



Figure 7—Piston Engine Sampling System and Instrument Arrangement

(b) * * *
 (c) * * *
 (2) Sample Transfer. The sample system transport time as measured from the sample probe to the entrance to the instrumentation system must be shown by calculation using the physical characteristics of the sample line to be 2 seconds or less. The sample shall be transferred through a stainless steel or Teflon sample line.

* * * * *
 13. Section 87.94, paragraph (d) is amended to read as follows:

§ 87.94 Information to be recorded.

(d) *Test data.* (1) Test number.
 (2) Date.
 (3) Time.
 (4) Ambient temperature and engine inlet temperature.
 (5) Barometric pressure.
 (7) Sample line temperature.
 (8) Sample system transport time.
 (8) Sample system transport time. (i) Test date. (ii) Supporting calculations.
 (9) All pertinent instrumentation information such as tuning, gain, full scale range.

(10) Recorder charts: Identify zero, span and exhaust gas sample traces.

(11) CO, CO₂, HC, and NO_x emission measurement system response time for the current and previous test. Record test number and date of previous test.

14. Section 87.96, paragraph (a) (5) is amended to read as follows:

§ 87.96 Sampling procedures.

(a) * * *
 (5) Check the sample line temperature. Also check the emission measurement

system response time using the following procedure:

(i) The sample system transport time shall be rechecked each time the emission measurement system is modified in any manner which may reasonably be expected to change the sample system transport time.

(ii) The emission measurement system response time shall be checked. Introduce an HC span gas at the sample probe and measure the time it takes for the instrument to respond to 15 percent of span concentration. The emission measurement system response time shall be 7 seconds or less.

(iii) Repeat (ii) for the CO, CO₂, and NO_x instrumentation. The emission measurement system response time for all instruments shall be 7 seconds or less except for the NO_x chemiluminescence instrument which shall have a response time of 9 seconds or less.

(iv) The results of (ii) and (iii) must compare with the emission measurement system response time of the previous test within ± 1 second.

* * * * *
 (Sec. 11(a)(1), Pub. L. 91-604, 84 Stat. 1703 (42 U.S.C. 1857f-9).)

[FR Doc. 76-27045 Filed 9-15-76; 8:45 am]

U.S.C. 301, Parts 14-3 and 14-30 of Chapter 14 of Title 41 of the Code of Federal Regulations are hereby amended as stated herein.

It is the general policy of the Department of the Interior to allow time for interested persons to participate in the rulemaking process. However, the amendments herein are administrative procedures which implement within the Department the requirements of 41 CFR Chapter 1 concerning contract financing. Because the amendments are entirely administrative in nature, the public rulemaking process is waived in this instance and the amendments stated herein are effective immediately.

Dated: September 8, 1976.

ALBERT C. ZAPANTA,
*Assistant Secretary
 of the Interior.*

1. Subpart 14-3.3 is amended by adding a new paragraph (r) to § 14-3.305-51 as follows:

§ 14-3.305-51 Summary of required determinations and findings.

* * * * *
 (r) *Progress payments.* The determination required by § 1-30.501 of this title and § 14-30.501 of this chapter that progress payments based on costs cannot be practically employed and that there are adequate safeguards provided for the administration of progress payments based on a percentage or stage of completion will be signed by the head of the procuring activity, or his designee.

2. The Table of Contents of Part 14-30 is amended to add new sections to Sub-

Title 41—Public Contracts and Property Management

CHAPTER 14—DEPARTMENT OF THE INTERIOR

PART 14-3—PROCUREMENT BY NEGOTIATION

PART 14-30—CONTRACT FINANCING

Pursuant to the authority of the Secretary of the Interior contained in 5

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parts 14-30.2 and 14-30.4 and to add a new Subpart 14-30.5 as follows:

Subpart 14-30.2 Basic Policies

Sec. 14-30.201 Prompt payments.

Subpart 14-30.4 Advance Payments

14-30.403 Interest.

14-30.408 Uses of advance payments.

14-30.408-1 Use of letter of credit method of financing.

14-30.413 Security — supervision — covenants.

14-30.414 Agreement for special bank account and contract provisions.

14-30.414-2 Contract provisions for advance payments.

Subpart 14-30.5—Progress Payments Based on Costs

14-30.501 Percentage or stage of completion.

14-30.505 Unusual progress payments—standards—procedures.

AUTHORITY: Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).

3. Subpart 14-30.2 is amended by adding a new § 14-30.201 as follows:

Subpart 14-30.2—Basic Policies

§ 14-30.201 Prompt payments.

The heads of procuring activities shall develop, implement, maintain and appraise the effectiveness of standards and criteria against which payment actions can be evaluated relative to the Government's policy of prompt payment to contractors. The standards and criteria should be designed to meet the specific needs and program requirements of the procuring activity.

4. Subpart 14-30.4 is amended by adding new §§ 14-30.403, 14-30.408, 14-30.408-1, 14-30.413, 14-30.414 and 14-30.414-2 as follows:

Subpart 14-30.4—Advance Payments

§ 14-30.403 Interest.

Advance payments without interest in classes of cases other than those set forth in § 1-30.403 of this title will be determined on an individual basis in conjunction with a procuring activity's request for approval to make advance payments as required by § 14-30.406 of this chapter.

§ 14-30.408 Uses of advance payments.

§ 14-30.408-1 Use of letter of credit method of financing.

(a) *Policy.* Procuring activities shall utilize the Department of Treasury Regional Disbursing Office (RDO) letter of credit method of financing advance payments under contracts whenever the criteria under § 1-30.408-1 of this title are met. The RDO letter of credit method shall be implemented by procuring activities in accordance with the procedures set forth in Departmental Financial Administration Memoranda Nos. 75-58 (II-A.), dated June 12, 1975, and 75-65 (II-A.), dated June 19, 1975.

(b) *Approval.* Approval to make advance payments under contracts using the RDO letter of credit method of financing shall be obtained in accordance with the requirements of § 14-30.406 of this chapter except for those circumstances set forth in §§ 14-30.406-50 and 14-30.410 of this chapter.

(c) *Contract provisions.* Contracts using the RDO letter of credit method of financing advance payments shall contain the provisions prescribed by § 1-30.408-1(c) of this title and may contain the provisions of § 14-30.414-2 of this chapter.

(d) *Responsibility.* Each procuring activity is responsible for: (1) Conducting appropriate reviews of the financial practices of recipient organizations, both primary and secondary, to ensure compliance with contract provisions and Treasury Department regulations, and (2) Instituting appropriate remedial measures in the event a recipient organization demonstrates its unwillingness or inability to comply with the provisions and regulations. Each procuring activity shall develop and implement procedures to accomplish these responsibilities.

§ 14-30.413 Security — supervision — covenants.

(a) A proposal for the use by a cost-type contractor of Federal funds (without the contractor acquiring title thereto) deposited in the contractor's bank account and for the security of such deposit of public moneys shall be subject to the governing regulations of the Treasury Department and shall be fully justified and included in the request for approval and the determination, findings and authorization to make advance payments required by § 14-30.406 of this chapter.

(b) A proposal to require a special bank account for an individual case or class of cases where the advance funding utilizes the letter of credit method of financing shall be fully justified and included in the request for approval and the determination, findings and authorization to make advance payments required by § 14-30.406 of this chapter.

§ 14-30.414 Agreement for special bank account and contract provisions.

§ 14-30.414-2 Contract provisions for advance payments.

(a) For contracts, and modifications thereto, which provide for advance payments not required to be deposited in a special bank account as provided in § 1-30.413 of this title, procuring activities shall use the suggested contract provisions for advance payments set forth in § 1-30.414-2 of this title as modified by paragraph (c) of this section.

(b) For contracts, and modifications thereto, using the letter of credit method of financing advance payments, procuring activities may use the contract provisions of § 1-30.414-2 of this title as modified by paragraph (c) of this section.

(c) The suggested contract provisions of § 1-30.414-2 of this title may be modified, under the circumstances set forth in paragraphs (a) and (b) of this section, as follows:

(1) Paragraphs (b), (g), and (h) of § 1-30.414-2 will be deleted.

(2) In paragraph (c) of § 1-30.414-2 including the alternate paragraph (c) for cost-reimbursement contracts, the first two lines will be revised to read "The funds advanced will be used by the * * *"

(3) In paragraph (d) of § 1-30.414-2, the third sentence will be revised to read "Failure of the Contractor to repay such part of the unliquidated balance of advance payments when so requested by the Administering Office will be considered an event under the paragraph entitled Default provisions of this clause."

(4) Paragraph (k) of § 1-30.414-2 will be modified as follows:

(i) In the fourth default circumstance, the words "the Special Bank Account" will be changed to read "the advance payment funds."

(ii) In the last three lines of the first sentence, the words "withhold further withdrawals from the Special Bank Account and withhold further payments on this contract" will be revised to read "withhold further withdrawals of advance payments and withhold further payments on this contract."

(iii) Delete paragraph (k)(1) of § 1-30.414-2 commencing with the words "Withdraw all or any part * * *". If the letter of credit method of advance funding is used, paragraph (k)(1) of § 1-30.414-2 should read "(1) Revoke the letter of credit."

(5) In the first sentence of paragraph (m) of § 1-30.414-2, delete the phrase "together with a monthly report on the operation of the Special Bank Account in prescribed form".

(6) Alternate paragraph (n)(1) of § 1-30.414-2 will not be used because the referenced provision in paragraph (d) concerning amounts withdrawn has been deleted as described in paragraph (c)(3) of this section.

(7) Paragraph (q) of § 1-30.414-2 will be modified as follows:

(i) In the third line of the first sentence, the words "Special Bank Account" will be revised to read "advance payments."

(ii) The last sentence of the paragraph will be changed to read "Unless other security is required by the Administering Office, covenants in subcontracts, expressly made for the benefit of the Government providing for a Government lien, paramount to all other liens, on all property under such subcontract, and imposing upon the subcontractor substantially the same duties and giving the Government substantially the same rights as are provided herein between the Government and the Contractor may be considered as adequate for such sub-advance."

