

Vessel Name	DWT	Delivery Date/ Year Built	Title XI Balance As of June 30, 1982 (Thousands of Dollars)
A. New Construction			
EXXON - TBN	43,000	1983	No Title XI
EXXON - TBN	43,000	1984	No Title XI
EXXON - TBN	43,000	1984	No Title XI
NEW YORK (ITB)	47,000	1982	$ 62,500.0
BALTIMORE (ITB)	47,000	1983	57,284.0
PHILADELPHIA (ITB)	47,000	1983	53,781.0
MOBILE (ITB)	47,000	1983	53,781.0
HUNTER ARMISTEAD	37,500	1983	55,066.0
DELAWARE TRADER	44,000	1983	57,460.0
POTOMAC TRADER	44,000	1983	57,460.0
	442,500		$ 397,332.0
B. Tankers 5 Years of Age or Less			
*ARCO ALASKA	188,400	1979	No Title XI
*ARCO CALIFORNIA	188,400	1980	No Title XI
BLUE RIDGE	42,300	1981	No Title XI
CHESAPEAKE TRADER	44,100	1982	$ 57,460.0
COAST RANGE	40,000	1981	No Title XI
EILEEN INGRAM	42,300	1982	39,978.0
*EXXON BENICIA	172,800	1979	No Title XI
*EXXON NORTH SLOPE	173,400	1979	No Title XI
GROTON (ITB)	48,000	1982	50,000.0
JACKSONVILLE (ITB)	48,000	1982	65,161.0
*KENAI	123,100	1979	43,014.0
NEW YORK SUN	30,900	1980	No Title XI
OGDEN DYNACHEM	49,500	1981	56,175.0
OGDEN HUDSON	42,000	1981	58,800.0
PHILADELPHIA SUN	37,500	1981	No Title XI
SIERRE MADRE	42,300	1981	No Title XI
	1,313,000		$ 370,588.0
C. Tankers 6-10 Years of Age			
*ARCO FAIRBANKS	120,600	1974	No Title XI
*ARCO JUNEAU	120,600	1974	No Title XI
*ATIGUN PASS	173,400	1977	$ 52,936.0
*B.T. ALASKA	188,100	1978	No Title XI
*B.T. SAN DIEGO	188,100	1978	No Title XI
*BROOKS RANGE	173,400	1978	56,097.0
*CHEVRON ARIZONA	34,500	1977	No Title XI

Vessel Name	DWT	Delivery Date/ Year Built	Title XI Balance As of June 30, 1982 (Thousands of Dollars)
*CHEVRON COLORADO	34,500	1976	No Title XI
CHEVRON LOUISIANA	39,500	1977	No Title XI
CHEVRON OREGON	40,100	1975	No Title XI
*CHEVRON WASHINGTON	39,600	1976	No Title XI
ESTHER MORAN (ITB)	18,000	1976	No Title XI
*KEYSTONE CANYON	173,400	1978	$ 54,855.0
MARJORIE B. MCALLISTER (ITB)	11,900	1975	No Title XI
*OVERSEAS BOSTON (recon.)	123,700	1974	32,563.0
*OVERSEAS CHICAGO	90,600	1977	21,603.8
*OVERSEAS NEW YORK	90,400	1977	21,094.0
*OVERSEAS OHIO	90,600	1977	21,221.9
*OVERSEAS WASHINGTON	90,500	1978	21,083.1
*PRINCE WILLIAM SOUND	123,400	1975	42,850.0
SEABULK MAGNACHEM (ITB)	41,800	1975	18,071.8
SEABULK CHALLENGER (ITB)	42,000	1977	11,327.2
*THOMPSON PASS	173,400	1978	57,951.0
*TONSINA	122,900	1978	45,585.0
	2,345,000		$ 457,238.8