(iii) When subadvances are authorized under contracts, the following sentence will be added to paragraph (q) of § 1-30.414-2: "Notwithstanding the provisions of the "Subcontracts" clause of this contract concerning approval of

subcontracts, all subcontracts and modifications thereto which authorize subadvances shall require the advance written approval of the Contracting Officer."

5. Part 14-30 is amended by adding a new Subpart 14-30.5 and new §§ 14-30.501 and 14-30.505 as follows:

Subpart 14-30.5—Progress Payments Based on Costs

§ 14-30.501 Percentage or stage of completion.

Progress payments based on a percentage or stage of completion may be authorized by the head of a procuring activity or his designee when he determines in writing and subject to the requirements of § 1-30.501 of this title that progress payments based on costs cannot be practically employed and that there are adequate safeguards provided for the administration of progress payments.

§ 14-30.505 Unusual progress payments—standards—procedures.

The head of each procuring activity or his designee, subject to the requirements set forth in § 1-30.505 and other applicable requirements of Subpart 1-30.5 of this title, may approve requests for unusual progress payments.

[FR Doc. 76-27076 Filed 9-15-76; 8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT

[Circular No. 2404]

PART 6220—PROTECTION AND PRESERVATION OF NATURAL VALUES

Management of Viable Coral Communities Located on the Outer Continental Shelf

On July 2, 1976, there was published in the **FEDERAL REGISTER** (41 FR 27380) a notice and text of a proposed rulemaking that added a new subpart to Part 6220 of Title 43, Code of Federal Regulations. The purpose of this proposed rulemaking was to set forth the rules and procedures that will be the basis of management of viable coral communities located on the Outer Continental Shelf. The proposed rulemaking provides the management procedures needed to protect the uniquely balanced ecosystems that comprise the viable coral communities. These communities are of great scientific interest and value to students of the sea. It is in the public interest to properly manage them so that their aesthetic and scientific values are protected for the benefit and enjoyment of the public. In addition to their aesthetic and scientific value, viable coral communities often function to maintain marine hydrological patterns and blunt the wave impact on shorelines and other resources.

The proposed rulemaking was issued in compliance with the requirement of section 7 of Secretarial Order 2978 which was published on September 10, 1975, in the **FEDERAL REGISTER** (40 FR 42039). The proposed rulemaking is also in conformance with the authority conferred

upon the Department of the Interior by the Act of August 7, 1953 (43 U.S.C. 1331 et seq.).

Interested persons were given until August 2, 1976, to submit comments, suggestions, or objections to the proposed rulemaking. Forty-two comments were received and given final consideration as part of the final rulemaking process.

Generally, the comments endorsed the purpose of the proposed rulemaking and supported the need to protect and preserve viable coral communities. Most of the comments were directed at the fact that the proposed rulemaking would permit the issuance of permits for the commercial taking of coral on the Outer Continental Shelf. It is true that the proposed rulemaking would allow the issuance of permits for commercial taking of coral. We propose to issue such permits in Hawaii where there has been a long history of commercial taking of coral under close supervision of the State of Hawaii by very responsible persons. We see no reason to stop this activity as long as it can be carried on in a manner that does not cause unacceptable damage to viable coral communities. In the same light, we presently see no reason to issue permits for commercial taking of coral in those areas where such activity has not been the practice, such as the Atlantic Ocean and waters of the Gulf of Mexico. Commercial taking, if allowed, will be stopped if we have any evidence that its continuance would cause unacceptable harm or damage.

The permit system set out in the proposed rulemaking is designed to cover all situations where an application might be made for the taking of coral. The fact that a permit can, in the discretion of the authorized officer, be issued, does not mean that such a permit will be issued. As the proposed rulemaking makes clear, permits will be issued in those instances where their issuance will not cause unacceptable harm or damage to the viable coral community, no matter what the purpose of the taking. Even though the objections were raised to commercial taking, we think it is clear that taking of coral for any purpose, if not properly done by properly trained people, can cause harm or damage to a viable coral community. Having clearly stated that the objective of the permit system set forth in the proposed rulemaking is to protect and preserve the resource, we believe that the regulations as written give us adequate power to protect the resource and we have made no changes in the provisions of section 6224.1

We received comments objecting to the fact that an Environmental Impact Statement was not issued with the proposed rulemaking. As we stated in the proposed rulemaking, the issuance of the proposed rules does not in and of itself constitute a major Federal action that significantly affects the quality of the human environment. We intend to prepare an Environmental Analysis Record on each permit and it will be the basis for the determination as to the need for an Environmental Impact Statement. We believe in our view that no Environmental Impact Statement is needed for

the issuance of these proposed rules is correct.

We had comments that suggested that the proposed rulemaking should set out the management criteria used in connection with the review of applications. We believe that the purpose of the proposed rulemaking, namely the prevention of harm or damage to the viable coral communities sets the foundation for the consideration to be used by the granting officials. If we list considerations, there is always the chance that some important ones will be omitted and the omission could be serious. We believe that the proposed rulemaking gives the issuing officials the broadest possible latitude in what factors are to be considered in connection with the issuance of permits. For the reason discussed, we have not adopted the suggested change.

Comments were received regarding the availability of the applications and supporting documents for public inspection. All such documents are public documents and will be available to the public upon request in keeping with Departmental policy and the provisions of the Freedom of Information Act, so no change is needed. In this same vein, one commenter requested that the approving officer be specifically designated in the proposed rulemaking. We point out the proposed rulemaking designates the locations where applications are to be filed and that is the point where inquiries and comments will be directed. The naming of a specific individual in the proposed regulations could create circumstances where applications and their consideration could be unduly delayed because of the absence of the named individual. The proposed rulemaking will allow the Bureau to designate needed authorized officers, who will have the staffs of the BLM as back-up to make final decisions on applications.

Comments were made concerning the penalty provisions of the proposed rulemaking, specifically questioning the severity of the penalties imposed and their enforcement. The penalty provision reflects the authority given the Department by the Outer Continental Shelf Lands Act and is enforceable by any Federal official with arrest authority. The penalty provision remains unchanged in that it reflects our authority.

One commenter reacted to the concept of a permit system and the non-refundable fee that is imposed on those who file applications for a permit to take coral. Our study of methods to use in managing viable coral communities lead us to the conclusion that the permit system for everyone was the most practicable method to use. The \$25 fee was set because our study of the permit system showed that our administrative costs for the processing of the applications would average about \$25. We are obligated to recover our cost for services performed for the public. For the reasons discussed above, we have made no changes in the permit system and the fee set by the proposed rules.

Several persons raised the question of how could fair market value be deter-

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mined for coral if its taking were illegal. Nearly everything has a value that can be determined, even those items that are priceless and one of a kind. Even though coral will be scarce, we are sure it will have a value, a value that can be determined and used as a criteria in the application.

In this same area, we have adopted a comment that suggested the addition of "estimated dry weight" to the items that must be included in the application for a permit if coral is to be taken. We agree with the comment that this information will give the authorized officer a better idea of the volume of coral that is to be taken by the permittee. Therefore, paragraph (5) of § 6224.1-2(c) is amended to reflect this change. This change, when coupled with our requirement that the applicant furnish us information as to size and type of coral to be taken, will give the reviewers of applications for a permit a picture of the size of the operation covered by the application.

One group of commenters raised the question of having to obtain permits in connection with activity they are engaged in on the Outer Continental Shelf pursuant to a permit from another Federal agency if that activity might cause harm or damage to a viable coral community. We believe that the coral resource is sufficiently important to require that all persons that engage in an activity that could harm or injure it should be required to obtain a permit. We intend to work with Federal, State, and local agencies to be certain that their activities are carried on in a manner to protect and conserve viable coral communities. We can see no reason for a responsible person objecting to taking all necessary steps to protect this valuable national resource and leave the requirement for permits for anyone that engages in any activity that might be harmful or damaging to viable coral communities.

We appreciated the outpouring of interest in our efforts to protect the viable coral communities on the Outer Continental Shelf and will need the help of all interested citizens in our efforts to adequately protect this valuable resource.

Accordingly, 43 CFR Part 6220 is adopted with the change discussed herein.

Effective date: September 30, 1976.

Signed at Washington, D.C., on September 10, 1976.

CHRIS FARRAND,
Deputy Assistant Secretary
of the Interior.

1. The table of contents of Part 6220 is amended by adding a new Subpart 6224 as follows:

Subpart 6224—Viable Coral Communities

Sec.

6224.0-1 Purpose.

6224.0-3 Authority.

6224.0-5 Definitions.

6224.1 Permits.

6224.1-1 Requirements for a permit.

Sec.	
6224.1-2	Application for a permit.
6224.1-3	Action on an application for a permit.
6224.1-4	Operations pursuant to a permit.
6224.1-5	Suspensions of operations.
6224.1-6	Revocation of a permit.
6224.2	Bonding requirements.
6224.3	Fees.
6224.4	Exceptions.
6224.5	Penalties.

AUTHORITY: Sec. 5, Outer Continental Shelf Lands Act (67 Stat. 462; 43 U.S.C. 1334).

2. A new Subpart 6224 is added as follows:

Subpart 6224—Viable Coral Communities

§ 6224.0-1 Purpose.

The purpose of this subpart is to provide regulations relating to the protection and management of the viable coral communities located on the Outer Continental Shelf.

§ 6224.0-3 Authority.

Section 5 of the Outer Continental Shelf Lands Act (67 Stat. 462; 43 U.S.C. 1334), gives the Secretary authority to administer the provisions of that Act as they apply to the Outer Continental Shelf and to issue necessary rules and regulations to carry out that authority.

§ 6224.0-5 Definitions.

As used in this subpart, the term:

(a) "Viable Coral Community" means living coral and all dead coral formations and associated reef organisms that are part of a coral reef or other ecological community containing living corals.

(b) "Outer Continental Shelf" is defined in 43 U.S.C. 1331(a).

(c) "Authorized Officer" means any employee of the Bureau designated to perform the duties described in this subpart.

(d) "Bureau" means the Bureau of Land Management.

(e) "Person" means any individual, partnership, corporation, association, or other legal entity.

(f) "Proper Office" means the OCS office having jurisdiction of the area where the viable coral community that is the subject of interest is located.

§ 6224.1 Permits.

§ 6224.1-1 Requirement for a permit.

No person shall engage in any operation which directly causes damage or injury to a viable coral community that is located on the Outer Continental Shelf without having obtained a permit for said operations.

§ 6224.1-2 Application for a permit.

(a) Application for a permit shall be filed in the proper office of the Bureau.

(b) No specific form is required.

(c) Each application shall include:

(1) The name, legal mailing address and telephone number of each person intending to participate in the operations covered by the application.

(2) A description of the proposed area of the operations.

(3) A map or maps, such as a National Ocean Survey Map, with a scale of not

less than 1:30,000 delineating the proposed area of operations.

(4) Information in detail describing the nature of the proposed operations and how the operation will be conducted.

(5) If coral specimens are to be taken, the purpose of such taking, the method of taking, the currents and their velocity in the area of taking, the depth of taking, the size, estimated dry weight, and type of coral to be taken, and the estimated fair market value of the coral to be taken.

(6) The approximate dates of commencement and termination of the operation.

(7) An affirmative statement that the operation will use methods that are designed to do minimum harm and disturbance to the viable coral community covered by a permit and those viable coral communities adjacent thereto. Also, an explanation of the procedures that will be taken to assure protection of said viable coral communities during said operation.

§ 6224.1-3 Action on an application for a permit.

(a) Within 60 days of receipt of the application for a permit, the application will be reviewed and the applicant will be:

(1) Notified in writing that the application is approved and a permit issued or is disapproved and a permit denied and the reasons therefor; or

(2) Notified in writing of any changes in, or additions to, the application deemed necessary by the authorized officer to meet the purpose of the regulations of this subpart, or;

(3) Notified in writing that the application is being reviewed, but that more time, not to exceed an additional 60 days, is necessary to complete the review, setting forth the reasons why additional time is necessary.

(b) A permit shall be granted for a period not to exceed 12 months and shall terminate on the expiration date shown therein unless extended by the authorized officer. One extension of not to exceed 12 months may be granted by the authorized officer.

(c) The rejection of an application for a permit and denial of said permit shall be subject to a right of appeal in accordance with 43 CFR Part 4, Subpart E.

§ 6224.1-4 Operations pursuant to a permit.

(a) Any and all operations carried out pursuant to a permit granted pursuant to the provisions of this subpart shall be conducted in accordance with the terms of the permit.

(b) At any time during operations conducted under a permit issued pursuant to this subpart, the authorized officer may require a change in the operations in order to minimize unforeseen disturbance or harm to a viable coral community. The reason for such change shall be furnished the permittee in writing. If the permittee does not make the changes required by the authorized officer, appropriate action, including the

suspension of operations, will be initiated to assure compliance with these regulations and protection of the viable coral community.

(c) The decision of the authorized officer to require a change in the operations of a permittee is subject to appeal in accordance with 43 CFR Part 4, subpart E.

§ 6224.1-5 Suspension of operations.

If the authorized officer determines that the operations conducted by a permittee on a viable coral community pursuant to a permit are not being conducted in accordance with the provisions of the permit or of this subpart, he may after notification to the permittee, order an immediate suspension in operations.

§ 6224.1-6 Revocation of a permit.

A permit may be revoked if the permittee fails to comply with any of the provisions of the permit or of this subpart. No permit shall be revoked until the permittee has been notified in writing, in person, or at the address required by Section 6224.1-2 hereof. Said revocation shall be effective upon delivery. A revocation is subject to appeal in accordance with 43 CFR Part 4, subpart E.

§ 6224.2 Bonding requirements.

(a) The applicant, prior to the issuance of a permit, shall furnish a bond in an amount to be determined by the authorized officer conditioned upon compliance with the terms of the permit. The authorized officer may require additional security in the form of a supplemental bond or bonds or an increase in the coverage of an existing bond, if, after the commencement of operations, such additional coverage is deemed necessary.

(b) In lieu of a bond, the applicant may deposit and maintain in a Federal depository, as directed by the authorized officer, cash in amount equal to the required dollar amount of the bond or negotiable securities of the United States having market value at the time of deposit of not less than the required dollar amount of the bond.

(c) When operations have been completed, the permittee shall notify the authorized officer, and the authorized officer shall, if satisfied that the permittee has performed in compliance with the provisions of the permit and this subpart, release the bond.

(d) The authorized officer may waive the requirement for a bond on a permit issued to a State and its political subdivisions and bona fide non-profit research organizations.

§ 6224.3 Fees.

(a) Each application shall be accompanied by a \$25.00 non-refundable filing fee.

(b) In the case of permits for commercial purposes, the authorized officer may set a fee based on the estimated fair market value of the coral taken from the viable coral community for commercial purposes, but in no event shall said fee be less than 5 percent of said estimated fair market value.

§ 6224.4 Exceptions.

The regulations of this subpart shall not apply to emergency activities taken to save human lives or property jeopardized at sea.

§ 6224.5 Penalties.

Any person who knowingly and willingly violates the regulations of this subpart shall be guilty of a misdemeanor and punishable by a fine of not more than \$2,000 or by imprisonment for not more than six months, or by both such fine and imprisonment. Each day of violation shall be deemed a separate offense.

[FR Doc. 76-27063 Filed 2-15-76; 8:45 am]

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER K—REGULATIONS UNDER PUBLIC LAW 91-469

PART 390—CAPITAL CONSTRUCTION FUND

Miscellaneous Changes to Part

Part 390 of Title 46 of the Code of Federal Regulations contains regulations promulgated by the Assistant Secretary of Commerce for Maritime Affairs (the Assistant Secretary) under section 607 of the Merchant Marine Act, 1936, as amended (84 Stat. 1026) dealing with the Capital Construction Fund (CCF).

Part 390 is hereby amended.

Section 390.12 of Part 390 provides a formula for computing liquidated damages which are to be paid to the Assistant Secretary for deposit in the United States Treasury in the event that a qualified agreement vessel is operated in other than a qualified trade as provided in section 607 of the Act and Part 390. Each CCF agreement is required to contain a liquidated damages provision complying with the requirements of § 390.12.

This amendment of Part 390 provides that each party to a CCF agreement with the Assistant Secretary shall submit concurrently with his annual report an affidavit pertaining to the operation of his qualified vessels. In the affidavit an official of the party, who is knowledgeable about the operation of the party's qualified agreement vessels, shall indicate whether the party's qualified agreement vessels have been operated in other than qualified trades, and if so, the details of such operation.

The purpose of this amendment is to assure that the Assistant Secretary is informed on an annual basis of any non-qualified operation of qualified agreement vessels in order that he may determine whether the payment of liquidated damages as provided in § 390.12 and the party's agreement should be invoked.

Since the establishment of a CCF is a matter of public contract, notice of proposed rulemaking is not required under 5 U.S.C. 552, and this amendment of Part 390 is published in final form.

Accordingly, Part 390 of Title 46 of the Code of Federal Regulations is amended as follows:

1. By amending § 390.6 as follows:

(a) By adding at the end of paragraph (b) (2) a new sentence to read as follows:

§ 390.6 [Amended]

(b) *Reporting requirements.*

(2) *Submission dates.* * * * An affidavit regarding the operation of qualified agreement vessels as required by paragraph (b) (7) of this section shall be submitted concurrently with each annual report.

(b) By renumbering paragraph (b) (7) as paragraph (b) (8).

(c) By adding a new paragraph (b) (7) to read as follows:

(b) *Reporting Requirements.*

(7) *Affidavit.* An official of the party who is knowledgeable about the operation of the party's qualified agreement vessels shall submit an affidavit for each taxable year indicating that the party's qualified agreement vessels operated only in qualified trades during such taxable year, or if any such vessel operated in a trade other than a qualified trade, the details of such operation. See § 390.5(c) of this part for a description of what constitutes a qualified trade. A sample affidavit is contained in Appendix V of this Part (d) by amending paragraph (b) (8) as renumbered by this notice of rulemaking to read as follows:

(b) *Reporting requirements.*

(8) *Failure to submit reports.* The failure by a party to make the timely submission of any report or affidavit required by this section shall constitute a material breach of the agreement unless the Assistant Secretary shall determine that such failure was excusable. See § 390.13 (relating to the failure to fulfill a substantial obligation under the agreement.)

2. By adding at the end of the index to Part 390 the following:

Appendix IV—Sample addendum to Maritime Administration Capital Construction Fund Agreement. [Reserved]

Appendix V—Sample qualified trade affidavit.

3. By adding at the end of Part 390 the following new Appendix V to read as follows:

APPENDIX V—SAMPLE QUALIFIED TRADE AFFIDAVIT

State of _____
County of _____
I, _____, being duly sworn, depose
(Name)
and say:

1. That I am the _____ of _____
(Title) (Name of
party)

2. That I am fully acquainted with and have knowledge of the operations of all qualified agreement vessels owned or operated by my company and identified in Capital Construction Fund Agreement, MA/CCF _____.

3. That I have full knowledge of the trading restrictions and liquidated damages provisions pertaining to qualified agreement

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seasels, as stipulated in section 607 of the Merchant Marine Act, 1936, as amended, and in the rules and regulations of 46 CFR Part 390.

4. That based on my inspection of Company records and to the best of my knowledge and belief, except as noted below in statement 5 of this affidavit, during the period _____ through _____ (Beginning of taxable year)

my company operated (End of taxable year)

its qualified agreement vessels only in the United States, foreign, Great Lakes, and non-contiguous domestic trade in accordance with Capital Construction Fund Agreement, MA/CCF.

5. Exceptions to statement 4 of this Affidavit are as follows (indicate exceptions below or attach a supplemental statement if additional space is needed; if there are no exceptions, write "none"):

(Affiant)

Subscribed and sworn to before me, a Notary Public in and for the State, City and County above named, this _____ day of _____, 19_____.

(Notary Public)

My commission expires _____, 19_____.

Effective date. The amendments of Part 390 contained in this notice shall be effective as of September 16, 1976.

(Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114). Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840) as amended by Pub. L. 91-469 (84 Stat. 1036), Department of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973).)

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

Dated: September 10, 1976.

JAMES S. DAWSON, Jr.,
Secretary,
Maritime Administration.

[FR Doc. 76-27172 Filed 9-15-76; 8:45 am]

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES

[Tariff Circular No. 3, Amdt.]