D. Tankers 11-20 Years of Age

*AMERICA SUN	80,700	1969	No Title XI
*ARCO ANCHORAGE	120,600	1973	No Title XI
*ARCO PRUDHOE BAY	70,400	1971	No Title XI
*ARCO SAG RIVER	70,400	1972	No Title XI
*ARCO TEXAS	90,000	1973	No Title XI
CAROLE G. INGRAM (ITB)	36,600	1972	No Title XI
*CHESAPEAKE	50,000	1964	No Title XI
*CHEVRON CALIFORNIA	70,200	1972	No Title XI
*CHEVRON MISSISSIPPI	70,200	1972	No Title XI
COLUMBIA	37,300	1971	$ 3,803.0
*EXXON BATON ROUGE	75,600	1970	No Title XI
EXXON GALVESTON	27,300	1970	No Title XI
*EXXON HOUSTON	67,900	1964	No Title XI
*EXXON NEW ORLEANS	67,800	1965	No Title XI
*EXXON PHILADELPHIA	75,600	1970	No Title XI
*EXXON SAN FRANCISCO	75,600	1969	No Title XI
*GLACIER BAY	81,000	1970	No Title XI
*GOLDEN GATE	62,100	1970	No Title XI
HUDSON	37,300	1972	5,078.0
MARTHA R. INGRAM (ITB)	36,600	1971	No Title XI
*MOBIL ARCTIC	129,000	1972	No Title XI
NECHES	37,300	1971	3,882.0
OGDEN CHAMPION	37,900	1969	2,669.0
OGDEN CHARGER	37,800	1969	2,865.0
OGDEN LEADER	37,800	1969	2,908.0
OGDEN WABASH	37,900	1969	3,226.0
OGDEN WILLAMETTE	37,900	1969	3,116.0
OGDEN YUKON	81,100	1973	$ 14,603.0
*OVERSEAS ALASKA	62,000	1970	4,981.0
*OVERSEAS ALICE	37,300	1968	2,639.0
OVERSEAS ARCTIC	62,000	1971	4,832.0
*OVERSEAS JUNEAU	120,000	1973	20,226.2
*OVERSEAS VALDEZ	37,800	1968	2,772.0
OVERSEAS VIVIAN	37,800	1969	No Title XI
POINT VAIL	85,000	1964	No Title XI
*SANSINENA II	70,500	1971	No Title XI
*SOHIO INTREPID	80,600	1971	10,166.0
*SOHIO RESOLUTE	80,600	1971	10,425.0
*SPIRIT OF LIBERTY	38,200	1968	No Title XI
SUSQUEHANNA	37,300	1972	4,600.0
*TEXACO GEORGIA	25,200	1964	No Title XI
*TEXACO MONTANA	26,600	1965	No Title XI
*TEXACO RHODE ISLAND	25,400	1964	No Title XI
*VALLEY FORGE	36,000	1966	No Title XI
	2,606,200		$ 102,791.2

1/ Excludes nine tankers (245,200 DWT) under bareboat charter to MSC.

* Denotes vessel included in Attachments.

[FR Doc. 83-3015 Filed 1-27-83; 10:19 am]

BILLING CODE 4910-62-C

federal register

Monday
January 31, 1983

Part V

Department of Energy

Office of the Secretary

Notice of Public Hearings on National Energy Policy Plan; Correction

DEPARTMENT OF ENERGY

Office of the Secretary

Public Hearings on National Energy Policy Plan; Correction

AGENCY: Department of Energy.

ACTION: Notice of public hearings on national energy policy plan; correction.

SUMMARY: In the **Federal Register** notice of January 26, 1983, appearing at 48 FR 3706, Tables 1 and 2 were inadvertently omitted. The tables follow the Appendix to the notice.

Dated: January 27, 1983.

J. Hunter Chiles III,

Director, Policy, Planning, and Analysis.

BILLING CODE 6450-01-M

TABLE 1: U.S. ENERGY CONSUMPTION
COMPARISON OF PROJECTIONS
(Quadrillion Btu's per Year)