PART 531—FILING OF FREIGHT AND PASSENGER RATES, FARES, AND CHARGES IN THE DOMESTIC OFF-SHORE TRADE, PUBLICATION AND POSTING

Approval of Reporting and Recordkeeping Requirements

Pursuant to section 3512 of 44 U.S.C., this Commission has received clearance from the U.S. General Accounting Office for the reporting and recordkeeping requirements contained in Part 531—"Filing of Freight and Passenger Rates, Fares, and Charges in the Domestic Off-shore Trade, Publication and Posting" (Tariff Circular No. 3).

Section 10.12, "Notification of General Accounting Office Action," Title 4 CFR requires that notice of such clearance appear in the agency's regulations and forms. Accordingly, Part 531 of Title 46 CFR is amended as follows:

1. Delete the present language at the beginning of § 531.5(j) which reads: "The reporting requirement contained in § 531.5(j) of this Order has been approved by the U.S. General Accounting Office under number B-180233 (R0188) and expires May 31, 1978.", and 2. Add to Authority: "The reporting and record-keeping requirements contained in this part have been approved by the U.S. General Accounting Office under number B-180233 (R0188)."

Notice, public procedure, and delayed effective date are not necessary for the promulgation of the amendment because of its nonsubstantive nature. Accordingly, this amendment shall be effective on September 16, 1976.

By the Commission August 18, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 76-27138 Filed 9-15-76; 8:45 am]

[General Order 27, Amdt. 9]

PART 542—FINANCIAL RESPONSIBILITY FOR OIL POLLUTION CLEANUP

Approval of Reporting Requirements

Pursuant to section 3512 of 44 U.S.C., this Commission has received clearance from the U.S. General Accounting Office for the reporting requirements contained in Part 542—"Financial Responsibility for Oil Pollution Cleanup" (General Order 27).

Section 10.12, "Notification of General Accounting Office Action, Title 4 CFR requires that notice of such clearance appear in the agency's regulations. Accordingly, Part 542 of Title 46 CFR, General Order 27, is amended by adding the following language to § 542.1, "Scope":

§ 542.1 Scope.

*** The reporting requirements contained in §§ 542.5(a)(3) and 542.6(d) have been approved by the U.S. General Accounting Office under number B-180233 (R0377).

Notice, public procedure, and delayed effective date are not necessary for the promulgation of this amendment because of its nonsubstantive nature. Accordingly, this amendment shall be effective on September 17, 1976.

By the Commission: August 18, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 76-27139 Filed 9-15-76; 8:45 am]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU

SUBCHAPTER D—PIPELINE SAFETY

[Docket No. OPS-30, Amdt. 192-27]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

Offshore Pipeline Facilities; Correction

In FR Doc. 76-23592, published at page 34598 in the FEDERAL REGISTER of Au-

gust 16, 1976, the section heading of § 192.707 is corrected to read "Line markers for mains and transmission lines."

Issued in Washington, D.C. on September 10, 1976.

CESAR DELEON,
Acting Director, Office of
Pipeline Safety Operations.

[FR Doc. 76-27173 Filed 9-15-76; 8:45 am]

INTERNAL REORGANIZATION

Miscellaneous Amendments

• Purpose. The purpose of these amendments to Parts 800, 801, 802, 803, 830, 831, and 845 is to reflect an internal reorganization of the National Transportation Safety Board (Board), effective October 1, 1976. The reorganization involves the abolition of the Bureau of Aviation Safety and Bureau of Surface Transportation Safety, and the creation of three new operating Bureaus—Bureau of Accident Investigation, Bureau of Technology, and Bureau of Plans and Programs. In addition, certain functions have been transferred from the Office of the General Manager to a new Bureau of Administration. The title of General Manager has been changed to Managing Director. Other minor editorial and language changes have been made to properly reflect the new organizational structure.*

The amendments to Part 800 include new provisions describing the functions of the new Bureaus and delete the provisions applicable to the former Bureau of Aviation Safety and Bureau of Surface Transportation Safety. Delegations of authority have been modified to reflect the new organization. Also, all references to "General Manager" will now read "Managing Director" or "Director, Bureau of Administration," if the function is now assigned to that Bureau.

The amendments to Part 801 reflect the aforementioned change in title of the General Manager to Managing Director and provide that the authority to initially determine the withholding of Board records shall be exercised by the Director, Bureau of Administration, instead of the Managing Director and that appeals from such denial shall be made to the Managing Director instead of to the Chairman of the Board. Also appearing in this issue of the FEDERAL REGISTER, at page 39759, is an amended Appendix (Fee Schedule) to Part 801.

The Amendments to Parts 802 and 805 reflect the substitution of "Managing Director" or "Director, Bureau of Administration" for "General Manager," where appropriate. In Part 803, the word "Bureau" is added before "of Administration."

Part 830 is amended to delete the identification of Board field offices as being Bureau of Aviation Safety offices.

Part 831 is amended to substitute Director, Bureau of Accident Investigation for Director, Bureau of Aviation Safety, and to delete reference to accident investigation manager, since such position has been eliminated in the reorganization.

Finally, Part 845 is amended to reflect the substitution of "Bureau of Accident Investigation" for "Bureau of Surface Transportation Safety."

Since the amendments are accomplished to reflect the Board's new organizational structure, and since the amended regulations essentially involve Board procedures and delegations of authority, notice of proposed rulemaking and public procedure thereon are unnecessary and good cause exists for making the amended regulations effective October 1, 1976.

Accordingly, the following regulations appearing under Title 49, Chapter VIII, Code of Federal Regulations, are hereby amended as follows:

PART 800—ORGANIZATION AND FUNCTIONS OF THE BOARD AND DELEGATIONS OF AUTHORITY

1. Part 800 is revised to read as follows:

Subpart A—Organization and Functions

Sec.	
800.1	Purpose.
800.2	Organization.
800.3	Functions.
800.4	Operation.
800.5	Public hearings.
800.6	Formal and informal submissions.
800.7	Office locations.
800.8	Availability of information and materials.

Subpart B—Delegation of Authority to Staff Members

800.21	Purpose.
800.22	Delegation to the Managing Director.
800.23	Delegation to the administrative law judges, Office of Administrative Law Judges.
800.24	Delegation to the General Counsel.
800.25	Delegation to the Director, Bureau of Accident Investigation.
800.26	Delegation to the Director, Bureau of Administration.
800.27	Delegations to investigative officers and employees of the Board.

APPENDIX—REQUEST TO THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION TO INVESTIGATE CERTAIN AIRCRAFT ACCIDENTS FOR A TEMPORARY PERIOD

AUTHORITY: Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2166 (49 U.S.C. 1901 et seq.).

Subpart A—Organization and Functions

§ 800.1 Purpose.

This part describes the organization, functions, and operation of the National Transportation Safety Board (Board).

§ 800.2 Organization.

The Board consists of five Members appointed by the President with the advice and consent of the Senate. One of the members is designated by the President as Chairman and one as Vice Chairman with the advice and consent of the Senate. The Members exercise the functions, powers, and duties of Title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441), transferred to the Board under section 6 of the Department of Transportation Act (49 U.S.C. 1651 et seq.) and the Independent Safety Board Act of 1974 (88 Stat. 2166 et seq. (49 U.S.C. 1901 et seq.)). The Board is an independent

agency of the United States. A detailed description of the Board and its components is published in the Board's internal orders, which are available for inspection and copying in the public reference room in the Washington office of the Board. The various delegations of authority from the Board and the Chairman to the staff units are set forth in Subpart B of this part. The Board's staff is comprised of the following principal units:

(a) The Office of the Managing Director, which assists the Chairman in the discharge of his functions as executive and administrative head of the Board, coordinates and directs the activities of the entire staff, is responsible for the day-to-day operation of the Board, and recommends and develops plans to achieve the Board's program objectives. Within the Office of the Managing Director are the activities which deal with general management, program analysis, legislative affairs, executive secretariat services, and FEDERAL REGISTER liaison.

(b) The Office of Public Affairs, which supplies the public, the news media, and the transportation industry with current, accurate information concerning the work, programs, and objectives of the Board.

(c) The Office of the General Counsel, which provides legal advice and assistance to the Board and its staff offices and bureaus, including policy matters; prepares Board rules, opinions and/or orders, and advice to all offices and bureaus on matters of legal significance; and represents the Board in court actions to which the Board is a party or in which the Board is interested.

(d) The Office of the Administrative Law Judges, which conducts all formal proceedings arising under Title VI of the Federal Aviation Act of 1958, including proceedings involving suspension or revocation of airman certificates and appeals from actions of the Administrator, Federal Aviation Administration, in refusing to issue airman certificates.

(e) The Bureau of Accident Investigation, which conducts all transportation accident investigations within the Board's jurisdiction; recommends to the Board whether a public hearing should be held or depositions taken to determine the facts, conditions, and circumstances of such accidents; prepares a public report on such accidents for submission to the Board, including a recommendation as to the probable cause of such accidents; initiates safety recommendations to prevent future transportation accidents; and participates in the investigation of accidents which occur in foreign countries and which involve U.S.-registered and/or U.S.-manufactured aircraft, pursuant to Annex 13 of the Chicago Convention.

(f) The Bureau of Technology, which provides technical advice and services, conducts research, and carries out analytical studies and tests on any aspect of the Board's accident investigation, accident prevention, or safety promotion activities, including safety recommendations, special studies, and special safety investigations.

(g) The Bureau of Plans and Programs, which develops accident prevention and safety promotion plans and programs; prepares periodic transportation safety reports; develops and follows up on safety recommendations; conducts special studies; plans safety communication, liaison, and coordination programs; prepares transportation safety policy proposals; recommends accident investigation selectivity factors; determines Board training plans; coordinates safety program evaluations; and analyzes proposals for regulatory changes.

(h) The Bureau of Administration, which provides administrative support for the Board in the areas of equal employment opportunity; budget and accounting; management systems, directives management, audit, and emergency preparedness; personnel and payroll; property, space, communications, facilities, and transportation management; and printing and publications, reception and mail control services, procurement and contracting, and accident inquiry services.

§ 800.3 Functions.

(a) The primary function of the Board is to promote safety in transportation. The Board is responsible for the investigation, determination of facts, conditions, and circumstances and the cause or probable cause of: All accidents involving civil aircraft; highway accidents, including railroad grade-crossing accidents, the investigation of which is selected in cooperation with the States; railroad accidents in which there is a fatality substantial property damage or which involve a passenger train; pipeline accidents in which there is a fatality or substantial property damage; and certain major marine casualties. The Board makes transportation safety recommendations to Federal, State, and local agencies, and interested persons, which recommendations are calculated to reduce the likelihood of recurrence of transportation accidents. It initiates and conducts special studies and special investigations on matters pertaining to safety in transportation, assesses techniques and methods of accident investigation, evaluates the effectiveness of transportation safety consciousness and efficacy in preventing accidents of other Government agencies, and evaluates the adequacy of safeguards and procedures concerning the transportation of hazardous materials.

(b) Upon the request of aggrieved parties, the Board reviews in quasi-judicial proceedings, conducted pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 551 et seq., denials by the Administrator of the Federal Aviation Administration of applications for airman certificates and orders of the Administrator modifying, amending, suspending, or revoking any airman certificates. The Board also reviews on appeal the decisions of the Commandant, U.S. Coast Guard, on appeals from orders of administrative law judges suspending, revoking, or denying licenses, certificates, or documents.

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(c) The Board, as provided in Part 801 of this chapter, issues reports and orders pursuant to its duties to determine the cause or probable cause of transportation accidents and to report the facts, conditions, and circumstances relating to such accidents; issues opinions and/or orders after reviewing on appeal the suspension, amendment modification, revocation, or denial of any certificate or license issued by the Secretary or an Administrator of the Department of Transportation; and issues and makes available to the public safety recommendations, special studies, and reports of special investigations.

§ 800.4 Operation.

In exercising its functions, duties, and responsibilities, the Board utilizes:

(a) The Board's staff, consisting of specialized bureaus and offices dealing with particular areas of transportation safety and performing administrative and technical work for the Board. The staff advises the Board and performs duties for the Board that are inherent in the staff's position in the organizational structure or that the Board has delegated to it. The staff is described more fully in § 800.2.

(b) Rules published in the *FEDERAL REGISTER* and codified in this Title 49 of the Code of Federal Regulations. These rules may be inspected in the Board's public reference room, or purchased from the Superintendent of Documents, Government Printing Office. The published rules include:

(1) Regulations which govern the formal methods whereby persons dealing with the Board can present information to the Board to enable it to make the decisions for which the Board is responsible under sections 602 and 609 of the Federal Aviation Act of 1958 (49 U.S.C. 1422 and 1429).

(2) Regulations which govern the reporting and investigation of transportation accidents, including public hearings held in the course of such investigations.

(3) Regulations, including Subpart B of this part, which delegate matters to the Board's staff, and Part 801 of this chapter describing how the public may deal with the Board in obtaining information.

§ 800.5 Public hearings.

The Board holds public hearings in connection with transportation accident investigations and holds public hearings and hears oral arguments in proceedings concerned with certificates or licenses issued by the Secretary or an Administrator of the Department of Transportation. They are held at the time and place announced in the notices thereof which are served on the parties to the proceedings or published in the *FEDERAL REGISTER*.

§ 800.6 Formal and informal submissions.

(a) All formal submissions required or permitted to be made in air safety proceedings should be addressed to the Docket Clerk, National Transportation Safety Board, Trans Point Building, 2100 2nd Street, S.W., Washington, D.C.

20590, unless specifically provided otherwise in the provision requiring or permitting such submission. Requirements as to the form and content of such submissions are set forth in the Board's procedural regulations.

(b) Other instructions concerning the use of forms, and the scope or content of material required or permitted to be filed or maintained, are set forth in the Board's regulations in this Title 49 of the Code of Federal Regulations. If the form of any document required or permitted to be filed is not prescribed, such document shall be in writing. Any other request to the Board of any kind shall be directed to the Managing Director.

§ 800.7 Office locations.

The principal offices of the National Transportation Safety Board are located at 800 Independence Avenue, S.W., Washington, D.C. 20594. The Board maintains field offices in selected cities throughout the United States.

§ 800.8 Availability of information and materials.

Part 801 of this chapter provides detailed information concerning the availability of Board documents and records. That part also provides a fee schedule and information concerning inspection and copying.

Subpart B—Delegation of Authority to Staff Members

§ 800.21 Purpose.

The purpose of this Subpart B is to publish all delegations of authority to staff members which do not appear in other Board regulations.

§ 800.22 Delegation to the Managing Director.

The Board hereby delegates to the Managing Director the authority to:

(a) Make the final determination as to whether to withhold a Board record from inspection or copying, pursuant to Part 801 of this chapter.

(b) Approve for publication in the *FEDERAL REGISTER* notices concerning issuance of accident reports and safety recommendations and responses to safety recommendations, as required by sections 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (49 U.S.C. 1903(a)(2) and 1906).

(1) The Chairman delegates to the Managing Director the authority to determine upon, exercise, and carry out, subject to the direction and supervision of the Chairman, the following functions vested in the Chairman:

(i) The appointment and supervision of personnel employed by the Board;

(ii) The distribution of business among such personnel and among administrative units of the Board; and

(iii) The use and expenditure of funds.

§ 800.23 Delegation to the administrative law judges, Office of Administrative Law Judges.

The Board has delegated to the administrative law judges the authority generally detailed in procedural regulation, Part 821, of this chapter.

§ 800.24 Delegation to the General Counsel.

The Board hereby delegates to the General Counsel the authority to:

(a) Approve, disapprove, or request further information concerning requests for testimony of Board employees with respect to their participation in the investigation of accidents, and, upon receipt of notice that an employee has been subpoenaed, to make arrangements with the court either to have the employee excused from testifying or to give the employee permission to testify in accordance with the provisions of Part 835 of this chapter.

(b) Approve or disapprove in safety enforcement proceedings, for good cause shown, requests for changes in procedural requirements subsequent to the initial decision, grant or deny requests to file additional briefs pursuant to § 821.35 of this chapter, and raise on appeal any issue the resolution of which he deems important to the proper disposition of proceedings under § 821.35 of this chapter.

(c) Approve or disapprove, for good cause shown, requests to extend the time for filing comments on proposed new or amended regulations.

(d) Issue regulations for the purpose of making editorial changes or corrections in the Board's rules and regulations.

(e) Issue orders staying, pending judicial review, orders of the Board suspending or revoking airman certificates, and consent to the entry of judicial stays with respect to such orders.

(f) Compromise civil penalties in the case of violations arising under Title VII of the Federal Aviation Act of 1958, or any rule, regulation, or order issued thereunder.

(g) Issue orders dismissing appeals from initial decisions of Board administrative law judges pursuant to the request of the appellant.

(h) Correct Board orders by eliminating typographical, grammatical, and similar errors, and make editorial changes therein not involving matters of substance.

§ 800.25 Delegation to the Director, Bureau of Accident Investigation.

The Board hereby delegates to the Director, Bureau of Accident Investigation, the authority to:

(a) Order an investigation into the facts, conditions, and circumstances, and probable cause of all transportation accidents which the Board has authority to investigate.

(b) Disclose factual information pertinent to all accidents or incidents as provided for in Part 801 of this chapter.

§ 800.26 Delegation to the Director, Bureau of Administration.

The Board hereby delegates to the Director, Bureau of Administration, the authority to:

(a) Determine initially the withholding of a Board record from inspection or copying, pursuant to Part 801 of this chapter.

(b) Settle claims for money damages of \$2,500 or less against the United States

arising under section 2672 of 28 United States Code (the Federal Tort Claims Act) because of acts or omissions of Board employees.

§ 800.27 Delegation to investigative officers and employees of the Board.

The Board hereby delegates to any officer or employee of the Board who is designated by the Chairman of the Safety Board the authority to sign and issue subpoenas, and administer oaths and affirmations, and to take depositions or cause them to be taken in connection with the investigation of transportation accidents.

APPENDIX—REQUEST TO THE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION TO INVESTIGATE CERTAIN AIRCRAFT ACCIDENTS FOR A TEMPORARY PERIOD

The Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2166, 49 U.S.C. 1901 et seq.), effective April 1, 1975, rescinds the former authority of the National Transportation Safety Board (Board) to delegate investigative authority to the Federal Aviation Administration (FAA) with respect to certain aviation accidents, formerly contained in § 400.45 (14 CFR Part 400). In lieu thereof the following request is issued.

(a) Acting pursuant to the authority vested in it by Title VII of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1441) and section 304(a)(1) of the Independent Safety Board Act of 1974, the Board hereby requests the Secretary of the Department of Transportation to exercise his authority, subject to the terms, conditions, and limitations of Title VII and section 304(a)(1) of the Independent Safety Board Act of 1974, and as set forth below, to investigate the facts, conditions, and circumstances surrounding certain fixed-wing and rotorcraft aircraft accidents and to submit a report to the Board from which the Board may make a determination of the probable cause.

(b) The authority to be exercised hereunder shall include the investigation of all civil aircraft accidents involving rotorcraft, aerial application, amateur-built aircraft, restricted category aircraft, and all fixed-wing aircraft which have a certificated maximum gross takeoff weight of 12,500 pounds or less except:

(1) Accidents in which fatal injuries have occurred to any occupant of such aircraft, but shall include accidents involving fatalities incurred as a result of aerial application operations, amateur-built aircraft operations, or restricted category aircraft operations.

(2) Accidents involving aircraft operated in accordance with the provisions of Part 135 of the Federal Aviation Regulations (14 CFR Part 135) entitled "Air Taxi Operators and Commercial Operators of Small Aircraft."

(3) Accidents involving aircraft operated by an air carrier authorized by a certificate of public convenience and necessity to engage in air transportation.

(4) Accidents involving midair collisions.

(c) *Provided*, That this authority shall not be construed to authorize the Secretary to hold public hearings or to determine the probable cause of the accident, and *Provided further*, That the Secretary shall report to the Board, in a form acceptable to the Board, the facts, conditions, and circumstances surrounding each accident from which the Board may determine the probable cause.