		PROJECTED					
	1980	1985		1990		2000	
		NEPP 1981 1/	JULY 1982 2/	NEPP 1981 1/	JULY 1982 2	NEPP 1981 1/	JULY 1982 2/
WORLD OIL PRICE (1981 $/barrel)	$37	$44	$32.50	$52	$42.50	$70	$62
U.S. GNP GROWTH (%/year from 1980)	--	3.1%	2.5%	2.8%	2.8%	2.5%	2.5%
RESIDENTIAL/COMMERCIAL	16.5	18.0	16.8	18.4	17.4	18.9	19.2
Liquids	4.2	5.0	4.0	4.5	3.8	3.3	3.3
Gases	7.6	7.6	7.3	7.7	7.4	7.8	7.6
Coal Solids	0.2	0.2	0.2	0.3	0.2	0.3	0.2
Renewables	0.2	0.4	0.5	0.7	0.6	1.2	0.9
Electricity	4.4	4.8	4.8	5.2	5.5	6.3	7.2
INDUSTRIAL	24.3	25.4	25.6	27.1	28.2	30.4	31.4
Liquids	8.3	6.6	7.6	5.8	8.4	3.7	7.9
Gases	8.4	9.2	9.1	9.9	9.5	10.9	10.0
Coal Solids	3.2	4.5	3.8	5.2	4.3	7.2	5.9
Renewables	1.6	1.6	1.6	1.8	1.9	2.6	2.6
Electricity	2.8	3.5	3.4	4.4	4.2	6.0	5.0
TRANSPORTATION	19.6	18.2	18.2	17.6	17.4	18.4	16.8
Liquids	19.0	17.5	17.5	16.7	16.6	17.2	15.8
Gases	0.6	0.6	0.6	0.7	0.7	0.8	0.8
Renewables (Alcohol)	—	0.1	0.1	0.2	0.1	0.4	0.2
FUEL SUBTOTALS							
Liquids	31.5	29.1	29.1	27.0	28.8	24.2	27.0
Gases	16.5	17.4	17.1	18.3	17.5	19.5	18.3
Coal Solids	3.4	4.7	4.0	5.5	4.5	7.5	6.1
Renewables	1.8	2.1	2.2	2.7	2.6	4.2	3.7
Electricity	7.1	8.3	8.3	9.6	9.8	12.3	12.3
TOTAL END-USE CONSUMPTION	60.4	61.6	60.7	63.0	63.2	67.7	67.4
CONVERSION LOSSES	17.3	20.2	20.1	24.0	23.8	32.0	29.7
TOTAL PRIMARY CONSUMPTION	77.7	82.0	80.6	87.0	87.0	100.0	97.0

1/ Energy projections from the third National Energy Policy Plan (NEPP-III) submitted in 1981.
2/ Energy projections developed in preparation of the fourth National Energy Policy Plan (NEPP-IV).

TABLE 2: U.S. ENERGY CONVERSION AND PRODUCTION
COMPARISON OF PROJECTIONS
(Quadrillion Btu's per Year)

		PROJECTED					
	1980	1985		1990		2000	
		NEPP 1981[1]	JULY 1982[2]	NEPP 1981[1]	JULY 1982[2]	NEPP 1981[1]	JULY 1982[2]
ENERGY CONVERSION							
ELECTRICITY INPUTS							
Oil	2.6	2.4	2.3	1.8	1.8	1.1	1.0
Gas	3.8	2.8	2.9	2.9	2.9	2.2	2.0
Coal	12.1	14.3	14.6	16.7	17.6	22.0	23.5
Nuclear	2.7	5.5	4.9	7.6	7.3	10.6	9.2
Other	3.0	3.3	3.2	3.6	3.5	5.3	5.4
Subtotal	24.1	28.3	28.0	32.5	33.1	41.2	41.1
COAL FOR SYNTHETICS	--	0.15	--	1.3	0.5	6.4	2.3
DOMESTIC PRODUCTION							
Oil and NGL	20.5	18.2	19.3	17.9	17.8	17.7	16.0
Shale Oil	—	0.1	—	0.5	0.2	2.3	1.1
Natural Gas	20.1	18.0	18.7	18.5	18.4	18.0	17.5
Coal	19.2	22.0	21.7	27.0	25.8	42.0	37.0
Nuclear	2.7	5.5	4.9	7.6	7.3	10.6	9.2
Hydro/Geothermal[3]	3.0	3.2	3.2	3.4	3.4	4.1	4.1
Renewables	1.8	2.2	2.2	2.8	2.7	5.4	5.0
Subtotal	67.3	69.0	70.0	78.0	75.6	100.0	90.0
NET IMPORTS							
Oil[4]	13.4	13.0	12.3	10.0	12.7	3.0	9.8
Gas	1.0	2.0	1.2	2.0	1.8	2.0	2.2
Electricity	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Coal (Exports)	(2.4)	(2.7)	(3.0)	(3.5)	(3.2)	(5.9)	(5.1)
Subtotal	12.2	12.5	10.6	8.5	11.5	0.0	7.0
TOTAL CONSUMPTION[5]	77.7	82.0	80.6	87.0	87.0	100.0	97.0
Net Oil Imports (MMBD)[4]	(6.3)	(6.3)	(5.8)	(4.8)	(6.0)	(1.2)	(4.6)