(d) *And Provided further*, That this request includes authority to conduct autopsies and such other tests of the remains of deceased persons aboard the aircraft at the time of the accident, who die as a result of the accident, necessary to the investigations requested hereunder, and such authority may

be delegated and redelegated to any official or employee of the Federal Aviation Administration. For the purpose of this provision, designated aviation examiners are not deemed to be officials or employees of the FAA.

(e) If at any time the Board shall determine, either upon request of the Secretary or upon its own initiative, that the circumstances of a particular accident being investigated by the Secretary pursuant to this request are of sufficient public interest, the Board may, upon written notice to the Secretary, terminate its authority as to such accident and assume full responsibility for the investigation of the accident in the same manner as an accident not covered by this request.

(f) Invoking the provisions of section 701(f) of the Federal Aviation Act of 1958, as amended, and section 304(a)(1) of the Independent Safety Board Act of 1974, is necessary inasmuch as sufficient funds have not been made available to the Board to provide adequate facilities and personnel to investigate all accidents involving civil aircraft. This request, therefore, is considered to be temporary in nature and may be modified or terminated by written notice to the Secretary.

PART 801—PUBLIC AVAILABILITY OF INFORMATION

2. Part 801 is revised to read as follows:

Subpart A—Applicability and Policy

Sec.

801.1 Applicability.
801.2 Policy.
801.3 Definitions.

Subpart B—Administration

801.10 General.
801.11 Segregability of records.
801.12 Protection of records.
801.13 Production of records on demand of courts or other authorities.

Subpart C—Time Limits

801.20 Initial determination.
801.21 Final determination.
801.22 Extension.

Subpart D—Accident Investigation Records

801.30 Field aircraft accident investigations.
801.31 Major aircraft accident investigations.
801.32 Aircraft accident public hearings.
801.33 Surface transportation accident investigations.
801.34 Surface accident public hearings.
801.35 Aviation accident reports.
801.36 Surface transportation accident reports.

Subpart E—Other Board Documents

801.40 The Board's rules.
801.41 Transportation safety recommendations.
801.42 Indexes to aviation and maritime enforcement cases.
801.43 Administrative staff manuals and instructions and indexes that affect the public.
801.44 Reports to Congress.
801.45 Other records.
801.46 Special document services.

Subpart F—Exemption From Public Disclosure

801.50 General.
801.51 National defense and foreign policy secrets.
801.52 Internal personnel rules and practices of the Board.
801.53 Records exempt by statute from public disclosure.
801.54 Interagency and intra-agency exchanges.

Sec.

801.55 Unwarranted invasion of personal privacy.
801.56 Records compiled for law enforcement purposes.
801.57 Records for regulation of financial institutions.
801.58 Geological records.

Appendix—Fee Schedule

AUTHORITY: Freedom of Information Act, Pub. L. 93-502, November 21, 1974, amending 5 U.S.C. 552; Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2166 (49 U.S.C. 1901 et seq.), 31 U.S.C. 483a, and 18 U.S.C. 641 and 2071(a).

Subpart A—Applicability and Policy

§ 801.1 Applicability.

(a) This part implements the provisions of the Freedom of Information Act (5 U.S.C. 552) as amended by Pub. L. 93-502, November 21, 1974, and the publication and public access requirements embodied in Title III of the Independent Safety Board Act of 1974 (88 Stat. 2166 (49 U.S.C. 1901 et seq.)). In addition, it provides for document services and the charges therefor, pursuant to 31 U.S.C. 483a.

(b) This part applies only to records existing when the request for the information is made. The National Transportation Safety Board (Board) is not required to compile or procure records for the sole purpose of making them available hereunder.

(c) Subpart F of this part describes records which are exempt from public disclosure.

§ 801.2 Policy.

In implementing 5 U.S.C. 552, it is the policy of the Board to make information available to the public to the greatest extent possible. Accordingly, all records of the Board, except those that the Board specifically determines must not be disclosed in the national interest, or for the protection of private rights, or for the efficient conduct of public business to the extent permitted by the Freedom of Information Act, are declared to be available for public inspection and copying, as provided in this part. Records are to be made available to the public promptly and to the fullest extent consistent with this policy. No record may be withheld from the public solely because its release might indicate administrative error or embarrass an officer or employee of the Board.

§ 801.3 Definitions.

"Record" includes any writing, drawing, map, recording, tape, film, photo, or other documentary material by which information is preserved, and this definition also applies to section 306(a) of the Independent Safety Board Act of 1974, which requires public access to any information. In this part, "document" and "record" shall have the same meaning.

"Chairman" means the Chairman of the Board.

"Managing Director" means the Managing Director of the Board.

Subpart B—Administration

§ 801.10 General.

(a) The Director, Bureau of Administration, is responsible for the custody and

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control of all Board records required to be preserved under directives of the General Services Administration, issued pursuant to 44 U.S.C. 3102.

(b) The Director, Bureau of Administration, shall be solely responsible for the initial determination of whether to release records within the 10 working days' limit, or the extension specified in the Freedom of Information Act.

(c) The Public Inquiries Section, Bureau of Administration, shall:

(1) Maintain for public access and commercial reproduction all accident files containing aviation and surface investigator's reports, factual accident reports or group chairman reports, documentation and accident correspondence files, transcripts of public hearings, if any, and exhibits.

(2) Maintain a public reference room (with self-service duplicator) and, on request, permit the public to inspect public documents during normal working hours.

(3) Maintain copies of public documents, specified in the Appendix, for inspection and copying in the public reference room.

(d) Requests for documents must be addressed to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. All requests must reasonably identify the record requested, must be accompanied by the fee or agreement (if any) to pay the reproduction costs shown in the fee schedule (see Appendix), and must contain the address and telephone number of the person making the request. The envelope in which the request is sent should be marked prominently with the letters "FOIA." The Bureau of Administration, if there is a failure to comply fully, will attempt to contact the requester immediately to rectify the omission. However, the 10-working-day limit for processing shall not commence until the Bureau of Administration receives a totally correct request.

(e) The field offices of the Board shall not maintain, for public access, records maintained by the Bureau of Administration. If requests are made to field offices, advice will be promptly given as to how to make such requests.

(f) The Bureau of Administration shall maintain a contract with a commercial reproduction firm to accommodate requests for reproduction of accident records. The reproduction charges may be subject to change with each contract renewal.

(g) Requests for documents generated by other agencies or entities will not be processed unless they are contained in the Board's accident files.

(h) Requests for records not yet issued will be held in abeyance until issuance and then processed. The person making the request will be so notified.

(i) No charge will be made by the Board for notices, decisions, orders, etc., required by law to be served on a party to any proceeding or matter before the Board.

(j) Upon approval of the Director, Bureau of Administration, subscriptions to Board publications may be entered without charge for States, organizations, or

other entities specified in the fee schedule set forth in the Appendix.

§ 801.11 Segregability of records.

The initial decision of the Director, Bureau of Administration shall include a determination of segregability. If it is reasonable to do so, the exempt portions will be deleted and the nonexempt portions will be sent to the requester.

§ 801.12 Protection of records.

(a) No person may, without permission, remove from the place where it is made available any record made available to him for inspection or copying. Stealing, altering, mutilating, obliterating, or destroying, in whole or in part, such a record shall be deemed a crime.

(b) Section 641 of Title 18 of the United States Code provides, in pertinent part, as follows:

"Whoever * * * steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record * * * or thing of value of the United States or of any department or agency thereof * * * Shall be fined not more than \$10,000 or imprisoned not more than ten years or both; but if the value of such property does not exceed the sum of \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both. * * *"

(c) Section 2071(a) of Title 18 of the United States Code provides, in pertinent part, as follows:

"(a) Whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or, with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other things, filed or deposited * * * in any public office, or with any * * * public officer of the United States, shall be fined not more than \$2,000 or imprisoned not more than three years, or both."

§ 801.13 Production of records on demand of courts or other authorities.

(a) No Board employee or Member, other than the Managing Director or the General Counsel, may respond to a demand of a court or other authority for the production of any Board records.

(b) Whenever an employee or Board Member is served with a court order or other record order, or subpoena duces tecum, he shall immediately advise the General Counsel's office, and the General Counsel shall determine the course of action to be taken.

(c) Subpoenas and requests for oral testimony will be processed pursuant to Part 835 of this chapter.

Subpart C—Time Limits

§ 801.20 Initial determination.

An initial determination as to whether to release a record shall be made by the Director, Bureau of Administration within 10 working days (excluding Saturdays, Sundays, and legal public holidays) after the request is received, except that this time limit may be extended up to 10 additional working days in accordance with § 801.22, below. The person making the request will be notified immediately in writing of such determination. If such determination is to release the requested

record, such record shall be made available promptly. If such determination is made not to release the record, the person making the request shall, when he is notified of such determination, be advised of (a) the reason for the determination, (b) the right to appeal the determination, and (c) the name and title or positions of each person responsible for the denial of the request.

§ 801.21 Final determination.

A determination with respect to any appeal made pursuant to § 801.20, above, shall be made by the Managing Director within 10 working days (excluding Saturdays, Sundays, and legal public holidays) after receipt of such appeal, except that this time limit may be extended for as many as 10 additional working days, in accordance with § 801.22, below.

§ 801.22 Extension.

In unusual circumstances as specified in this section, the time limits prescribed in either, but not both, § 801.20 or § 801.21, above, may be extended by written notice to the person making a request and setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. Such notice shall not specify a date that would result in an extension for more than 10 working days. As used in this subparagraph, "unusual circumstances," to the extent reasonably necessary to the proper processing of the particular request, means—

(a) The need to search for and collect the requested records from field facilities or other establishments that are separate from the Bureau of Administration;

(b) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(c) The need to consult with another agency which has a substantial interest in the disposition of the request or with two or more components of the agency having substantial subject-matter interest therein.

Subpart D—Accident Investigation Records

§ 801.30 Field aircraft accident investigations.

Upon completion of the field investigation (normally 60 days after the accident), the Board's investigator-in-charge shall complete a factual report (with documentation) and send it to the Director, Bureau of Administration, who shall then make the record available to the public for inspection or commercial copy order (see Appendix).

§ 801.31 Major aircraft accident investigations.

Upon completion of the investigation by a team of Board investigators (normally 60 days after the accident), the report of each investigator (group chairman), with documentation, shall be sent to the Director, Bureau of Administration, who shall make these records

available to the public for inspection and commercial copy order (see Appendix).

§ 801.32 Aircraft accident public hearings.

Within approximately 2 weeks after a public hearing concerning an aviation accident, the Director, Bureau of Administration, shall make available to the public for inspection or commercial copy order, the hearing transcript and the exhibits introduced at the hearing (see Appendix).

§ 801.33 Surface transportation accident investigations.

Upon completion of the Board's investigation of these accidents (normally 60 days after the accident), the investigators shall send to the Director, Bureau of Administration, a file of the documentation obtained. This file shall then be made available by the Bureau of Administration, for public access or commercial copy order (see Appendix).

§ 801.34 Surface accident public hearings.

Within approximately 2 weeks after a surface accident public hearing, the Bureau of Administration shall make available for public inspection and commercial copy order, the hearing transcript and exhibits introduced at the hearing.

§ 801.35 Aviation accident reports.

(a) The Board shall report the facts, conditions, and circumstances, and its determination of the cause or probable cause of all U.S. civil aviation accidents approximately 6 months after each accident occurs. All such reports shall be provided by computer printout, published periodically as "Briefs of Accidents."

(b) All major or catastrophic air carrier accidents and noncatastrophic accidents, involving both air carriers and general aviation, which provide unusually significant safety issues shall be reported by the Board in detailed, narrative format. The formal, narrative report shall provide the facts, conditions, and circumstances, and the Board's determination of the cause or probable cause of the accident; the report shall be issued approximately 6 months after date of accident.

(c) After notice of issuance appears in the *FEDERAL REGISTER*, as required by section 304(a)(2) of the Independent Safety Board Act of 1974, the report shall be made available for public inspection in the Board's public reference room. (See Appendix for copies and subscriptions.)

§ 801.36 Surface transportation accident reports.

Any surface transportation accident investigated by the Board, and certain marine accidents investigated by the U.S. Coast Guard, shall result in a formal Board report. Such report shall provide the facts, conditions, circumstances, and the Board's determination of cause or probable cause of the accident. Reports of accidents investigated by the Board shall be issued approximately 6 months after the date of accident. After

notice of issuance appears in the *FEDERAL REGISTER*, as required by section 304(a)(2) of the Independent Safety Board Act of 1974, the report shall be made available for public inspection in the Board's public reference room. (See Appendix for copies and subscriptions.)

Subpart E—Other Board Documents

§ 801.40 The Board's rules.

The Board's rules are published in the Code of Federal Regulations as Parts 800 through 899 of this Title 49. Reprints of Each Part are maintained by the Bureau of Administration and are available on request without cost.

§ 801.41 Transportation safety recommendations.

All transportation safety recommendations issued by the Board, and responses thereto, shall be noticed in the *FEDERAL REGISTER* as required by section 307 of the Independent Safety Board Act of 1974, and thereafter shall be made available for inspection or copying in the Board's public reference room. (See Appendix for copies and subscriptions.)

§ 801.42 Indexes to aviation and maritime enforcement cases.

(a) Pursuant to the Freedom of Information Act, as amended, a quarterly index to the initial decisions of the Board's administrative law judges shall be made available for inspection or copying in the Board's public reference room. (See Appendix for subscription to initial decisions.)

(b) Pursuant to the Freedom of Information Act, as amended, a quarterly index to the Board's opinions and orders in aviation and maritime safety enforcement cases shall be made available for inspection or copying in the Board's public reference room. (See Appendix for subscription to opinions and orders and availability of bound National Transportation Safety Board Decisions.)

§ 801.43 Administrative staff manuals and instructions, and indexes that affect the public.

The index to staff manuals which are not exempt from public disclosure, as set forth in Subpart F, shall be available in the Board's public reference room (see Appendix).

§ 801.44 Reports to Congress.

The Board's annual report to Congress, which is required under section 305 of the Independent Safety Board Act of 1974, shall be submitted on July 1 of each year. It may be purchased from the Government Printing Office or inspected in the Board's public reference room. All other reports or comments to Congress shall be available in the Board's public reference room for inspection or by ordering a copy after issuance.

§ 801.45 Other records.

The working files of the Board contain a limited number of records which may not be exempt, in whole or in part, from public disclosure as set forth in Subpart F of this part. Such records shall be made available upon request. Requests

for such documents should be made directly to the head of the unit concerned, as set forth in § 801.10(j), and should contain a reasonable description of the specific record desired.

§ 801.46 Special document services.

(a) Although not required by the Freedom of Information Act, the Board provides document services at charges required by 31 U.S.C. 483a, as described in the Appendix.

Subpart F—Exemption From Public Disclosure

§ 801.50 General.

This subpart implements section 552(b) of Title 5, United States Code. Sections 552(a) and (b) exempt certain records from public inspection. The Board will, however, release a record authorized to be withheld under 552(b) unless it determines that the release of that record would be inconsistent with the purpose of the exemption concerned. Examples of records given in §§ 801.51 through 801.58 included within a particular statutory exemption are not necessarily illustrative of all types of records covered by the exemption.

§ 801.51 National defense and foreign policy secrets.

National defense and foreign policy secrets established by Executive Order, and properly classified, are exempt from public disclosure. Requests to the Board for such records will be transferred to the source agency as appropriate. (Executive Orders 11652, March 8, 1972; 10865, February 20, 1960; and 10404, February 1, 1950.)

§ 801.52 Internal personnel rules and practices of the Board.

(a) Records relating solely to internal personnel rules and practices that are within the statutory exemptions include memoranda pertaining to personnel matters such as staffing policies, and procedures for the hiring, training, promotion, demotion, or discharge of employees, and management plans, records, or proposals relating to labor-management relations.

(b) The purpose of this section is to protect any records relating to internal personnel rules and practices dealing with the relations between Board management and employees.

§ 801.53 Records exempt by statute from public disclosure.

(a) Information obtained under section 306(b) of the Independent Safety Board Act of 1974 " * * * which concerns or relates to a trade secret referred to in 18 U.S.C. 1905." This includes commercial or financial information which is privileged or confidential.

(b) Minutes and all other documents concerning proceedings closed by the Board for national security reasons (49 U.S.C. 1481).

(c) Board determination of nondisclosure pursuant to 49 U.S.C. 1504 (section 1104 of the Federal Aviation Act of 1958, as amended). When any person objects to public disclosure of information in a Board document and the Board

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determines that disclosure would adversely affect the interest of such person, and is not required in the public interest, that information shall be withheld from public disclosure. For example, the Board has determined that it is not in the public interest to disclose (1) any information or documents in the Board's possession dealing with or related to the Board's position or construction of the provisions of the Annexes to the Chicago Convention (61 Stat. 1180), (2) any information obtained by the Board or the Board personnel as a result of participation by the Board and its personnel in accident investigations in foreign countries, unless the country of occurrence notifies the Board in writing that it has no objection to a disclosure of such information, and (3) any cockpit voice recorder tape or transcription thereof, in the custody of the Board, except for a transcription of those communications determined by the Board to be pertinent and relevant to the accident and which will be placed in the Board's public docket of such accident.

§ 801.54 Interagency and intra-agency exchanges.

(a) Any record prepared by a Board employee for internal Government use is within the statutory exemption to the extent that it contains—

(1) Opinions made in the course of developing official action by the Board but not actually made a part of that official action, or

(2) Information concerning any pending Board proceeding, or similar matter, including any claim or other dispute to be resolved before a court of law, administrative board, hearing officer, or contracting officer.

(b) The purpose of this section is to protect the full and frank exchange of ideas, views, and opinions necessary for the effective functioning of the Government. These resources must be fully and readily available to those officials upon whom the responsibility rests to take official Board action. Its purpose is also to protect against the premature disclosure of material that is in the developmental stage, if premature disclosure would be detrimental to the authorized and appropriate purposes for which the material is being used, or if, because of its tentative nature, the material is likely to be revised or modified before it is officially presented to the public.

(c) Examples of materials covered by this section include staff papers containing advice, opinions, or suggestions preliminary to a decision or action; advance information on such things as proposed plans to procure, lease, or otherwise hire and dispose of materials, real estate, or facilities; documents exchanged preparatory to anticipated legal proceedings; material intended for public release at a specified future time, if premature disclosure would be detrimental to orderly processes of the Board; records of inspections, investigations, and surveys pertaining to internal management of the Board; and matters that would not

be routinely disclosed in litigation but which are likely to be the subject of litigation.

§ 801.55 Unwarranted invasion of personal privacy.

Any personal, medical, or similar file is within the statutory exemption if its disclosure would harm the individual concerned or would be a clearly unwarranted invasion of his personal privacy. This also applies to financial statements furnished by Board Members and employees and to commercial or financial information customarily subjected to an attorney-client or similar privilege.

§ 801.56 Records compiled for law enforcement purposes.

This exemption from public disclosure applies to records compiled for law enforcement, but only to the extent that disclosure would interfere with enforcement, would be an unwarranted invasion of privacy, would disclose the identity of a confidential source, would disclose investigative procedures and practices, or would endanger the life or security of law enforcement personnel.

§ 801.57 Records for regulation of financial institutions.

Records compiled for agencies regulating or supervising financial institutions are exempt from public disclosure.

§ 801.58 Geological records.

Records concerning geological wells are exempt from public disclosure.

NOTE: Revised text of Fee Schedule, Appendix to Part 801, appears at page _____ of this issue of the FEDERAL REGISTER.

PART 802—RULES IMPLEMENTING THE PRIVACY ACT OF 1974

3. Section 802.1 is revised to read as follows:

§ 802.1 Purpose and scope.

The purpose of this part is to implement the provisions of 5 U.S.C. 552a with respect to the availability to an individual of records of the National Transportation Safety Board (NTSB) maintained on individuals. NTSB policy encompasses the safeguarding of individual privacy from any misuse of Federal records and the provision of access to individuals to NTSB records concerning them, except where such access is in conflict with the Freedom of Information Act, or other statute.