1/ Energy projections from the third National Energy Policy Plan (NEPP-III) submitted in 1981.
2/ Energy projections developed in preparation of the fourth National Energy Policy Plan (NEPP-IV).
3/ Hydro/geothermal as reported in NEPP-III included 0.2 quads of electricity imports shown separately in the net electricity imports category here.
4/ Excludes Strategic Petroleum Reserve and U.S. territories net imports.
5/ Totals may not add due to rounding. Excludes 1.8 quads stock increase in 1980.

[FR Doc. 83-2681 Filed 1-28-83; 8:45 am]
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Reader Aids

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Monday, January 31, 1983

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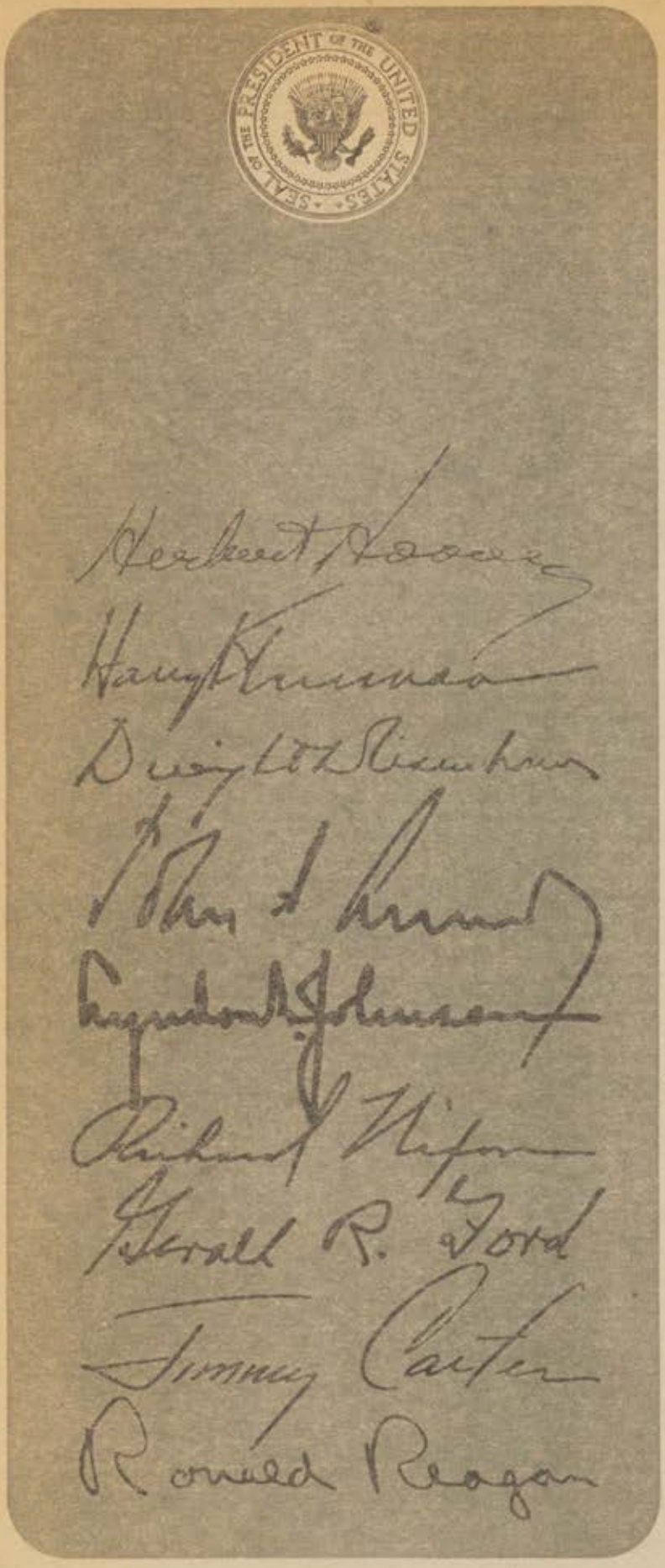

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