§§ 802.6, 802.8 and 802.10 [Amended]

4. In §§ 802.6(b) (both occurrences), (c), and (e), 802.8(b), and 802.10 (both occurrences), "General Manager" is changed to "Director, Bureau of Administration."

PART 803—OFFICIAL SEAL

§§ 803.3 and 803.5 [Amended]

5. In §§ 803.3(a) and (b) and 803.5(c), "Director of Administration" is changed to "Director, Bureau of Administration."

PART 805—EMPLOYEE RESPONSIBILITIES AND CONDUCT

§§ 805.735-5, 805.735-7, 805.735-8, 805.735-16, 805.735-17, 805.735-23, 805.735-24, and 805.735-27 [Amended]

6. In §§ 805.735-5(b)(7) and (8), 805.735-7(a) (both occurrences), 805.735-8(b), 805.735-16(b), 805.735-17, 805.735-23(b), 805.735-24(a) and (b), and 805.735-27(b), "General Manager" is changed to "Managing Director".

7. Appendix II is revised to read as follows:

APPENDIX II—EMPLOYEES REQUIRED TO SUBMIT STATEMENTS

Statements of employment and financial interests are required of the following:

(a) Employees in grades GS-16 or above, or in positions not subject to the Classification Act paid at a rate at or above the entrance rate for GS-16.

(b) Special assistants to the members.

(c) Office of the managing director: (1) Legislative affairs officer. (2) Program analysis officer.

(d) Attorneys in grade GS-15.

(e) Office of public affairs: (1) Director. (2) Deputy director.

(f) Bureau of administration: (1) Director. (2) Deputy director—personnel officer.

(3) Chief, operations and facilities division. (4) Contracting specialist. (5) Comptroller. (6) Budget officer. (7) Accounting officer.

(g) Division and branch chiefs within the bureaus of accident investigation, technology, and plans and programs.

(h) Chief or senior investigators, field offices.

PART 830—RULES PERTAINING TO THE NOTIFICATION AND REPORTING OF AIRCRAFT ACCIDENTS OR INCIDENTS AND OVERDUE AIRCRAFT, AND PRESERVATION OF AIRCRAFT WRECKAGE, MAIL, CARGO, AND RECORDS

§ 830.5 [Amended]

8. In the introductory language to § 830.5, "Bureau of Aviation Safety" is deleted.

PART 831—RULES OF PRACTICE IN AIRCRAFT/INCIDENT INVESTIGATION

9. In the Table of Contents, Subpart A—General Provisions, § 831.4 is deleted and §§ 831.5, 831.6, 831.7, 831.8, and 831.9 are renumbered 831.4, 831.5, 831.6, 831.7, and 831.8, respectively.

10. Section 831.3 is revised to read as follows:

§ 831.3 Authority of Director.

The Director, Bureau of Accident Investigation, subject to the provisions of § 831.2, shall have the authority to order an investigation into any accident involving a civil aircraft when considered appropriate in view of the nature of the accident, and to designate a technical panel when a public hearing has been ordered.

§ 831.4 [Deleted]

11. Section 831.4 is deleted.

§§ 831.5 thru 831.9 [Renumbered]

12. Sections 831.5, 831.6, 831.7, 831.8, and 831.9 are renumbered 831.4, 831.5, 831.6, and 831.7, and 831.8, respectively.

§ 831.16, 831.17 and 831.22 [Amended]

13. In §§ 831.16(a), 831.17(a), and 831.22, "Bureau of Aviation Safety" is changed to "Bureau of Accident Investigation".

14. Section 831.25 is revised to read as follows:

§ 831.25 Technical panel.

The Director, Bureau of Accident Investigation, shall designate members of the Board's technical staff to participate in the hearing in order to develop the testimony of the witnesses.

15. Section 831.32 is revised to read as follows:

§ 831.32 Stenographic transcript.

A verbatim transcript of the hearing shall be taken. Copies of the transcript may be obtained from the Board or the court reporting firm preparing the transcript upon payment of the fees fixed therefor. (See Part 801, Appendix—Fee Schedule.)

§ 831.40 [Amended]

16. In § 831.40(c), "Office of the General Manager" is changed to "Bureau of Administration".

PART 845—RULES OF PRACTICE IN SURFACE TRANSPORTATION ACCIDENT HEARINGS**§ 845.11 [Amended]**

17. In § 845.11, "Surface Transportation Safety" is changed to "Accident Investigation".

18. Section 845.12 is revised to read as follows:

§ 845.12 Technical panel.

The Director, Bureau of Accident Investigation, shall designate members of the Board's technical staff to participate in the hearing and initially develop the testimony of witnesses.

19. Section 845.26 is revised to read as follows:

§ 845.26 Stenographic transcript.

A verbatim report of the hearing shall be taken. Copies of the transcript may be obtained by any interested person from the Board or the court reporting firm preparing the transcript upon payment of the fees fixed therefor. (See Part 801, Appendix—Fee Schedule.)

§ 845.27 [Amended]

20. In § 845.27, "Office of the General Manager" is changed to "Bureau of Administration".

Approved by the National Transportation Safety Board on September 10, 1976.

Effective date: October 1, 1976.

Signed at Washington, D.C., September 10, 1976.

WEBSTER B. TODD, Jr.,
Chairman.

[FR Doc. 76-27141 Filed 9-15-76; 8:45 am]

CHAPTER VIII—NATIONAL TRANSPORTATION SAFETY BOARD**PART 801—PUBLIC AVAILABILITY OF INFORMATION****Fee Schedule**

On August 12, 1976, a notice of proposed rulemaking was published in the *FEDERAL REGISTER* (41 FR 34082) setting forth, as an appendix to 49 CFR Part 801, a proposed amended fee schedule for National Transportation Safety Board publications and for the reproduction of factual investigative records and other documents. Interested persons were given the opportunity to submit, not later than September 13, 1976, comments regarding the amended fee schedule.

No comments were received. However, in item 1(e) reference to the Board's Managing Director has been changed to Director, Bureau of Administration, to reflect a reassignment of authority prompted by a general reorganization of the staff of the Board.

Accordingly, the amended fee schedule is hereby adopted as set forth below.

Effective date: October 1, 1976.

WEBSTER B. TODD, Jr.,
Chairman.

SEPTEMBER 13, 1976.

APPENDIX—FEES SCHEDULE

1. Special services fees (pursuant to 31 U.S.C. 483a). Upon request, services relating to public documents are available at the following fees:

(a) Subscriptions (Calendar year):

(1) Initial decisions of the administrative law judges—\$40.00 for one subscription, \$30.00 for each additional subscription.

(2) Board safety enforcement opinions and orders—\$20.00 for one subscription, \$15.00 for each additional subscription.

(3) Board aircraft accident (probable cause) reports, brief format—\$40.00 (U.S.) and \$80.00 (foreign).

(4) Aircraft accident reports, narrative—\$35.00 (U.S.) and \$70.00 (foreign).

(5) Board safety recommendations—\$60.00.

NOTE.—Subscription orders for (a)(3) and (4), above, should be forwarded to the National Technical Information Service, P.O. Box 1551, Springfield, Virginia 22151.

(b) Document certification under the Board's seal—\$4.00.

(c) Computer tapes and services for aviation accidents. Duplication of computer tapes (or a fraction thereof)—\$40.00.

NOTE.—Computer tape requests should be addressed to the Chief, Information Systems Division, Bureau of Technology, National Transportation Safety Board, Washington, D.C. 20594.

(d) The basic fees set forth provide for ordinary first-class postage prepaid. If registered, certified, air, or special delivery mail is used, postal fees therefor will be added to the basic fee. Also, if special handling or packaging is required, such costs will be added to the basic fee.

(e) Subscription fees for (a) above are waived for qualifying foreign countries, international organizations, nonprofit public safety entities, State and Federal transportation agencies, and colleges and universities,

after approval by the Director, Bureau of Administration. In addition, subscription fees may be waived or reduced for other recipients not in any of the foregoing categories, when determined by the Director, Bureau of Administration, to be appropriate in the interest of and contributing to the Board's program.

2. Commercial reproduction fees and search fees. Pursuant to 5 U.S.C. 552 as amended, reproduction of the documents listed below is accomplished by commercial contract. Requests must be forwarded to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. The contractor may bill and/or collect full payment before duplicating the requested documents. Fees are subject to change depending upon the Board's annual contract award.

Current fees are:

(a) Photocopy:

Size (in inches):	
8 1/2 by 11	\$0.25
8 1/2 by 14	.25
10 by 14	.25
14 by 18	.25
18 by 24	.25

(b) Photographic prints:

Size (in inches):	
8 by 10 black/white	\$1.35
5 by 7 color	2.65
8 by 10 color	4.50
2 by 2 color slide	.50
2 by 2 black/white slide	.25
4 by 10 X-ray	.50

(c) Minimum charge for reproduction—\$3.00.

(d) Regular service—Usually, two weeks' time is required to service a request for reproduction. General aviation accident files dated prior to January 1, 1964, and air carrier accident files dated prior to January 1, 1963, are no longer available. Accident files for all transportation modes, dating from January 1, 1964, through December 31, 1972, are stored at the Federal Records Center; in filling any request for reproduction of these files, approximately two additional weeks will be needed for retrieval.

(e) Expedited service—A 20-percent surcharge will be made for 24-hour service and a 10-percent surcharge for 48-hour service. Expedited delivery service will be handled as follows:

Step 1. Customer places telephone or written request to the Board's Public Inquiries Section for desired accident file.

Step 2. The Board forwards order form and file to contractor.

Step 3. Contractor sends advance billing invoice, which shows total cost, to customer.

Step 4. Customer calls contractor direct and verifies that he is wiring payment to contractor, as specified by contractor, or customer returns a copy of the contractor's invoice with full payment enclosed.

Step 5. Contractor copies documents and mails them to the customer.

Note.—Expedited service commences when the contractor has received payment or when telephone arrangements have been made with the contractor.

(f) Document search fee—The Board has determined that it is in the public interest to limit search fees to documents which require commercial reproduction. Further, the fee has been reduced to the labor cost for a minimum time-search. Therefore, a \$4.00 search fee is required only for:

(1) Factual accident investigation reports, statements, photographs, and other mate-